

# **THE 2020 COMMISSION ON NARCOTIC DRUGS REPORT OF PROCEEDINGS**

**JULY 2020**



# Executive summary

The 63<sup>rd</sup> session of the Commission on Narcotic Drugs (CND or Commission) took place in Vienna between 4 and 6 March 2020. Incredible as it now seems, held during the early phases of the current global health pandemic, only the precautionary absence of a few full delegations and warnings regarding healthcare counter measures made it feel any different from previous ‘normal’ sessions. Indeed, since this year’s meeting followed on from the Commission’s 2019 Ministerial Segment and multilateral agreement on the associated Ministerial Declaration expectations were relatively low. Indicative of this was the tabling of only five resolutions, around half the number seen in previous years. Nonetheless, as has been increasingly the case the twin issues of complexity and tension were identifiable throughout the week. Put simply, intricacy, fluidity and dynamism continue to characterize illicit drug markets. And with this has come growing variations in national policy approaches designed to deal with them and attendant inter-state and state-UN system tensions at the international level.

Implicit and explicit manifestations of this reality were evident from the opening session. For example, the CND Chair, Ambassador Mansoor Ahmed Khan, spoke of the ‘need to understand each other’s perspective’. While the new UNODC Executive Director, Ms. Ghada Fathi Waly, deliberately highlighted the mythical ‘Vienna spirit of consensus’; something she evidently found ‘quite inspiring’ upon arrival in the Austrian capital. Yet, amidst some welcome areas of agreement, including notably access to controlled substances for medical use, the revised Annual Report Questionnaire and – at a rhetorical level at least – support for the Sustainable Development Goals, increasing divergence was impossible to hide. Within the General Debate some countries still chose to deploy the language of a ‘drug free world’ while others were more pragmatic in their support for drug policies genuinely underpinned by a human rights and public health-based approach. Indeed, while not unique to

Vienna, interpretative variation around the concept of human rights remains.

This could be seen both within the Plenary and the Committee of the Whole (CoW), where resolutions are negotiated, in relation to differing views on the Chief Executive Board’s 2018 UN System Common Position on Drug Policy and the work of the associated UN System Coordination Task Team. While not alone, the Russian Federation was arguably most vocal and active in opposing supportive references to this new initiative to improve system-wide coherence, including in relation to cooperation with human rights bodies and better data collection and analysis. And maintaining its role as the most vociferous supporter of the shape of the extant control system, the Russian Federation was also especially active in challenging the recommendations of the WHO’s Expert Committee on Drug Dependence (ECDD) regarding cannabis classification; an issue that played out at various points across the session and due to the hard fought second postponement of a vote by Commission members has taken on the mantle of an almost ‘too hot to handle’ issue. Although largely overshadowed by the debates around the ECDD’s recommendations, tensions around legally regulated markets for non-medical adult use also remained, with the INCB legitimately flagging it up as an ongoing issue of concern. This is particularly so considering declared and potential legislative shifts in Luxembourg and New Zealand respectively.

With engagement spanning a range of issue areas, civil society was once again highly visible and active at this year’s CND. As members of country delegations as well as NGO delegations in their own right, representatives were involved in the organisation of side events, often in collaboration with member states and UN agencies, and delivered several statements within the plenary. Beyond this, the now formalized ‘informal dialogues’ with UN bodies continued. Although she was unfortunately unable to attend due to illness, these included

dialogues with the UNODC Executive Director, the INCB President – and for the first time – representatives of the WHO.

While any assessment of the outcomes of the 63<sup>rd</sup> session must now be re-framed within the context of COVID-19, it is fair to conclude that, with the inescapable sands of divergence within its gears, the CND's consensus driven machinery continues to grind away, but in an increasingly laboured and shuddering fashion. It is true that this year, as at recent sessions, the system has been able to tolerate divergence in high-level views on the quest for a 'drug free world' versus a preference for harm reduction and market management approaches, and even to a certain extent endure diverging views on some aspects of human rights. But, as events in March revealed, increasing endeavour is now required to keep the wheels turning as intended.

## Introduction

Barely hinting at the global scale and intensity of the public health crisis that has unfolded since March 2020, the 63<sup>rd</sup> session of the Commission on Narcotic Drugs (CND or Commission) opened with an extraordinary message from Mr. Thatchaichawalit, the Deputy Director-General of the UN Office Vienna (UNOV) and Director, Division for Management. With COVID-19 at that point only beginning to emerge as an issue of serious concern, he took the unprecedented step of drawing the assembled delegates' attention to prevention, general precautions and healthcare counter-measures to be followed during the week. Since these predominantly involved frequent hand washing and avoiding close contact with people who were ill with fever, cough or respiratory symptoms, delegates apparently took on board the guidance with varying degrees of enthusiasm. Indeed, only the precautionary absence of a few full delegations from the 134 participating states, including from Germany, Switzerland and China as well as some NGOs, and the resultant cancellation of a limited number of side events and bilaterals, suggested that the 2020 meeting would be taking place on the verge of what now appears to be a globally transformative pandemic.<sup>1</sup> In his introductory remarks the CND Chair, Ambassador Mansoor Ahmed Khan the Permanent Representative of Pakistan to the UNOV, could not have imaged how portentous his comments

on the 'increasing complexity' of the 'world drug problem' would be. As we have learnt over the past few months, COVID-19 related disruption of societies in general, illicit drug markets in particular and the corresponding impact on not only drug user behaviour but also treatment services have added enormous challenges and stresses to what was already an unusually complex public policy issue area.<sup>2</sup>

Although, as with all aspects of post-coronavirus life, it remains difficult to discuss international drug policy without some reference to COVID-19, this report aims to provide an overview of the central issues debated during the 63<sup>rd</sup> session of the Commission, held at the Vienna International Centre (VIC) between 2 and 6 March 2020; a period it must be recalled that preceded the WHO's classification of the COVID-19 outbreak as a pandemic by almost a week. Following on, as it did, from the Commission's 2019 Ministerial Segment and agreement on the associated Ministerial Declaration, expectations around the meeting were relatively low. There is a tendency within the CND cycle that years in the wake of high level meetings are usually somewhat quiet affairs. That only five resolutions had been submitted for negotiation seemed to confirm this perspective. Most years there are often twice this many. Nonetheless, as delegations from both member state and CSOs (Civil Society Organisations) arrived in the Austrian capital curiosity surrounded several issues. These included the perspective and key goals of the UNODC's new Executive Director,<sup>3</sup> ongoing tensions around cannabis – both in relation to non-medical and importantly medical use in the form of debate around the WHO's ECDD recommendations on scheduling – the UN System Coordination Task Team on the Implementation of the UN System Common Position on drug-related matters, and the revised Annual Report Questionnaire (ARQ).

With the ongoing objective of adding an often missed, yet important and holistic human element to the UN's formal reports of the meeting, as well as focusing on inter-state relations, this publication deliberately devotes significant attention to civil society engagement. This includes the now regularised NGO dialogues with representatives of the core UN drug control bodies – which this year for the first time included the WHO – as well as with the CND chair. Furthermore, in attempting to go beyond a merely descriptive account, it offers some



analysis of the key topics of debate. In so doing, the report seeks to identify emerging issues of concern as expressed by delegations (for example, darknet drug markets, see [Box 2](#)) and common narrative themes to emerge from member state statements, interventions and negotiating positions within both Plenary sessions and the Committee of the Whole (CoW). Where appropriate, comparisons will also be drawn with past CND sessions with the aim of identifying trends and patterns within particular issue areas. As in previous years, a supplementary – and searchable – account of the entire session can be found on the CND Blog.<sup>4</sup> Alongside the CND App<sup>5</sup> this now well-established civil society initiative aims to enhance transparency within the international policy making process and provide real time monitoring and reporting of proceedings. Important official UN documentation relating to the session, including the ECOSOC report, can also be found on the UNODC website.<sup>6</sup>

## The Opening of the 63<sup>rd</sup> Session of the Commission

Following, as is customary, the election of officers, the Commission Chair – perhaps unintentionally – set the tone for the session during his brief introductory remarks. Having noted the increasing complexity of the issue area, Ambassador Khan implicitly acknowledged what can be regarded

as the fractured nature of the ‘Vienna consensus’ on international drug control by stressing that over the course of the week there would need to be ‘understanding of each other’s perspective’. Going on to note productive dialogue between member states and CSOs in addressing the ‘world drug problem’, and again indirectly nodding in the direction of the arguably abnormal levels of dissonance within the system, he highlighted that the CND’s positions on several key issues of interest had been agreed in informals the previous Friday; meetings, it transpired, that had been somewhat challenging. These, as will be discussed in more detail below, related principally to the cannabis re-scheduling recommendations by the ECDD, on which ironically a ‘joint understanding’ had apparently been reached to postpone a vote, and, although less problematic, the UNODC’s revision of the Annual Report Questionnaire.

Interestingly, the Chair’s pragmatic and realist tenor was somewhat at odds with the more quixotic messaging of the now apparently mandatory CND video accompanying the opening session.<sup>7</sup> This contained worthy and well produced imagery concerning inter-state collaboration and, among other things, the determined call that ‘no one affected by the world drug problem is left behind’. The latter being an explicit and welcome demonstration of the fundamental links between drug policy and the Sustainable Development Goals (SDGs). No doubt





Member state delegates attend the plenary during opening statements at the 63rd session of the CND Credit: UNODC SGB

designed for mutual reinforcement, the video in many ways presaged the opening statement from the new UNODC Executive Director, Ms. Ghada Fathi Waly.

Appointed on 1 February 2020, Ms. Waly's speech contextualized her intended approach to the post in terms of her ministerial experience in her native Egypt and her role as head of delegation to the CND in 2017. As such, she noted that 'Now I am proud to be here again, but this time as UNODC Executive Director and a member of the UN family, in the 75th year of the United Nations, at the start of the Decade of Action to achieve the Sustainable Development Goals. Challenging times but exciting times'. Following from this important juxtaposition, over the course of what, politically, needed to be a largely upbeat statement, the Executive Director was keen to highlight her determination to ensure that the UNODC could 'live up to its full potential as we provide the support that people need, from headquarters in Vienna and in the field, in partnership with the UN system, civil society, academia, the private sector and you, our Member States'. Commenting on particular issues of concern, Ms. Waly noted the lack of access to treatment services, drug related deaths, structural drivers for illicit opium and coca cultivation and, significantly in terms of setting the tone for her tenure, the fact that 'Justice and law enforcement officials, police officers, are losing their lives to stop the flow of lethal

drugs and precursors'. After stressing the intention for the UNODC to seek member states' assistance in implementing the drug control conventions in line with the 2019 Ministerial Declaration, including in improving access to 'essential pain medications', alternative livelihoods and to 'combat drug trafficking', she also highlighted the importance of evidence, data collection and, consequently, the *World Drug Report*. Moving on to discuss her vision for the agency, Ms. Waly stressed, 'I am personally committed to tailoring UNODC support to address real needs, to take forward holistic and integrated approaches to the world drug problem and related problems of crime, corruption and terrorism' and signalled the ongoing development, in consultation with member states, of a new unified strategy for the UNODC.

Closing on an optimistic note, but one that obliquely acknowledged increasing division within the Commission, she noted 'Since I joined UNODC exactly one month ago, I have heard many of you speak about the Vienna spirit of consensus'. 'I find this idea quite inspiring', she continued before going on to say 'we should take a moment to appreciate how important it is that we can overcome division to strive for peace, protect rights and sow the seeds for sustainable development, even as the very values of the UN and multilateralism have come increasingly under pressure'. Building on this perspective the Executive Director ended her

statement by, among other things, again emphasising the need for consensus; ‘Every country, every region faces unique challenges and contexts, but working through diverging views to find and expand common ground remains an essential basis for effective action, to make a difference on the ground. That is the essence of the Vienna spirit’.

Overall, the statement from Ms. Waly, and importantly her senior management team, contained few surprises. It touched upon some key areas of concern as we enter the post-Ministerial Declaration period. Moreover, as was to be expected, while playing up the notion of the Vienna spirit of consensus it avoided contentious issues, particularly the relationship between legally regulated cannabis for adult non-medical use and the drug control conventions and the ECDD’s rescheduling recommendations for cannabis. Perhaps more surprisingly, while focusing largely on supply reduction priorities – including the loss of lives within the law enforcement community – it was noticeable that there was no explicit mention of the public health and human rights crises resulting from punitive drug control measures. Such a lacuna was particularly conspicuous amidst increasing attention within some quarters on system-wide coherence. Indeed, it was significant that, although it was to become a recurring point of contention over the course of the week within both the plenary and the CoW, the Executive Director chose not to mention the Chief Executive Board’s (CEB) UN System 2018 Common Position on Drug Policy and the work of the associated UN System Coordination Task Team.<sup>8</sup> This was the case even though the UNODC is the lead agency for the Task Team, which was created primarily ‘for the purposes of coordinating data collection to promote, evidence-based implementation of international commitments’;<sup>9</sup> all key themes mentioned within the Executive Director’s statement. That other UN agencies mentioned the Task Team in statements made Ms. Waly’s omission that much starker (see [Box 1](#)).

Highlighting some of the same issues as the Executive Director was the Director-General of the WHO, Dr Tedros Adhanom Ghebreyesus. In a short pre-recorded video message, among other things, he emphasised how ‘the increase in the harmful use of psychoactive drugs is a public health crisis. It claims hundreds of thousands of lives every year, yet’ at the same time, the majority of people in the world lack access to approved medicines that could

relieve their pain and suffering’. Also flagging up the important role of the ECDD, but avoiding the political dynamics around its cannabis recommendations, the Director-General used the opportunity to stress how the Committee ‘issues evidence-based recommendations both to prevent the harmful use of psychoactive substances, and also to provide access to drugs with proven medical use’.

Following the WHO statement, the INCB President, Mr. Cornelis de Joncheere, used the opening session to flag up many of the key topics within the Board’s *Annual Report for 2019*. Largely repeated and emphasised under various agenda items later in the week, and as such discussed in more detail below, these included among other issues reference to the thematic chapter on improving substance use prevention and treatment services for young people, the Board’s ‘serious concern with the continued reports of grave human rights violations perpetrated in the name of drug control’, and its position on legally regulated cannabis markets. Mindful of the systemic tension around the issue and the Board’s role within the system, this was something that – unlike Ms. Waly – the President could not realistically side-step. As such, within the context of what he described as an ongoing ‘broad consensus’ within the international community, he stressed how ‘Recent years have seen developments in some states parties and their territories towards development and adoption of measures aimed at legalising cannabis for non-medical uses in contravention of fundamental provisions of the international drug control conventions’.

Similarly, as is often the case, statements from the regional groups flagged up issues of concern that were to be echoed by aligned member states over the course of the session. As such, reiterating the long and widely held view that the drug control conventions were the ‘cornerstone’ of work within the field, but also acknowledging the importance of human rights instruments, the G77 and China characteristically stressed the sanctity of sovereignty, the principle of non-intervention in internal affairs of states. This represented the standard caveat relating to any discussion of human rights by the Group and its members. As has been the case in previous years, it also noted the need to consider the international scheduling of tramadol. Among other issues, the Asia Pacific Group used its time at the podium to note deliberations around the WHO recommendations on cannabis scheduling. As well



as noting the ‘tireless efforts’ of the Commission Chair ‘in trying to bridge the differences among Member States’, a point to which we will return, it highlighted the belief that ‘the recommendations must be carefully and responsibly considered for the benefit of international community and society as a whole without unnecessary delay, considering that cannabis is the most abused drug in the world and these recommendations could have significant economic, social, legal and administrative impacts on society. ‘In this regard’, continued H.E. Morakot Sriswasdi, Ambassador and Permanent Representative of Thailand, ‘the Group supports the Chair’s efforts on further consultation and deliberation, with a view to achieving consensual solution and evidence-based decision. Before closing’, he concluded, ‘the Group underlines that the CND has to play a responsible role by making a well-informed and accountable decision for the common and shared interest of the international community’.

Incorporating a range of issues including opposition to the death penalty for drug related offences, the importance of human rights and harm reduction, the centrality of the SDGs, the role of CSOs and support for the ARQ revision process, the European Union chose not to mention the debates around rescheduling. It did, however, highlight the Union’s outspoken support for the CEB’s recent endeavours. Emphasising in no uncertain terms a viewpoint diametrically opposed to a wide range of other states, the Croatian Minister of Health stated that ‘we

support the UN System’s new Common Position on Drugs, and the UN Task Team in charge of its implementation’. As example of such backing, he pointed out that ‘The EU organised two awareness-raising events last year, in Vienna and in Geneva, and plans on organising a third one in New York in the coming months’. ‘We believe this is important’ he continued, ‘to underline the importance of interagency cooperation and collaboration and illustrate it through concrete examples of how UN agencies can cooperate to support the implementation of drug-related commitments in order to advance security, development and human rights.’<sup>10</sup>

## Plenary discussions

Over the course of many hours within the Plenary Room, Ambassador Khan, ably assisted by Vice Chair of 63<sup>rd</sup> session, Ambassador of the Republic of Chile to Austria, Gloria Navarrete, and the secretariat, expertly steered normative and operational-focused discussion through a range of often interconnected issue areas. Although in no way claiming to be exhaustive, we explore here some of the more prominent and reoccurring topics and themes, particularly within the General Debate. Indeed, a close reading of the plenary statements and associated interventions can be a useful mechanism through which to gauge not only member states’ overarching philosophy on drug control, but also specific time-bound issues



Delegates vote at the plenary during the 63rd session of the CND Credit: UNODC SGB

of concern. Unlike deliberations within the CoW, plenary statements and interventions tend not to get ‘flattened’ by the resolution negotiating process.<sup>11</sup>

Amidst a wide-ranging set of 86 country statements within the plenary, the German delegate did well to encapsulate the current state of international drug control. In many ways echoing Ms. Waly’s concerns and reflecting Berlin’s endeavours elsewhere in the UN system<sup>12</sup> regarding the ‘importance of rules-based multilateralism’, it was stressed how ‘as the world drug problem does not recognise international borders, together we used the last 60 years to develop an international drug control system. In recent years, however, this control system has come under increasing pressure. The ideas of how international drug policy and control should continue in the future are drifting further apart’. While, as we shall see there remain many areas of common purpose and agreement, example of this drift was – as in past years – clearly identifiable across several issues.

### Key themes and ongoing opposing perspectives

Although there were perhaps fewer examples of use of the term ‘scourge’ (e.g. Angola and Palestine) than at previous CND sessions, several statements reflected the fundamentally different approaches to drug policy that continue to characterize the international community’s work in Vienna. Reflecting the essence of their approach to drug control, some countries openly stated their quest for a world free of drugs. Meanwhile others supported what they regard to be a more pragmatic approach and questioned the current prohibition-oriented control architecture. For example, Vietnam, Bangladesh, China and Pakistan all stressed the need to work towards a ‘drug free world’<sup>13</sup>, with the latter focusing on its law enforcement endeavours, related drug seizures – an approach also followed by Morocco – and what it described as the ‘walloping threat’ of drug trafficking. Conversely, Uruguay noted that, ‘along with other countries, international organizations and civil society organizations,’ it ‘has insisted that there are still many problems regarding the control of illicit drug markets and that the war on drugs and prohibitionist policies as the only regulatory tool have not solved the problems but have exacerbated them, affecting social coexistence

and increasing the violence associated with drug trafficking’. Similarly, the Czech Republic noted ‘we have evidence to show that society free of drugs is [an] unachievable and unrealistic intention, and vice versa that other measures can be effective in addressing the world drug situation’.

Reference to a range of other issues demonstrated the increasing complexity of not only drug markets, but also international drug policy intended to address them. To be sure, while it is often tempting to organize states into neat categories, the contemporary policy landscape is better characterized as an intricate and fluid mosaic of policy stances and interpretive positions that sit below what might be regarded as high order overarching stances guided by dogma and pragma. For instance, most states – implicitly or otherwise – framed the drug control treaties as the ‘cornerstone/s’ of international endeavour. Yet within the plenary session some chose to stress the equal importance of all related soft law instruments since the 2009 Political Declaration (e.g. Bangladesh, China, and Indonesia) while others emphasised what is for many the more progressive 2016 Outcome Document (e.g. Switzerland). On a related point considering the Document’s emphasis on the still divisive issue, as in previous years human rights could be identified as a point of friction. Many states across the political spectrum included within their statements support for a range of human rights related issues. These included in relation to the SDGs (e.g. Bangladesh, Norway, Portugal, Ecuador, Germany, Lithuania, Malta, Mexico, Uruguay) as well as human rights and public health (e.g. Australia, Brazil, Norway, Switzerland, Portugal,<sup>14</sup> Palestine, Czech Republic, Germany, Italy, Malta, the Netherlands, Sweden, Uruguay and Mexico, with the latter two making specific reference to the importance of gender sensitive policies). Interesting, Chinese statements framed its policy approach in terms of public health. As has been the case in recent years, it was once again pleasing to see the issue access to medicines receive considerable – perhaps greater than usual<sup>15</sup> – support from a diverse range of member states. Statements often picked up on those made by the Board, the WHO and the UNODC regarding limited availability of controlled substances for medical purposes.

Nonetheless, while many statements were suggestive of wide-ranging support for human rights in general terms, others revealed interpretative





IDPC Executive Director Ann Fordham and several UN officials, at a side event on the UN System Common Position Credit: Marie Nougier, IDPC

variation – a perennial but inevitable conundrum within the international realm. For instance, while reflecting upon human rights, the Indonesian delegate stressed the view that ‘the rights of the victims of drug-related offences and their families should also be considered as an essential element in the formulation of global drug policy’ before going on to state that ‘in term of drug policy, there is no one-size-fits-all. Each country should take into account the historical, political, economic, social and cultural contexts and norms of its society’. Likewise, while noting the importance of human rights, the Japanese delegate was keen to stress his country’s deployment of strict law enforcement activities. Moreover, having mentioned the importance of the UN Charter, the head of the Russian delegation, Deputy Minister of Foreign Affairs Oleg Syromolotov, stressed that ‘the Russian side resolutely rejects calls for the legalization of drugs, which is a violation of international legal obligations assumed by states and runs counter to human rights, including the right to life and the protection of health’. Embracing the concept of negative space, differences in perspective were also identifiable in relation to those states that explicitly supported harm reduction (e.g. Czech Republic, Finland, Germany, Iran, Kenya, Mauritius, the Netherlands, New Zealand,<sup>16</sup> and Sweden<sup>17</sup>), favoured CSO engagement (e.g. Switzerland, Finland, Portugal, Canada, Germany, Italy, Malaysia, Poland, UK), highlighted the negative role of stigma (e.g. Belgium, Canada, Czech Republic) and opposed both the use of the death penalty

for drug related offences and extra judicial killings (e.g. Australia, Norway, Switzerland, Canada, Italy, Lithuania, Sweden, UK, Uruguay) and those that did not. In this instance, silence spoke volumes.

### Support for and tension around the Task Team

Though choosing to remain silent on these issues, some states favouring the traditional prohibition-oriented approach were more vocal in relation to the UN System Common Position and the work of the associated Task Team. This was the case both in the CoW and the Plenary. While vocal in both settings, in the latter it was the Russian Federation that was most vociferous. With the need to improve UN system-wide coherence on drug policy having been a reoccurring point of discussion for several years within and beyond the Commission,<sup>18</sup> a broad range of states were keen to express support for the Task Team. These included Portugal and, demonstrating the complexity of policy positions, Colombia. Despite conflicts with human rights norms in other parts of the UN system, the Colombian government has recently announced its intention to resume the aerial fumigation of coca.<sup>19</sup> Particularly supportive statements for the UN System Common Position and Task Team came from the Czech Republic, Switzerland and Norway. The Czech delegate noted how his country was pleased to ‘welcome the UN system common position on drug-related matters and work of the Task Team that confirm effective

## Box 1 UN agency support of the Task Team

Unlike the UNODC, over the course of the week several other UN agencies made both explicit and implicit statements that included support for the UN System Common Position on drug policy. Notable among them were those from the representative of the OHCHR. Strong backing came in a statement at a side event organised by the Norwegian government, as well as within the plenary itself. Here under agenda item 6, Mr. Zaved Mahmood, Human Rights and Drug Policy Advisor, highlighted how, among other things, 'in the UN System Common Position on Drug Related Matters, adopted by the UN Chief Executives Board for Coordination in 2018, all UN principals committed to address impunity for serious human rights violations in the context of drug control efforts'. In the General debate, he also noted how 'Within the framework of the UN System Common Position, OHCHR stands ready to support States and other stakeholders, including civil society organisations, in promoting and protecting human rights'. Focusing on more specific policy approaches, the UNAIDS

representative pointed out how 'under the leadership of the UN Secretary General, the UN system is united on decriminalisation'. She then went on to note that 'the UN System Common Position on drug policy commits all of us to step up our joint efforts, including to end the criminalization of drug possession for personal use and call for changes in laws, policies and practices that threaten the health and human rights of people'. Significantly, and standing as a much welcome example of increasing system-wide coherence and engagement within the CND of non-traditional actors, decriminalisation was also – if more obliquely – mentioned in the statement by the OHCHR's Working Group on Arbitrary Detention. Participating in the CND for the first time, the Group's then Vice-Chair and now Chair, Leigh Toomey, stressed in the General Debate that 'the principle of proportionality must continue to be a guiding principle in drug-related matters. Criminalization of drug use or consumption and minor drug offences should be avoided by all States'.



Several speakers intervene at the reception organised by IDPC on the UN System Common Position and the UN Task Team  
Credit: Marie Nougier, IDPC

cooperation through different but complementary roles of agencies within the UN system'. The Swiss were equally as strident in their support: 'A powerful means to harmonize UN action at the national and international level is the UN Common Position on drug policies. We urge UNODC to implement the Common Position, as the multiple facets of the drug problem require a balanced, comprehensive, data-driven and human rights response, within

the framework of the Sustainable Development Goals. The task team, responsible for translating the Common Position into practice, can secure the firm support of Switzerland'. Similar, if slightly more oblique, backing came from Norway whose delegate stressed how 'a broader engagement of the wider UN family can bring greater system-wide coherence between the different goals of drug control, human rights, public health and sustainable development'



and that the international community needed ‘strong cooperation with the Human Rights Council, the World Health Assembly – and the UN entities in New York to supplement the activities of the CND... Not least to achieve the health related Sustainable Development Goals which are of utmost relevance in this context’.

Mindful of the fact that all overt references to the Common Position had been negotiated out of the Drug Omnibus Resolution at the General Assembly in New York in November 2019, it perhaps should have come as no surprise that the Russian Federation would speak out against it in Vienna. Accordingly, Mr. Syromolotov stated that ‘we are categorically against any attempts to duplicate the policy function of the CND through any sort of advisory mechanisms like the UN Task Force on Drugs policy’. While not explicitly attacking the concept of system-wide coherence, this was a strange angle of attack since it is difficult to argue that the Task Team will operate as a parallel mechanism to the Commission. Nonetheless, the Deputy Minister was keen to promote structures viewed more favourably from Moscow. Noting that ‘we would welcome a further strengthening of the CND with other specialised UN bodies’, and critically ‘regional organisations’, Mr. Syromolotov consequently indicated support for the Shanghai Cooperation Organization, the Collective Security Treaty Organization and the BRICS; all groups that are currently under Russian Chairmanship. He also noted how the activities of the Central Asian Regional Information and Coordination Centre for Combating Illicit Trafficking of Narcotic Drugs, Psychotropic Substances and their Precursors fitted ‘harmoniously’ with the work of these organisations in the ‘Eurasian space’.

### Positions on the postponement (again) of voting on the ECDD recommendations on cannabis rescheduling

As will be recalled, following its first ever review of the substance, a planned vote on the ECDD’s recommendations on cannabis at the CND’s 62nd session in March 2019 was postponed to this year’s meeting. The argument had been that the extra 12 months would give member states the necessary time to consider what are admittedly a complex set of options.<sup>20</sup> Moreover, as the representative from the WHO was keen to point out at several occasions, the body has ‘significantly intensified’ the work of the Expert Committee on Drug Dependence, with

the ‘most recent review of cannabis and its preparations’ having ‘resulted in recommendations that consider the scientific advances and progress in our understanding of the composition of cannabis’. Consequently, considering the ongoing saga around the issue, it was inevitable that yet another postponement would be a reoccurring feature of many wide-ranging country statements within the plenary General Debate. As will be seen, these were used to reinforce more specific statements made under item 5(a), Changes in the scope of control of substances, and demonstrated the importance given to the matter.

While alert to charges of over-simplification, it is possible to organise national positions into two broad camps. First were states which, for various reasons, were either neutral about or largely supportive of the delay. For example, the Brazilian delegate stated ‘We have agreed to an important process during the intersessional period to discuss and clarify the impacts and underlying issues on WHO’s recommendations on the review of cannabis and related substances. As we look forward to further discussing these issues within the Commission, I can assure you that Brazil will participate actively in this exercise’. Using increasingly familiar language to frame the issue, Lebanon noted that it understood concerns regarding the *legal, economic and social implications* of rescheduling and hoped that there would be consensus and a vote in November/December (emphasis added). Use of the wording ‘legal, economic and social implications’, or variations thereof, is significant since it is usually deployed when states are opposed to the ECDD’s health-based recommendations. The Algerian delegate put forward the view that it had been wise to postpone the vote and that regarding the ‘social and economic implications’, ‘careful consideration’ was required, and consequently that there was ‘absolutely no rush’. Echoing this position, Ecuador stated that it needed more time before that vote due the ‘implications and consequences’. Similarly, Palestine noted the ‘multiple impacts in many fields’ and hoped that member states would ‘give it thought’.

Hinting at the difficult negotiations prior to the CND that had eventually resulted in the second postponement of the vote and adopting a neutral stance on the issue, both Singapore and South Africa expressed appreciation to the Commission chair for his ‘tireless efforts to find a way forward’ and ‘efforts in handling the process’. Moreover,



Delegates deliberate the postponement of the vote on the WHO cannabis re-scheduling recommendations Credit: UNODC SGB

after commending member states for ‘upholding the Vienna spirit of consensus’ on the matter, the South African delegate also made it clear that while his government had ‘carefully considered and reviewed these recommendations and is already in a position to support the WHO ECDD recommendations as they related to cannabis,’ his delegation would ‘continue to work with Member States in arriving at an amicable solution.’ The Japanese delegate also acknowledged the ‘admirable leadership of Ambassador Khan during these months in steering our consultations, noting that ‘his strenuous efforts finally led us to find the common ground’. Additionally he noted that, ‘given the complexities of the issues with their potential economic, social, legal and administrative implications and possible consequences of these recommendations on our national regulatory systems, we support further deliberations on the recommendations with a view to facilitating a well informed decision based on solid evidence within a given timeline’.

All that said, it became clear from other statements that a second group of states were less enthusiastic with the delayed vote. The UK, for example, noted that the ‘Commission was able to come to consensus on the way forward’, but stressed that it ‘is imperative that the vote takes place in December in order for the CND to fulfil its treaty mandated role’. Jamaica was more forceful. Framing its position in

terms of ‘availability of and access to controlled substances for medical and scientific purposes’, its delegate noted that ‘at the 62nd Session of the CND in March last year, my delegation placed on record its disappointment that the WHO’s Recommendations on the scheduling of cannabis was not considered for adoption’. ‘Once more,’ he continued, ‘the recommendations have been placed before the Commission for consideration and we urge that Members...firmly grasp this historic opportunity for the Commission to demonstrate its capacity to operate within the context of an ever changing and innovative world. The recommendations serve to make significant advancement based on scientific knowledge by acknowledging the medical and therapeutic benefits of cannabis’. In concluding, the delegate noted powerfully that ‘we owe it to the countless millions of persons in need of palliative care; to those suffering from illnesses and disorders such as epilepsy, cancer, multiple sclerosis and wasting syndrome. We owe it to them to provide this avenue of hope where all other options have failed’. The Mexican delegation was equally as forthright. In the belief that ‘it is time for the Commission on Narcotic Drugs to work on recognizing this differentiation, recognizing the new realities and dynamics, and seeking innovative visions that allow us to return to people’, the Mexican delegate warned that ‘the possibility of postponing such action should not be a pretext, but should guide us to recognize



and reaffirm the key role of the bodies mandated by the treaties, and compel us to debate more than ever about what must change to improve the international drug control policy.’

Although these and other similarly aligned statements were important, an intervention of significance came from James A. Walsh, Principal Deputy Assistant Secretary, Bureau of International Narcotics and Law Enforcement Affairs, U.S. Department of State, and US Head of Delegation. Mindful of the key behind the scenes role that the US has played over the last year or so, it is worth recounting it here at some length; particularly for what it says about the opioid crisis and current policy priorities. Mr. Walsh noted that ‘as the WHO accelerates the rate at which it can assess substances, it is especially important that the CND respond to all WHO recommendations in a timely manner’. ‘This includes’ he continued, ‘making difficult decisions on cannabis, so that the commission can return its focus to more urgent drug control threats that are killing many of our citizens and undermining our security and public health’. ‘The United States remains firmly committed to consensus-based decision making at the CND, including on this week’s procedural decision to vote on the cannabis recommendations at the Reconvened CND in December’, said Mr. Walsh before going on to note that ‘we regret that the CND was unable to take action on the WHO cannabis recommendations this week, given that Member States have been working hard since February 2019 to engage in an in-depth consultative process on the legal, administrative, social, and economic impacts of the recommendations’. In conclusion he noted ‘we would like to thank the WHO, the INCB, and UNODC for participating in those sessions’ but highlighted the US view that ‘it is now the responsibility of Member States to continue this process through the CND in a manner that ensures they arrive at the Reconvened session in December prepared to cast their votes’.

Interestingly, among all the statements on the rescheduling issue, only one state opposed it altogether. Within the context of cannabis use by young people within the country, Gambia ‘noted with serious concern the rescheduling recommendation on cannabis and would urge the commission not to rush the decision’. Moreover, the delegate stressed that his government was ‘once again reiterating and unequivocally stating its total opposition to any attempt to reschedule cannabis’. ‘As a country’

he continued, ‘cannabis is our most problematic drug responsible for most drug related crimes. Our youth are highly vulnerable to cannabis abuse leading to an increase in the number of youth with drug induced psychosis’. Concluding he stated, ‘I therefore call on the CND to take a stronger and realistic position in tackling the problem of cannabis abuse, which does not in any way include decriminalising or rescheduling’.

## Low key statements on legally regulated non-medical cannabis markets

Somewhat overshadowed by debate around how to deal with the WHO’s recommendations, although – as the Gambian statement suggests – closely linked in the minds of some delegations, was the ongoing issue of the adoption by some states, and territories therein, of legally regulated cannabis markets for non-medical adult cannabis. Indeed, for some states, it appeared as if the ECDD’s rescheduling proposals represented the top of a slippery slope towards widespread ‘cannabis legalisation’.

Within this context, many delegates, from both NGOs and member states, eagerly awaited Canadian comment on the issue. Still the only G-7 state to have shifted to regulated markets at a Federal level, Canada remains the focus of many states’ ire. As such, the statement by Michelle Boudreau, Director-General, Controlled Substances Directorate, Health Canada and Head of delegation, was matter of fact, yet defensively robust in terms of both the country’s public health approach to the drug and a desire not to be regarded as a trailblazer. ‘As Members are aware,’ she noted ‘Canada continues to implement our strict regulatory framework for cannabis, as a domestic public health approach’. However, the Head of delegation stressed, ‘we do not advocate for this approach as a solution for other States’. Having outlined the core elements of the Canadian approach, Ms. Boudreau then used the opportunity to share data relating to ‘early observations’ with the plenary. Despite what might be described as some teething problems associated with the market transition,<sup>21</sup> she was clearly keen to highlight positive outcomes. Consequently, as Ms. Boudreau explained, ‘the illegal market has already lost 30% of its market share’, with no corresponding increase in the overall size of the market. ‘This represents’ she noted ‘nearly \$2 billion [Canadian dollars] in sales that did not go to criminal organizations’. Further, and importantly bearing in mind the

concerns of countries like Gambia, it was pointed out how 'initial data suggests that rates of cannabis use have not changed among youth and young adults'. And finally, the Director-General highlighted that the Canadian authorities had 'seen no increase in the illegal movement of cannabis across international borders'.

No doubt in some way influenced by the Canadian policy choice, both the Netherlands and New Zealand used plenary statements to outline the state of play regarding cannabis within their borders. Framing the country's recent decision as a 'clear example of our evidence-based and pragmatic approach' to drug policy, the Dutch delegate explained how the Netherlands was 'preparing to carry out a small-scale experiment which will be monitored and evaluated by independent researchers'. This involves a four-year pilot project on the regulated supply of cannabis to coffeeshops in ten municipalities. 'The results of monitoring and evaluation' it was stressed, 'are key determinants of our future policymaking'. Meanwhile, and within the context of the referendum in September 2020 on the 'regulation of cannabis for personal use', the New Zealand delegate was keen to highlight how the proposed 'alternative approach' had been 'developed in a manner consistent with global health and wellbeing outcomes'. Specifically, he noted 'the public health approach taken to the development of draft legislation focuses on reducing harms of cannabis use, including the health risks, and particularly for youth'. More broadly and in relation to the extant control framework it was pointed out that 'there is no one-size-fits-all approach and we cannot face the challenges alone... And in order to achieve the fundamental goal of the three international drug control conventions, namely to safeguard the health and welfare of humanity, we need to give ourselves the space and flexibility to pursue new approaches to reduce harm and build up a body of evidence on what works'. 'We can do this' the delegate concluded, 'by being open to innovative solutions and previously untried paths. As our understanding grows, so does the need to establish a truly modernised drug policy'.

Unconvinced by such notions of innovation and flexibility, several countries raised concerns about real or potential policy shifts. Kenya, for example, noted that 'it is our belief that the Conventions provide sufficient safeguards that allow access to such drugs and substances for medical and scientific purposes'. As such, the Kenyan delegate went onto

the stress that 'we once again echo our strongest opposition to any attempt to push for the legalization of cannabis and other controlled substances for any reason other than medical and scientific purposes'. Reflecting an apparently increasingly common view among many non-Western states, he also highlighted that in his view the 'majority of developing countries are yet to establish effective and enforcement drug control mechanisms and legalizing these substances for recreational purposes will strain the already weak control mechanisms'. Adopting a different tack, the Chinese delegate defended the right of all member states to choose their own policy approaches and the adaption of 'their drug control systems to their national realities', presumably in light of some of its own practices that conflict with human rights norms. He then, however, stated China's opposition to 'legalisation'. And once again taking on the role of the key oppositional state on the issue, the Russian Federation also used its statement to attempt to define appropriate state behaviour and rectitude. In a thinly veiled reference to Canada, Mr. Syromolotov was keen to stress that 'as stated by Minister of Foreign Affairs of the Russian Federation Sergey Lavrov in his speech at the Commission's last year's session, only states that faithfully comply with the UN anti-drug conventions have the moral right to apply for participation in the CND'. Perhaps reflective of Russia's influence over the SCO, one of the Organisation's statements also noted 'we regret to note that the trends observed today towards the legalization of cannabis for recreational purposes contribute to the erosion of established international anti-drug law'.

Indeed, it is worth noting the influence of regional group positions within the UN system. While EU member states have long represented a coherent coalition around human rights, the Association of Southeast Asian Nations (ASEAN) appears to be developing as an influential organising force within international drug control debates, particularly in relation to its quest for a 'drug free world'.<sup>22</sup> As such, while noting that 'Thailand realizes that it is important to balance the need for narcotic drugs and psychotropic substances for medical and scientific purposes, with careful consideration for the adverse effects on public health and welfare of the people', the Thai delegate also highlighted that 'We do reaffirm our commitment to the ASEAN's stand against legalization of narcotic drugs for non-medical and scientific use'. Similarly, Viet Nam expressed its full support for 'the position of ASEAN

## Box 2 Drugs and the Darknet: Ongoing interest

As has been increasingly the case in recent years, the issue of drugs and the darknet cropped up at various points across the course of this year's session, including side events. Most mentions within statements and interventions reflected concern over various aspects of the increasingly dynamic phenomenon of drug cryptomarkets. For example, the delegate for Kyrgyzstan highlighted the importance of 'remote sale and E-payment systems' and stressed that this 'points to a new phase in the drug control system'. The US also noted anxiety around cryptocurrencies. Emphasizing a high-order categorization of the issue in Moscow, the Russian delegate noted that 'Russian society is... extremely concerned about the aggressive use of the Internet, including its shadow segment, for advertising and marketing of drugs'. 'On behalf of President of the Russian Federation Vladimir Putin,' he continued, 'Russian legislation is currently being improved to prevent online drug propaganda'. Several regional organisations also drew attention to the issue. For instance, referencing a co-organised side-event in the margins of the Commission, a representative for the Shanghai Cooperation Organization (SCO) highlighted how he 'would like to emphasize the relevance and practical significance of the joint high-level event held today by the SCO and UNODC in terms of effectively neutralizing the drug threat in the shadow segment of the Internet, the so-called "Darknet"'. A speaker for the Organization for Security and Co-operation in Europe highlighted concern over cryptocurrencies, the darknet as an 'emerging threat' and used the

OSCE statement to promote the fact that under the Albanian chairmanship the Organization would in June be convening the 'flagship' OSCE-wide anti-drug conference, which would address the 'spread of illicit drugs by means of the darkweb and cryptocurrencies'.

Interestingly, in what appears to be a new departure from the norm, the traditional law enforcement approach was not all dominant, however. While flagging up how darknet drug markets present a 'significant threat to health and security of ... communities', the Finish delegate also introduced evidence of a more nuanced approach to dealing with drug crypto markets. In setting the scene, the delegate noted that 'drug markets are dynamic and continuously changing. Illicit trade on the darknet markets is one manifestation of the increasingly complex nature of transnational organised crime. In just a few clicks, almost any type of drug is accessible to buyers with basic technological understanding. This development poses a significant threat to the health and security of citizens and communities'. 'On the other hand' it was stressed, 'we should not leave the internet just for the criminals. Internet also creates an important environment for the demand and harm reduction interventions. Internet-based interventions have the potential to extend the reach and geographical coverage of treatment programmes to people who may not otherwise be able to access specialised drug services'.

and some members states on a zero-tolerance attitude towards drugs; being resolute against the legalization of drug use, striving for the realization of a drug-free ASEAN community'. Yet, while once again reflecting inconsistency concerning freedom on policy choices and an uncomfortable tension around the relativism of human rights, it was noted how the sovereignty of each country should be respected 'in choosing the optimal solutions which balances supply and demand reduction, in line with each country's historical, political, economic, social and cultural situations'.

### ARQ Revision

On Thursday 4 March, agenda item 6 saw the plenary adopt the 'improved and streamlined Annual Report Questionnaire, as reflected in the

Ministerial Declaration of 2019'. Discussion focused around Decision L7,<sup>23</sup> 'Improved and streamlined annual report questionnaire', the draft document submitted by the Chair and supported by several other documents concerning the adoption of the new ARQ.<sup>24</sup> As it will be recalled, the revision of the Questionnaire entailed a multi-year and multi-stakeholder process begun in 2017, and one that was closely linked with the implementation of the 2016 Outcome Document.<sup>25</sup> Implying that final deliberations had been somewhat fraught, in introducing L7 the Ambassador Khan thanked all delegations for 'flexibility and cooperation' in the discussions on this decision. With L7 swiftly adopted by consensus, a series of country statements followed. Analysis of these reveals several reoccurring themes.





Ambassador Buenrostro (Mexico) moderating a panel on the new ARQs, with UN officials and the author of this report  
Credit: Marie Nougier, IDPC

First, highlighting the importance of balanced and comprehensive evidence-based policies addressing the various aspects of the world drug problem, many speakers were supportive of the revised and streamlined ARQ and expressed appreciation to UNODC for its work since 2017. To be sure, at various points over the course of the week, among others, the EU, Indonesia, Nigeria, South Africa, China, Egypt, Iran, India, Finland, Portugal, Italy, Malaysia, The Netherlands, New Zealand and Poland all expressed support. Moreover, and again reflecting the need for the Chair's mediation in the very last stages of deliberation, many states under Item 6 in particular expressed appreciation to Ambassador Khan in guiding the informal consultations around L7.

Second, several delegates, particularly but not exclusively from the Global South, highlighted the need for technical assistance and capacity building for states. In this regard, mention was made of e-learning tools to help with completion of the Questionnaire.

Third, amidst descriptions of data collection efforts within countries and on a few occasions (e.g. Japan and Indonesia) lists of data indicating what were deemed to be successful policy interventions, some delegates stressed the need for national focal points to help with data collection and ARQ completion. More specifically, the Canadian delegate mentioned that the reporting process would be enhanced if the modules were easily sharable among national agencies within a country.

And finally, it is important to highlight how several states noted not only the existence of different national data-collection practices and approaches,

but also different societal contexts within which collection takes place and were pleased that these had been recognised in L7. Specifically, the Iranian delegate noted that 'moral and legal values' should be taken into consideration. This was a point that appeared to relate in some way to tensions around endorsement of the technical guidelines contained in the ARQ related conference room paper;<sup>26</sup> tensions that one suspects underpinned the Chair's comments and the gratitude afforded to him by many states speaking on the issue. Indeed, several speakers supported the decision to include a footnote in L7 explaining that neither the CND nor experts had endorsed the technical guidelines for the revised and streamlined ARQ. On this issue, Egypt stressed it was 'not bound' by the guidelines, while Iran highlighted that it did not support them. A suggestion of exactly what underpinned such hostility came from Nigeria. In reflecting disapproval regarding what was perceived to be a lack of consultation on the guidelines, the Nigerian delegate singled out the issue of guidance around 'gender identity'. To be sure, informal conversations within the corridors of the VIC confirmed that the definition of gender had become a real point of contention in the final stages of negotiation around L7.

In terms of diverging perspectives among member states, it is also worth pointing out how, building upon comments elsewhere during the session, the EU used this agenda item to highlight the need for the UNODC to exchange information with other bodies, such as the WHO, UNDP, UN Women, OHCHR, and regional and international organisations on data collection, as well offering as support for the Task Team. Reflecting its ongoing significance within the Commission, the UNODC and





The Committee of the Whole gets ready for a busy day of negotiations Credit: Adria Cots Fernandez, IDPC

other non-Vienna based parts of the UN, the ARQ revision process was also mentioned at various other points, including by the representative of the OHCHR. Speaking at a side-event devoted to the revised Questionnaire, Next Steps for Data Collection on Drugs: Experiences from United Nations Agencies, among other things Mr. Zaved Mahmood highlighted the need for better system-wide coherence on data collection and the supplementation of ARQ data with that collected by other UN agencies, including the Office of the High Commissioner on Human Rights. He also supported the work of the Task Team in this regard, a position that was also stated in more general terms in his statement within the General Debate.

## The Committee of the Whole: Visible divisions and degrees of compromise

While only five in number (See Box 3, including for final resolution identification numbers),<sup>27</sup> and often negotiated predominantly within informals, discussions around draft resolutions in the CoW offered further insights into states' positions on a range of issues. Indeed, in many instances the deliberations necessitated some hard work by the Polish Chair, Ambassador Dominika Krois, and the secretariat.

### L2: 'Promoting efforts by Member States to address and counter the world drug problem, in particularly supply reduction-related measures, through effective partnerships with private sector entities'

This resolution, submitted by the US and eventually co-sponsored by Georgia, Honduras, Japan and Paraguay, aimed to combat the world drug problem through effective partnerships with the 'private sector' in order to curb the diversion of synthetic drugs and precursors used in their manufacture. Despite efforts in previous years to address international threats posed by the non-medical use of synthetic opioids (Resolution 61/8, submitted by the US and Canada) that included demand reduction measures and promoting measures to prevent and treat opioid overdose (including naloxone administration), the draft resolution put forth by the US this year did not specify such measures as central to effective partnerships with the private sector. Curiously, the draft resolution did not acknowledge the role of private pharmaceutical companies in the US opioid crisis, and instead welcomed the contributions of the private sector in countering the world drug problem.

Deliberations on L2 opened the CoW on Monday 2<sup>nd</sup>, with the main point of contention within the initial reading of this resolution regarding

clarification on the definition of the 'private sector entities'. Member States suggested that the term was vague and needed to be clarified further within the preambular paragraphs. Suggestions included adding reference to entities that encompass harm reduction (the Netherlands), demand reduction (China, Belgium), access to controlled medications (Belgium), the reduction of stigma (Canada) and specific reference to civil society (Switzerland). Another initial point of contention regarded requests to clarify the scope of the resolution, with suggestions to expand the focus from non-medical synthetic opioids to all synthetic substances (Switzerland, China and Russia). Review of the operational paragraphs brought conflict regarding concerns for data and privacy protection between proposed partnerships (EU), introducing shared responsibility in said partnerships (Colombia), the role of universities and civil society (Switzerland), and calling for specificity within language on marketing (Belgium, Australia). Many Member States suggested additions to Operative Paragraph (OP) 4, the paragraph detailing demand reduction approaches, calling for specific mention of the WHO (Colombia) and for the insertion of the term 'evidence-based' and the specific mention of the impact of stigma in demand reduction approaches. Clarification on the paragraphs referencing the INCB was also requested by the Russian delegate.

L2 did not appear back in the CoW until Thursday, following multiple informals, involving deliberations between the US, Russia, Canada, Mexico, Japan, Colombia, the EU, China, Argentina, and Australia. Operational and preambular paragraphs were agreed on, including requests for the UNODC and INCB to assist Member States in efforts to achieve the aims of the drug conventions (reference to the WHO and ensuring adequate availability and access to controlled substances were dropped for this respect), and underscoring the role of relevant stakeholders including private sector entities. The debated list of specific entities that various Member States had suggested regarding demand and harm reduction related entities was dropped.

The final paragraphs to be agreed generated some debate, particularly regarding language surrounding welcoming the UN Toolkit on Synthetic Drugs and the UNODC's Opioid Strategy, and the importance of the INCB's global communications platforms<sup>28</sup> (See Preambular Paragraph – PP – 14). Alternate proposals had been suggested by the Russian Federation, Canada and Mexico, with Russia's proposed language seen by others as 'tight' as it focussed on giving instructions to the INCB and highlighting the *collaboration* between the UNODC and the INCB, whilst Canada's text was focused more on *coordination* between authorities. Much time was consequently devoted to the use of the words 'coordination',





### Box 3 Resolutions agreed at the 63rd CND

**Resolution 63/1:** Promoting efforts by Member States to address and counter the world drug problem, in particular supply reduction-related measures, through effective partnerships with private sector entities.

**Resolution 63/2:** Promoting and improving the collection and analysis of reliable and comparable data to strengthen balanced, integrated, comprehensive, multidisciplinary and scientific evidence-based responses to the world problem.

**Resolution 63/3:** Promoting awareness-raising, education and training as part of a comprehensive approach to ensuring access to and the availability of controlled substances for medical and scientific purposes and improving their rational use.

**Resolution 63/4:** Promoting the involvement of youth in drug prevention efforts.

**Resolution 63/5:** Promoting alternative development as an inclusive and sustainable development-oriented drug control strategy.

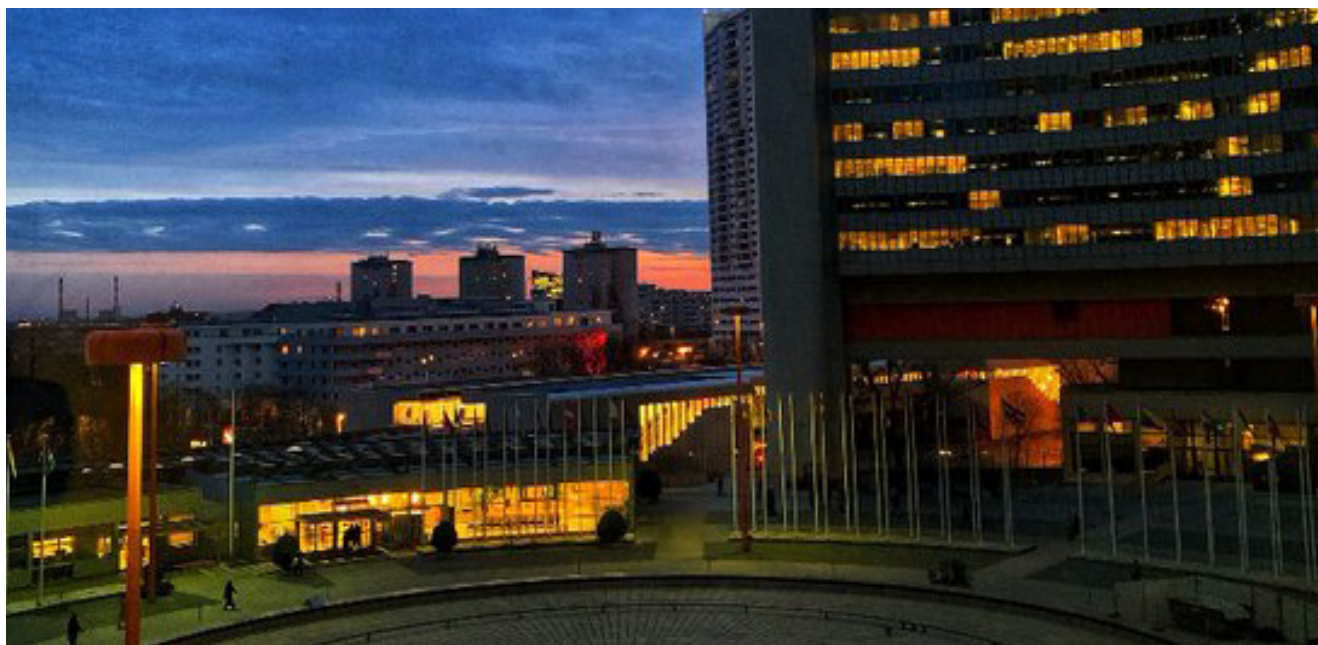
‘collaboration’ or ‘cooperation’. After deliberations and hearing from both the INCB Secretariat and the UNODC, the Canadian suggestion of close *coordination* prevailed, supported by the US and Japan.

The final ‘debate’ regarded OP 3, predominantly between China and the EU, with the EU demanding an explicit mention of ‘non-scheduled’ precursors, along with scheduled. The Chair suggested to keep both, and the US agreed. Upon final review of OP5, specific reference to ‘health-care’ professionals and issues related to marketing were dropped by the US to agree on the final paragraph.

### L3: Promoting and improving the collection and analysis of reliable and comparable data to strengthen balanced, integrated, comprehensive, multidisciplinary and scientific evidence-based responses to the world drug problem

Alongside the adoption of the improved and streamlined Annual Report Questionnaire, member states negotiated a resolution specifically about data collection and analysis introduced by Croatia on behalf of the EU. Cosponsors of the adopted resolution included Australia, Colombia, Croatia (on behalf of the EU), Georgia, Honduras, Mexico, New Zealand, and Norway.

As at other points of this year’s session, perhaps the most contentious aspect of this resolution was its references to the UN System Coordination Task Team and the UN System Common Position on drug-related matters; something mentioned in both a Preambular and Operative Paragraph. While member states in support of the inclusion of these references (including Australia, Canada, the EU, Mexico, New Zealand, Norway, and Switzerland) argued that the work of the Task Team was directly relevant to this resolution – given the establishment of the Task Team to coordinate data collection to promote scientific, evidence-based implementation of international commitments – and it would therefore be beneficial for member states to stay informed of their work, other member states opposed them (including Egypt, Iran, Kyrgyzstan, Nigeria, Russia, Singapore, South Africa, Turkey, and the United States). The rationale for its exclusion as offered by the United States was based on a belief that the Task Team had gone beyond its mandate by putting forward policy recommendations in the Common Position. The inclusion or deletion of references to the Team and Common Position were repeatedly articulated as red lines for member states on both sides, leading the Chair of the CoW to suggest its removal altogether. Following this suggestion, Mexico proposed alternative language referencing ‘the framework of the UN System Chief Executive Board for Coordination’ although this was not accepted by opposing member states. Following significant back and forth, member states agreed on the further watered-down language of ‘effective UN inter-agency collaboration,’ which



Dusk sets beyond the UN complex in Vienna as the 63rd session of CND unfolds Credit: UNODC SGB

was also replicated in the relevant Preambular Paragraph of L4. In the end, the preambular paragraph of resolution L3 took note of the efforts of the UNODC to coordinate and ensure effective UN inter-agency collaboration, and in the operative paragraph, requested the UNODC brief member states on a regular basis on their efforts to coordinate and ensure effective UN inter-agency collaboration.

It is worth noting again that the debate on the inclusion of the Task Team and Common Position also occurred in negotiations of the annual omnibus resolution in the Third Committee in late 2019,<sup>29</sup> just a few months before this session of the CND. During those negotiations, member states were also not able to agree upon direct references to the Task Team and Common Position, and instead included a similarly implicit reference of ‘UN inter-agency initiatives aimed at strengthening coordination within the UN system’, which was the agreed language that opposing member states continually suggested during the negotiations of L3. Whether the adopted language in L3 represents a step forward from this language in the omnibus resolution is open for interpretation.

Crucially, when L3 was adopted in the closing session of the plenary, 34 member states made or associated themselves with statements supportive of the Task Team and Common Position. These, in order of delivery, included Canada, Mexico, Switzerland, New Zealand and, representing its 27 member

states, the EU. Norway, Australia and Uruguay also aligned themselves with the EU statement. Moreover, here Switzerland also explicitly asked that updates on the work of the Team become a standing agenda item for future sessions of the CND, given the key role played by this mechanism in coordinating data collection to promote scientific, evidence-based implementation.

Other noteworthy aspects of resolution L3 included added references to civil society and affected populations in a preambular paragraph ‘acknowledging the[ir] participatory role in the development and implementation of data collection and the monitoring and evaluation of drug policies and programmes’. Language in operative paragraphs calling upon member states to analyse their policies and responses regarding cross-cutting issues such as drugs and human rights, youth, and vulnerable members of society and communities were retained, and references to women and children were added. While language on gender equality and equity in health did not survive the negotiations, an operative paragraph encouraging member states to collect and share data disaggregated by age and sex, and to ‘mainstream a gender perspective...with a view to addressing the knowledge gap on women and drug use’ was incorporated. A key outcome of this resolution was a request to the UNODC to continue convening an informal international scientific network to provide input on efforts to promote and improve the collection and analysis of reliable, valid, and comparable data.



#### L4: Promoting awareness-raising, education and training as part of a comprehensive approach to ensuring access to and the availability of internationally controlled substances for medical and scientific purposes and improving their rational use

L4, concerned with ensuring access to controlled medicines, was introduced by Australia and Croatia, on behalf of the EU. Cosponsors of the adopted resolution included Argentina, Australia, Colombia, Croatia (on behalf of the EU), El Salvador, Georgia, Guatemala, Honduras, Mexico, New Zealand, Norway, and Paraguay.

As mentioned above in relation to L3, references to the UN System Common Position and the UN System Coordination Task Team were contentious aspects of the negotiations. Language agreed for L3 was subsequently applied to L4, which included a Preambular Paragraph noting efforts of the UNODC to ‘coordinate and ensure effective UN inter-agency collaboration...particularly with regard to access to and the availability of internationally controlled substances for medical and scientific purposes’.

Although three preambular paragraphs in the initial draft resolution included explicit references to resolutions from the World Health Assembly (WHA),<sup>30</sup> this was removed throughout the negotiations. The United States indicated they were not supportive of referencing resolutions from other entities and did not believe those listed were sufficiently relevant, and this position was supported by Japan and Russia. While other member states, such as the Netherlands, preferred to retain references to the WHA resolutions, the language was agreed for deletion during the informals. Instead, a preambular paragraph that alludes to the topics of the previously included resolutions was agreed, specifically, ‘bearing in mind the important work and concerns of the WHA...in particular, on strengthening palliative care as a component of comprehensive care throughout the life course, on addressing the shortage of global medicines and vaccines and on cancer prevention and control in the context of an integrated approach’.

Another polarizing aspect of the negotiations was the addition of language referencing resolution 61/11 on promoting non-stigmatizing attitudes.<sup>31</sup> Canada, which introduced the resolution on stigma

in 2018, made concerted efforts to add references to stigma in this resolution given its relevance to access to controlled substances for medical purposes. While an explicit reference to resolution 61/11 was agreed in a preambular paragraph, an operative paragraph did not retain explicit language on stigma. Instead, the operative paragraph proposed by Russia, and using language from a report by the INCB,<sup>32</sup> encourages member states to ‘include in their education, awareness-raising and training programmes, information on how cultural attitudes towards the management of health conditions, as well as the relief of pain, are acting as an impediment to access to and the availability of internationally controlled substances for medical purposes, including palliative care, for all those in need, including drug users’. Although stigma is not mentioned directly, the recognition that cultural attitudes can act as a barrier to accessing medications for people who use drugs represents a strength of this resolution.

Enough flexibility was maintained in this resolution to be interpreted as applying to access to essential medicines beyond the purposes of palliative care, and thus including medications used for opioid agonist treatment such as methadone and buprenorphine. Notably, references to civil society were retained in both a preambular and an operative paragraphs.

#### L5: Promoting the involvement of youth in drug prevention efforts

This resolution was put forward by the Russian Federation and, ultimately, co-sponsored by Azerbaijan, Belarus, Egypt, Guatemala, Indonesia, Japan, Kazakhstan, Kyrgyzstan, Malaysia, Myanmar, Nicaragua, Nigeria, Peru, Philippines, Russian Federation, Syrian Arab Republic, Tajikistan, Turkmenistan, United Arab Emirates, Venezuela (Bolivarian Republic of) and Vietnam.

Aside from the compulsory (re-)affirmations and recognition of previously agreed policy papers, including a nod to International Standards on Drug Use Prevention and Youth 2030: The United Nations Strategy on Youth, the resolution evidences the typical tiptoeing around key issues that is a characteristic of CND. Highlights of the final version include a half-hearted attempt at defining the term ‘youth’, promotion of the UNODC’s new *Handbook on youth participation in drug prevention work*, and the 2020 INCB report entitled *Improving*

*substance use prevention and treatment services for young people.* Notably, it also recalls resolution 61/7 from 2018 to encourage effective participatory role for young people and youth-based organizations in the formulation of national, regional and international development strategies and policies.

Following the first reading of the resolution, the discussion was dominated by pushes for more consistency and clarity in the language throughout the text and, especially, in the title. The US was the first to suggest the term ‘drug use or abuse’ to be included in the title and advised on a number of technical updates to the body of the text. The US was joined by Sweden and Switzerland who also championed ‘young persons’ as the preferred terminology in place of ‘youth’ to stress that young people are individuals in their own right. Portugal, Sweden and Switzerland were the most engaged member states regarding the inclusion of scientific evidence and pushing to get rid of unjustified references to other societal issues.

The other leading voice on a balanced language was Canada. The Canadian delegate tenaciously raised the issue of stigmatization, health promotion and youth empowerment. With the support of Western countries, there were notable moves for the inclusion of civil society and families as well. Canada was also persistent on including young people beyond prevention efforts with notable pushback from several Russia-friendly states. Nigeria claimed to not even understand why civil society participation plays a role in the involvement of youth in prevention. Nigeria was then joined by Singapore, Palestine, Japan, Egypt, Kyrgyzstan and Guatemala, saying that efforts to balance the language will take away focus from the core of the resolution.

While Russia has been at pains to maintain the one-sided prevention narrative of the resolution, attempting to shut down any talk of treatment or harm reduction, Australia came to lend support to the Canadian side of the debate, insisting that treatment programmes contribute to the prevention of problems, and was supported by the UK and Sweden. France pushed for other vulnerable groups to be included and Canada was adamant when it came to including gender-perspectives, referring to resolution 61/11 and 59/5. Russia and Nigeria’s opposition was supported by Kazakhstan where, reportedly, no issues related to gender in the context described have ever been recorded. While

most issues had been worked out in informals, i.e. behind closed doors, it was possible to witness a brief match between Australia, the US and Nigeria regarding the phrasing of ‘non-medical’ drug use versus ‘misuse’. In the last rounds of deliberations, following a short back-and-forth about including the phrase ‘lived experience’ in the text, Norway made sure ‘society free of drugs’ was omitted, and with that, L5 was adopted in a relatively uncomplicated manner.

The resolution occasioned a perfect example of UN discussions around youth engagement without engaging young people or including paragraphs that would assign a more serious consideration to the already existing mechanisms that include youth. Although the resolution ‘notes with appreciation’ the Youth Forum, their brief statement within the General Debate was the only output that reached the plenary and, as the US poignantly pointed out during the course of this resolution’s debate, those statements do not present anything binding to any member state.<sup>33</sup>

## **L6: Promoting alternative development as a development-oriented drug control strategy**

This was perhaps the least controversial resolution at this year’s CND. Proposed by Peru and Thailand – and later co-sponsored by Chile, Colombia, Germany and Myanmar, it mainly reiterated agreed language and was approved at the CoW on Tuesday morning.

As was the case in previous years, the resolution includes unhelpful and harmful language linking alternative development with eradication and the goal of ‘promoting a society free of drug abuse’ – without any caveats on the possible impacts of forced eradication on the human rights of farmers.

Positively, new human rights language was added in the final text, with a new general PP reiterating member states’ commitment to human rights protection, and a brief mention of the need to ensure that ‘both men and women benefit equally’ from alternative development programmes in OP2.

Similarly, original language on alternative development and the SDGs was improved in the final iteration of the resolution, with a separate PP recognising the need for alternative development to ‘address human vulnerabilities, including poverty, unemployment, a lack of opportunities, discrimination

and social marginalization'. In addition, PP3 now uses UNGASS language stating that drug policy commitments should be complementary to 'efforts to achieve the Sustainable Development Goals'.

At a time when the CND was about to adopt a revised ARQ, it is also positive that this resolution urges states to 'promote data collection' on the 'causes of illicit drug crop cultivation and other illicit drug-related activities' to identify 'the factors driving illicit cultivation'. This is particularly relevant for the identification of factors of poverty and vulnerability, and the development of policies and programmes aligned with the SDGs that can truly address the underlying causes of engagement in the illegal market in both rural and urban settings. Nevertheless, compared to agreed UNGASS language, this resolution remains overall rather bland in contents.

Language around meaningful civil society engagement, in particular affected communities of growers, in alternative development programmes is particularly weak in OP4, which was added in informals. Instead of using stronger agreed language from the UNGASS Outcome Document,<sup>34</sup> the OP merely 'invites' member states to 'consider the importance of community-based agreements that enable communities to sustain their development'.

To finish, it is worth mentioning Bolivia's statement welcoming the resolution as it was adopted in the CND's Plenary. The Bolivian delegate highlighted the 'innovative' approach of the resolution, that of being 'united and free of drugs', mentioning Bolivia's own efforts to 'end the scourge of drugs in Bolivian society'.<sup>35</sup> This is in stark contrast with Bolivia's past policy of social control of coca crops which is now at risk of being dismantled by the interim government that took office after Evo Morales was forced to flee the country at the end of 2018.

## Changes in the scope of control: Scheduling at the 62<sup>nd</sup> CND and the postponement (again) of the vote on cannabis and cannabis-related substances

On the morning of Wednesday 4 March, Item 5(a) saw delegations from states that are members of the Commission vote on changes in the scope of international drug control; a process that takes place

in the Plenary and that currently represents the only facet of the CND's work where votes are taken. In the voting process, proposals are introduced by either the INCB or the WHO, depending on the substances under consideration. Votes are then cast by a show of hands (for, against and abstain), and counted by the Secretariat. The decision is announced by the Chair. During this year's session recommendations came from both the WHO and the Board.

In line with its very specific mandate under the 1988 Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, the INCB plays an important role within the UN drug control system in the governance of the trade of precursor chemicals. According to the 1988 Convention, recommendations from the Board to place a precursor under international control within one of the instrument's two tables must be agreed within the Commission by a two-thirds majority. Accordingly, the CND approved a proposal to place *alpha*-phenylacetoacetate (MAPA) – a substitute, or designer precursor, chemical for several amphetamine and methamphetamine precursors – within Table 1. Following recommendations from its ECDD, the WHO then recommended for scheduling 12 substances under the 1961 Single Convention on Narcotic Drugs as amended by the 1972 Protocol or the 1971 Convention on Psychotropic Substances. In this case, each Convention has four schedules featuring varying degrees of restriction. These are intended to reflect the levels of risk associated with the substance in question.<sup>36</sup> The voting arrangements between the two treaties differ: the Single Convention requires a simple majority of votes for the recommendation to be accepted while, like the 1988 Convention, the Psychotropics Convention requires a two thirds majority, which equates to 35 members of the CND. As has been the case in recent years, some of the substances recommended and agreed for inclusion under the control of the Conventions by the WHO were fentanyl analogues, although, among other substances, this year the recommendations also included several synthetic cannabinoids.<sup>37</sup>

Presentation of recommendations by the Board and the WHO and subsequent agreement by the Commission were uncontroversial. The same cannot be said regarding ongoing discussion around that status of cannabis and its derivatives within the 1961 and 1971 Conventions. Nonetheless, as discussed above, despite the additional time for consideration, ongoing dialogue with the ECDD concerning



the details of its recommendations and the production of a set of accompanying Conference Room Papers,<sup>38</sup> not all states felt able to vote at the 63<sup>rd</sup> session. Indeed, as became clear in various statements over the course of the week – particularly in the General Debate – it was only due to the hard work of the CND Chair over the months leading up to this year’s session that any agreement on the way forward could be found. With some states keen to vote and others reluctant to do so, it was only through an impressive feat of diplomatic alchemy by Ambassador Khan that agreement around a compromise position was found. This was embodied within draft Decision L8, ‘Changes in the scope of control of substances: proposed scheduling recommendations by the World Health Organization on cannabis and cannabis-related substances’. Recalling the Commission’s mandate regarding scheduling, the WHO’s recommendations and member states’ determination to continue their considerations, this states that ‘bearing in mind their complexity, in order to clarify the implications of, as well as the reasoning for, the recommendations,’ the CND ‘decides to vote at its reconvened sixty-third session in December 2020, in order to preserve the integrity of the international scheduling system’.<sup>39</sup>

Following Ambassador Khan’s introductory comments, which included noting that the ‘Commission has held intensive informal consultations on the recommendations’ involving two inter-session- al meetings, and his subsequent presentation of

L8 (which ultimately became Decision 63/14), the Commission formally agreed by consensus to postpone the vote. A combination of the speed at which the Chair moved to the gavel and his accompanying observations perhaps hinted at his enthusiasm to move discussion on. It has become clear, he noted that ‘some member states don’t have a clear understanding of the implications and consequences of the recommendations... while others [are] already prepared to go for vote’. ‘On this basis,’ the Ambassador continued, ‘we have reached a common understanding... after *indulging ourselves* in weeks of long consultations...’ (emphasis added).

As might be expected bearing in mind the positions adopted in the General Debate, the country statements that followed once again fell broadly in two camps; states that favoured and those that regretted yet another postponement. Indeed, as can be seen, many of the positions reaffirmed those made earlier in the week. Arguably leading the regretful group was the EU, with among other states, Mexico and Uruguay associating themselves with the European Union’s statement. This, like all other interventions, expressed gratitude to the Chair, but while expressing acceptance of the postponement, regretted the lack of vote and noted how it must take place in December. At that point, it was stressed, the CND ‘must act to preserve integrity and credibility of international scheduling system’. Other notable statements predominantly sharing this perspective came from Jamaica, which linked



In classic 2020 fashion, CND delegates receive information on COVID-19 prevention Credit: CND Tweets

the decision to access to palliative care, Canada, Mexico, Switzerland, the UK and the US. Common themes running through the statements were that the additional time should be used productively rather than deployed to simply keep the issue in flux and, as mentioned by the EU, that ongoing indecision would damage the integrity of the scheduling system. Specifically, Canada stressed that it 'remains our view that two recommendations were ready for a substantive vote and could have been adopted today'. Meanwhile, among other things Mexico thoughtfully pointed out that 'undoubtedly this is a very different international time compared to that of 1961 when the single drug control convention was adopted and therefore Mexico once again recognises the role and work of the WHO in undertaking a critical analysis of cannabis and its derivatives, a plant that was indeed included on the controlled schedules without any prior analysis regarding its possible therapeutic properties, scientific uses or psychoactive characteristics'. Wishing to echo the views of Canada and the EU, the US delegate also chose to highlight that the WHO recommendation re-affirms placement of cannabis under Schedule 1 of the Single Convention. Noting that 'this is a major milestone in our collective efforts to control narcotic drugs liable to abuse but also possessing the potential of therapeutic value', he also stressed that the drug problem is bigger than cannabis and that broader control efforts should not be side-lined by the scheduling issue; a position already made with-in an earlier plenary statement.

Reflecting the alternative perspective, several states questioned the review process and the basis upon which the ECDD's recommendations had been made. Key among these was, perhaps predictably, the Russian Federation. Welcoming, somewhat ironically, the 'Vienna consensus' around the decision to further postpone the postponed vote, the Russian delegate emphasised the need for a 'solid evidence base' upon which to make the decision, but claimed that his country had 'not seen any convincing exhaustive arguments to support the proposal'. Moreover, he continued, there was a need to analyse 'what is behind the need to weaken control on cannabis which remains the most abused narcotic drug in the world' and hoped 'to get answers during intergovernmental meetings in second half of the year'. Interestingly, while acknowledging the role of the WHO within the scheduling process, the delegate also argued that 'we need the expertise of

the International Narcotics Control Board' and the benefit of its 'legal views'; an opinion repeated by other similarly positioned states. For example, in a very strong statement, the delegate from Singapore reiterated many of Russia's points, including the view that 'there have been no compelling reasons provided to justify the changes are needed to reduce barriers for medical and scientific purposes'. Highlighting an issue that was to be repeated by several other delegates, he also emphasised what were deemed to be 'widespread and serious ramifications on public attitudes towards cannabis use'. 'The public may be misled into thinking that cannabis is no longer assessed to be harmful', he continued, before noting that 'There could be serious long-term impact on public attitudes and perceptions if cannabis shift unwarrantedly' (sic). Singapore's statement concluded with the sentiment that 'member states should have sufficient time to analyse and consider the implications of the recommendations from all angles, including the societal and administrative perspective'.

Picking up on this theme, and deploying the well-worn phrasing to support the status quo, the Japanese delegate stressed how the recommendations have a 'significant impact on social, economic, legal and other aspects for member states'. Comparable views were put forward by China, that noted it was a 'very complex issue', Sudan, Iran, Kenya and Palestine. Going further, the Nigerian delegate explained that his 'delegation is also deeply concerned about global perception of scheduling proposal which may be viewed as a shift and support for legalization of non-medical or recreational use of cannabis'. 'The situation' he stressed, 'is further compounded by growing and disturbing appetite in some jurisdictions to legalize non-medical or recreational use of cannabis as is reported in the 2019 Annual Report of the INCB'. From a more procedural perspective, and countering the Canadian standpoint, the Egyptian delegate put forward the view that the recommendations needed to be debated 'combined' and that no recommendation should be 'singled out'. He also noted how 'it is important to highlight the repercussions on various levels, health, legal levels, society, and the regulatory level of such recommendations'. 'Therefore, enough time needs to be afforded for careful consideration of those recommendations and to deciding how they be debated' he said.

It is also worth noting that, amidst the focus on cannabis, Nigeria, Egypt and Sudan all pushed for

the international control of tramadol. As has been the case in the past few years, statements emphasized concern regarding 'non-medical abuse' of the drug within these countries and used mentions within the INCB Annual Report to justify the case for scheduling.

## The INCB: Multiple themes, varying member state responses

As noted above, the INCB President made a series of statements over the course of the week, many of which highlighted issues addressed within the Board's *Annual Report for 2019* and the accompanying Precursor Report. Among a range of topics, including concern over synthetic drugs, especially opioids, and Afghanistan, its illicit opiate economy and that country's status relative to Article 14 (bis) of the 1961 Single Convention on Narcotic Drugs, a number are worthy of particular attention.

To be sure, on several occasions – including in the opening session as mentioned earlier – Mr. de Joncheere highlighted the focus within the *Annual Report* on improving substance use prevention and treatment services for young people. In so doing and highlighting the connections between drug control and a range of UN instruments beyond the Vienna silo, he emphasised the Convention of the Rights of the Child, which celebrated its thirtieth anniversary last year, and particularly its article 33. This commits Member States to taking measures to protect children from the illicit use of narcotic drugs and psychotropic substances and prevent the use of children in the illicit production and trafficking of drugs. While there are different interpretations on the implications of the article,<sup>40</sup> the President stressed the 'need to ensure that interventions for prevention of substance use and treatment of substance use disorders among youth are implemented in a systematic manner using evidence-based tools, through supporting practitioners and policymakers in developing their knowledge, skills and competencies'.

On a broader, but related point, he also drew attention to the Board's continuing focus on the issue of human rights. Once again an extremely welcome feature of the Board's current world view, the President noted its 'serious concern with the continued reports of grave human rights violations

perpetrated in the name of drug control' and 'again in strongest terms' called without mentioning any specific country but surely with the Philippines in mind, 'for an immediate halt to any extrajudicial responses to suspected drug-related criminality or drug use'. 'Let me reiterate that when the drug control measures adopted by States violate internationally recognized human rights standards,' he said, 'they also violate the international drug control conventions'. As Mr. de Joncheere explained under Item 5(c), Implementation of the international drug control treaties, linkages between human rights and drug control are also a feature within a new section of the *Annual Report*. Among the nine topics selected for inclusion within 'Global Issues,' he chose to highlight in his statement this and linkages between the international drug control conventions and the SDGs. Here the Report focuses particularly on Goal 3 (ensure healthy lives and promoted well-being for all at all ages), Goal 16 (promoting peaceful and inclusive societies and providing access to justice for all), Goal 10 (reducing inequality within and among countries) and Goal 11 (making cities and human settlements inclusive, safe, resilient and sustainable).

As is usual bearing in mind the Board's mandate, at various points, but particularly under item 5(d), the President spoke on the issue of 'international cooperation to ensure the availability of narcotic drugs and psychotropic substances for medical and scientific purposes while preventing their diversion'. Framing his comments in terms of it being almost 60 years since the adoption of the Single Convention and 50 years since the adoption of the 1971 Convention, Mr. de Joncheere stressed that 'the goal of ensuring the availability of and access to narcotic drugs and psychotropic substances for medical and scientific purposes is still far from being universally met'. Interestingly on this point, his comments also extended beyond the lack of access to controlled substances for pain and palliative care to include disparities of access for mental health disorders.

During a period when the continuing relevance of certain aspects of the international drug control regime are being, if normally implicitly, questioned by some member states, it is worth mentioning the President's comments on 'designer' pre-precursors. Under item 5 (b), he noted how some of these substances 'are designed on demand for the specific purpose of evading controls, and are therefore





A well-attended side event unfolds during the 63rd session of the CND Credit: Adria Cots Fernandez

neither traded widely, nor do they have any known legitimate uses'. This, Mr. de Joncheere continued, 'only exacerbates the problem: the very backbone of the international precursors control framework is the monitoring of international trade'. Crucially, he then went on to observe, 'This begs the question whether the current framework is indeed fit for purpose in addressing the relatively recent but growing phenomenon of designer precursors, if there is no legitimate trade in them to monitor? One could also ask whether there is scope under the provisions of the 1988 Convention to devise approaches and mechanisms to get a better grip on the issue, even if it may not be possible to resolve it completely'.

While this was the case, judging from the President's repeated statements on regulated cannabis markets, there seems little appetite – public at least – to discuss any deviation from its current position on other aspects of the treaty framework.<sup>41</sup> Mr. de Joncheere commented on the issue at various times, including prominently at a side-event, 'Drug Reform: From a Punitive to a Supportive Approach – The Norwegian Proposal'. Here, in reference to decriminalisation within Norway, he noted that it 'is fully consistent with the Conventions to exempt the possession of small quantities of drugs from criminal prosecution and instead react, in a proportionate manner, to minor drug offences through health-centred non-punitive actions'. The President continued to express the Board's view that such an approach 'can have positive results' and stressed

that this can take place 'within the existing drug control system and without legalising the use of drugs'. 'Norway,' he was keen to point out, 'has directly stated that its drug policy reform proposal should not lead to legalisation, which shows that it plans to elaborate its policy reform and a new legal framework fully based on the obligations contained in the drug control conventions'.

This view was an echo of the President's even more forthright statement within the opening session. Then he emphasised the fact that 'recent years have seen developments in some States parties and their territories towards development and adoption of measures aimed at legalising cannabis for non-medical uses in contravention of fundamental provisions of the international drug control conventions'. 'In response to these developments,' he continued, the 'INCB has reiterated that both the 1961 Single Convention, as amended by the 1972 Protocol, and the 1971 Convention on Psychotropic substances oblige States parties to limit exclusively to medical and scientific purposes the production, manufacture, export, import, distribution of, trade in, use and possession of drugs'. In an admittedly successful attempt to frame the issue in terms of member state dissonance rather than mere state-INCB tension, he also pointed out that 'this duty is owed not to the Board, but to each of the contracting parties to these two instruments. This fundamental principle, which lies at the core of the international drug control conventions, continues

to represent a broad consensus that health and welfare of humanity are best protected through the limitation of use of controlled substances to medical and scientific purposes. Despite measures taken in a handful of States, this broad consensus continues today, and the Board is held to uphold it in the exercise of its quasi-judicial treaty-mandated functions’.

The issue was also mentioned several times later in the week,<sup>42</sup> including in relation to recommendation 2 of the Board’s *Annual Report*. Interestingly, and indicating that the Board is wary of recent cannabis policy developments, under Item 5 (c) Mr. de Joncheere noted that ‘discussions in Luxembourg and further legal developments in the Netherlands to permit the non-medical use of controlled substances or further develop supplies to that effect are not in line with treaty obligations as the Board has expressed before’.

As is customary, many states responded to various INCB statements by praising the work of the Board and expressing ongoing willingness to cooperate closely with its endeavours. These included states from across the political spectrum, such as China, Russia, Singapore, Japan, India as well as the EU. Many responses specifically commended the Board on its choice of focus for the *Annual Report*’s thematic chapter as well as ongoing attention to the issue of access to controlled substances for medical purposes. Beyond this, a range of other issues were also singled out for attention; each depending upon states’ specific concerns. For example, apparently on the defensive concerning the Board’s reference to compulsory detention, the delegate from Singapore stressed that his country adopted an evidence-based approach to ‘rehabilitate drug abusers’. Meanwhile, several states, including Japan and the Russian Federation, expressed concern over cannabis ‘legalization’. More specifically the Russian delegate noted ‘we greatly appreciate the work of INCB in monitoring the implementation of these international treaties’, before going on to state how ‘the relevance of this fundamental activity of the Committee is confirmed by the recently published *Annual Report*, which once again emphasizes the inadmissibility of the legalization of narcotic substances for non-medical purposes’. Referring to the Report’s references to tramadol in his country, the Indian delegate chose to highlight the issue of falsified drugs and was keen to note collaboration with African countries on the issue of illicit trafficking.

Interestingly, as in previous years, it was once again the issue of the death penalty that reflected the chasm between member states’ interpretations on human rights. While, among other statements, that from the EU was very supportive of the Board’s view on the issue, others were more hostile. For example, the Indonesian delegate wished to ‘reiterate our concern on the INCB position on the issue of capital punishment’ since in that country’s view ‘it goes beyond the INCB mandate’. In a lengthy if legally questionable defence of Indonesia retention of capital punishment for drug related offenses he continued to state that the suggestion that the death penalty breaches international standards is ‘not right’. Indeed, he claimed, Article 6, paragraph 2 of the International Covenant on Civil and Political Rights<sup>43</sup> is clear about countries imposing death penalty for the most serious crimes. However, the delegate stressed, the serious nature of the crime is clear when it comes to drug trafficking, because it affects the health and welfare of human beings and the fabric of society. Moreover, it was argued, the increasing trend in this crime also threatens sovereignty and the abolition of the death penalty is not an international customary law obligation. The delegate acknowledged that many countries were moving towards abolition but claimed that the continued use of the death penalty by other states ‘should deny the crystallisation of the abolition of the death penalty as part of customary law’. As such, he concluded, there is no obligation, either in the treaties nor in customary law, to abolish the practice.

## NGO Participation

### NGO engagement at the Plenary

With much coordination provided by the Vienna NGO Committee on Drugs (See [Box 5](#)), a wide range of non-governmental organisations were once again active at this year’s session. This involved not only engagement with side events (See [Box 4](#)) and the now standard informal dialogues with UN agencies, but also in relation to statements in the plenary. This year 18 NGO statements were delivered, focusing on a variety of drug policy-related issues and reflected a wide range of views and ideologies from civil society.

Perhaps the most prominent, and controversial, topic related to the **WHO cannabis scheduling**

**recommendations.** As with member states, there were clear divisions among civil society representatives on the recommendations, and on medicinal cannabis more generally. Various NGOs, including the Community Alliances for Drug Free Youth,<sup>44</sup> the Turkish Green Crescent Society<sup>45</sup> and a Moroccan NGO<sup>46</sup> raised concerns over the recommendations, some of which justified, others not quite so. The Turkish Green Crescent Society did not shy away from using inflammatory language, speaking on behalf of the ‘silent majority who are against the scourge of tobacco, alcohol and drugs’, and implying that the recommendations proposed by the WHO had in and of themselves politicised the issue and removed it from the realm of scientific discussions.<sup>47</sup> This claim is rather problematic as, if it were the case, it would question any ECDD scheduling recommendation going forward. On the other side of the spectrum, NGOs like the Grupo de las Mujeres de la Argentina,<sup>48</sup> DRC Net Foundation<sup>49</sup> and Acción Técnica y Social<sup>50</sup> (ATS) all highlighted the need to ensure access to cannabis for medicinal purposes, urging member states to ‘fulfil the mandate of the drug control system to ensure access to medicines capable of relieving human suffering’.<sup>51</sup> It should be recalled here that over 50 countries and jurisdictions have adopted some form of medicinal cannabis scheme worldwide.<sup>52</sup>

The urgent need to put an **end to the ‘war on drugs’** was another theme raised by NGOs throughout the week. ATS discussed the futility of a war on drugs approach to tackle critical challenges such as the emergence of NPS and the diversification of crypto drug markets – highlighting the devastating impacts of punitive drug policies in Colombia, where 36 massacres, including the deaths of 108 social leaders, were recorded in 2019 alone.<sup>53</sup> On the other side of the planet, the International Federation of NGOs (IFNGO) raised concerns over the harms caused by the continued punishment of people who use drugs in South East Asia and the Pacific, including ‘harsh enforcement measures such as corporal punishment, as well as mass incarceration, extrajudicial killings, avoidable risk exposure to HIV/AIDS and hepatitis C and non-judicial detention in compulsory and isolation centers’.<sup>54</sup> As an alternative, IFNGO, the Brazilian Harm Reduction and Human Rights Network<sup>55</sup> and the International Federation of the Red Cross and Red Crescent Societies<sup>56</sup> all called for an end to punitive approaches towards people who use drugs, and promoted policies focusing on

‘justice, peace, and health’.<sup>57</sup> The ATS representative went a step further, calling for full legal regulation – an approach also endorsed by the Grupo de las Mujeres de la Argentina<sup>58</sup> – with a social justice perspective. This approach, ATS explained, would recognise ‘the dynamics of privilege and oppression’, ‘the communities that have been historically violated, generating affirmative actions to level the balance of power’, and designate ‘resources to repair the damages of prohibition’.<sup>59</sup>

Several NGOs focused on **health**, including calls for evidence-based prevention (by the Youth Forum,<sup>60</sup> Drug Policy Futures<sup>61</sup> and Slum Child Foundation<sup>62</sup>), drug dependence treatment (by Asociación Proyecto Hombre<sup>63</sup>) and harm reduction. On the latter, Harm Reduction International reminded member states of how low coverage for harm reduction services remains globally, while funding is critically low, especially in low- and middle-income countries.<sup>64</sup> Frontline AIDS raised concerns over the lack of harm reduction services for women who use drugs, who are facing ‘intense stigma and discrimination and high levels of violence’.<sup>65</sup> Finally, the International Association for Hospice and Palliative Care (IAHPC) enumerated key barriers hampering accessing adequate pain medication: ‘lack of awareness, of training, and weak supply chains’.<sup>66</sup>

IDPC’s Plenary intervention focused on **inter-agency cooperation**.<sup>67</sup> In a compelling statement, IDPC welcomed the UN System Common Position on drugs and its inter-agency Task Team, recalling decades-long efforts to improve UN system-wide coherence on drug-related issues. From IDPC’s perspective, the Common Position and its Task Team ‘represent a necessary and long-overdue correction, which aims to bring the Vienna-based drug entities and the rest of the UN family into alignment’. IDPC reminded the audience that ‘the Common Position is based on a strong mandate given by the General Assembly to the CEB and the Secretary General to improve system-wide coherence, and incorporates many elements from the 2016 UNGASS, the SDG framework and human rights instruments that have all been adopted by member states’. IDPC urged member states to ‘actively support the work of the Task Team, ensure references to it in resolutions and promote that drug-related issues continue to appear on the agenda of other UN forums... and ensure that all relevant UN entities – including UNODC – actively promote the UN Common Position’.





IDPC Executive Director Ann Fordham delivers a statement to the plenary of the 63rd session of the CND Credit: Zaved Mahmood

A final recurring topic within NGO statements was – unsurprisingly – that of **civil society participation**. The VNGOC led the charge, by highlighting the importance of civil society participation in UN drug policy making processes, mentioning good practices from CND sessions and the INCB civil society hearings, and urging states to support these collaborations going forward.<sup>68</sup> The need for civil society engagement in policy making processes was echoed by others, including IAHPD<sup>69</sup> and Association Proyecto Hombre.<sup>70</sup>

Various NGOs had also planned to speak during agenda item 9 on the **Sustainable Development Goals**. Unfortunately, the Plenary agenda moved quickly on Thursday, leading member states to discuss item 9 on that afternoon, rather than on Friday morning as originally planned – and as a result, various NGOs missed their slot and were unable to deliver their intervention.

## NGO informal dialogue with the UNODC Executive Director: Double disappointment

The NGO dialogue with Ms. Ghada Waly, which took place on Thursday 5 March,<sup>71</sup> was a particularly highly anticipated event since it was the first opportunity for civil society to gauge the new Executive Director's positions on drug policy issues. Unfortunately, participants were up for a

disappointment as they entered the room – for health reasons, Ms. Waly was unable to attend, and was replaced as the focus of the event by a 'panel of experts' composed of Gilberto Gerra (Chief of Drug Prevention and Health Branch), Miwa Kato (Director of the Division for Operations), John Brandolino (Director of the Division of Treaty Affairs), Mirella Dummar Frahi (Leader of the Civil Society Team) and Jean-Luc Lemahieu (Director of the Division for Policy Analysis and Public Affairs). The event was co-chaired by Mr. Lemahieu and Jamie Bridge as the VNGOC Chair.

As in previous years, questions to the UNODC were submitted in advance via the VNGOC and covered a range of issues, including on youth, women, the impacts of drug scheduling on research, health, civil society engagement, and the UN System Common Position, to name a few. Although the absence of Ms. Waly could not be avoided, there was an overall feeling of frustration that most questions were not answered by the senior UNODC staff members present, but mostly by Mr. Gerra and Ms. Dummar Frahi (with whom civil society is already in regular communication).

On Rumah Cemara's and EHRA's questions on **harm reduction**, the UNODC mentioned the fact that ideology continues to pose a major barrier to accessing services like opioid substitution therapy, and – in a welcome move – pushed the boundaries of harm reduction by highlighting the need for interventions that 'respond to all the needs of the

## Box 4 Side Events<sup>72</sup>

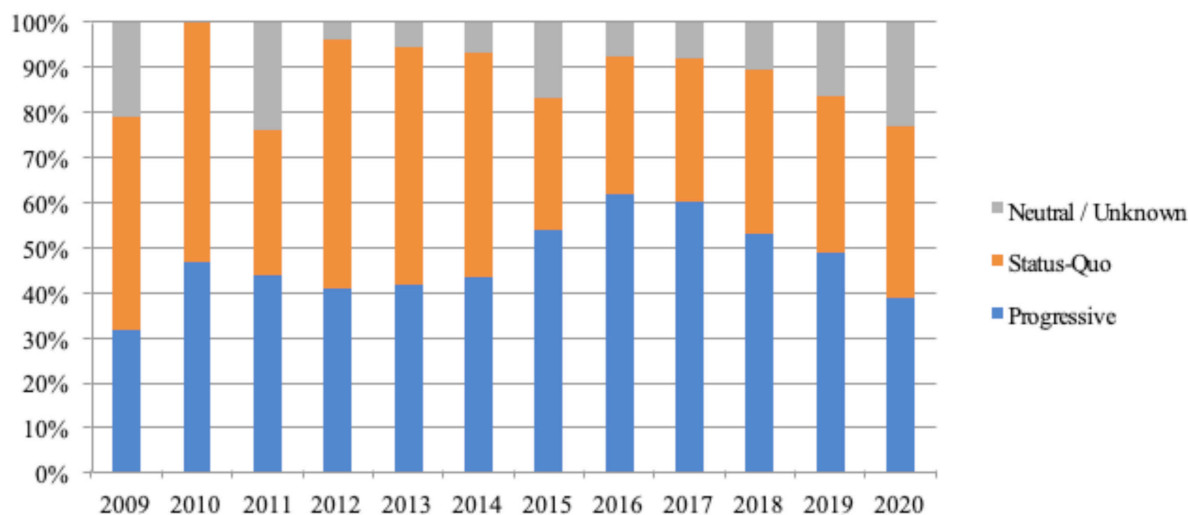
Over 110 side events were scheduled during the regular session of the CND, from Monday 2 to Friday 6 March – the largest number ever. While many were cancelled due to the disruption caused by COVID-19, the week still consisted of a busy schedule with up to six side events running in parallel between plenary sessions. Cannabis regulation was the theme of 5 events – a popular topic following the WHO re-scheduling recommendations, and the momentum for legal regulation for both medical and adult use.<sup>73</sup> Other common themes included drug trafficking<sup>74</sup> (11 events) and drug prevention (17 events). Side events also addressed the topics of young people, human rights and women.

This year, IDPC organised and co-sponsored 10 side events covering a wide range of topics, including the UN Bangkok rules<sup>75</sup> and data collection<sup>76</sup>. Following the ten-year anniversary of the Bangkok rules, the panellists gave a sobering account of how the experiences of most women in prison are a far cry from

the minimum standards endorsed by Member States in the Bangkok rules. The event on data collection included representatives from the UNODC, the WHO, and the OHCHR, and emphasised the need for the new ARQs to be complemented with data from civil society – and the important role of the UN Task Team in operationalising it. One of the highlights of the week was the high-level event<sup>77</sup> that presented Norway's new legislative proposal to decriminalise drug use and possession for personal use, which reaffirms that community and civil society mobilisation can drive tangible legal, political and social change.

A historical analysis of CND side events on the basis of their stance regarding drug policy reform shows that, while the total number of progressive side events remained stable in 2020 in comparison to 2019, a sharp increase in neutral and status-quo oriented events meant that side events with a progressive approach to drug policy fell under a 40% of the total, for the first time in the last ten years.<sup>78</sup>

Figure 1. Distribution of CND side events based on their progressive/conservative stance, 2009-2020



clients', including housing. The UNODC highlighted its support to over 60 countries in promoting harm reduction and their readiness 'to do more'.

The UNODC's position on drug checking, however, was less than satisfactory. In responding to a question from Drug Free Australia, Mr. Gerra described the work of mobile labs conducting drug checking

in party settings as 'fantasy-based'. The response showed a severe lack of understanding about how drug checking works in practice – including the assumption that a pill would be given for checking and then handed back to the person (generally, only a segment of the pill would be provided, and of course it is then discarded after testing rather than handed back to its owner); and the fact that

the intervention would merely provide information on what the pill contains without any other form of support. In practice, drug checking does enable service providers to provide information on the contents and/or purity of the substance, but as with any other harm reduction service, also focuses on sharing key information on possible risks associated with use and ways of mitigating them. The UNODC's statement that 'you can't give something to someone and with certainty say it is safe' was therefore quite disconcerting.

Other questions – by EURAD and Health Poverty Action – referred to **decriminalisation**. Mr. Brandolino started off by providing a 'simple' definition of decriminalisation, namely 'the process of changing the laws so that the conduct that has been defined as a crime is no longer a criminal act'. Mr. Brandolino concluded that this practice is consistent with the UN drug conventions, at least with regards to drug use. However, according to Mr. Brandolino, the conventions anticipate criminal sanctions for possession, cultivation and sale – without clarifying whether criminal sanctions should be imposed on all those involved in those activities, or only for those whose intent is to supply others. Mr. Gerra later added that decriminalisation would eliminate 'an unacceptable barrier to access to treatment' for people who use drugs. Both agreed that 'a number of parameters' should be in place for decriminalisation to be aligned with the treaties, including 'alternative measures' to replace criminal sanctions. Here, Mr. Brandolino referred to Portugal's 'elaborate

system' of administrative responses for people caught in possession of drugs for personal use.

With regards to UNODC's work around decriminalisation, Mr. Brandolino mentioned the UNODC's provision of 'technical support' to governments. However, when later asked whether UNODC had clear guidelines to support member states in adopting a decriminalisation model, Mr. Gerra made a somewhat bizarre reference to the 11-year old discussion paper 'From coercion to cohesion: Treating drug dependence through health care, not punishment'.<sup>79</sup> Although the paper does provide some useful guidance on treatment as an alternative to criminal sanctions, it certainly does not offer guidelines on the decriminalisation of people who use drugs.

Reflecting member state debates in the plenary and the CoW, another 'hot topic' for this year's dialogue was the UNODC's role in coordinating the UN inter-agency Task Team in charge of implementing the **UN System Common Position on drugs**. In response to IDPC's question, Mr. Brandolino underscored that such an internal UN inter-agency mechanism is not new, and already exists for other key topics such as corruption, migration/human trafficking and soon prison reform – something that the UNODC should consider highlighting more with countries that are particularly reluctant to support the Task Team (especially Russia). Going back to the Task Team on drugs, Mr. Brandolino mostly focused on past activities, in particular the publication of the landmark report 'What we have learned over the past 10 years' at the 2019 Ministerial Segment.





Looking to the future, Mr. Brandolino mentioned the Task Team's mandate of providing 'assistance to member states' and made a quick mention to data collection and the Annual Report Questionnaire – but remained relatively vague on future activities that might be undertaken by the Task Team.

Finally, in response to questions from the Turkish Green Crescent Society and the EU Civil Society Forum on Drugs on **civil society engagement**, empowerment and capacity building, Ms. Dummar Frahi highlighted the support the UNODC is providing to civil society in collaboration with the VNGOC, especially around the CND sessions and intersessional meetings. However, what Ms. Dummar Frahi failed to mention is that most of the funding the UNODC is providing is often only allocated to drug use prevention NGOs, to the detriment of harm reduction or policy reform NGOs.

### Informal Dialogue with the INCB President: Another largely productive session

The INCB President Cornelis P. de Joncheere opened the informal dialogue by stating the Board's commitment to continued dialogue with civil society, and highlighting the participation of NGOs in the Board's session over the past two years. He expressed appreciation for the important role played by civil society organisations in urging for respect of human rights, evidence-based policymaking and as service providers. In response to a question from the EU Civil Society Forum on Drugs about the INCB's plan to involve civil society in a transparent way in each of their country visits, and to consult civil society in the drafting process of the INCB's annual reports, the President reiterated the Board's recognition of civil society's fundamental role and plans to pursue collaboration with the VNGOC as part of its treaty monitoring role.

Interestingly, the two questions submitted beforehand relating to harm reduction were posed by NGOs from Australia. Harm Reduction Australia asked the Board when it will 'formally support and recognize the validity and effectiveness of harm reduction programs within their communiques and documents'. The President replied that while there is no specific reference to it in the conventions, nor a universally agreed upon definition, there are references to appropriate measures for demand reduction and treatment that encompass it. The

Board also refers to measures 'aimed at reducing the negative consequences of drug use', he continued and 'acknowledged the need for measures based on reliable scientific data, and encouraged greater dialogue on this issue amongst stakeholders'. In a departure from previous comments by the Board, President de Joncheere stated the Board's support for initiatives such as needle exchange programmes, medication-assisted therapy, and – interestingly – drug consumption rooms as long as they are part of an integrated approach to drug use. On a related note, the NGO Drug Free Australia asked about the INCB's position on pill testing and other drug checking services, while stating that they consider such services as endorsing and normalising addictive behaviour, and therefore not in line with the international drug control regime. The President acknowledged that while such measures can be implemented in vastly different ways and in different contexts, the Board supports interventions that are evidence-based, do not lead to crimes being committed and maintain consistency of drug policies.

On the issue of the drug-related activities that should be deemed as criminal offences, the NGO Europe Against Drugs asked how the INCB defined 'decriminalisation' and the extent to which the UN conventions limit the flexibility of member states in implementing it. The President responded that the treaties require proportionate responses to drug related activities, and while member states are obliged to institute certain behaviour as punishable (but not necessarily criminal) offences, subject to the constitutional principles of states and proportionality, they are not obliged to adopt punitive responses for minor offences. In fact, he stressed, alternatives to punishment are encouraged and member states have flexibility in their response to major offences such as trafficking while abiding by the principle of proportionality, as emphasised in the 2019 annual report of the Board.

The President's reiteration of the importance of the principle of proportionality is evidently linked to its exhortations for member states to refrain from human rights violations. IDPC asked what more the INCB was planning to do to ensure that drug control efforts are in line with human rights, especially for countries that continue to impose the death penalty, and enable extrajudicial killings, arbitrary detention and acts of ill-treatment against people suspected of drug offences. The President pointed out that the INCB's annual report outlines their

concerns with human rights violations in the name of drug control. He reminded member states that no state is exempt from human rights norms. Accordingly, criminal justice responses must consist of due process, be humane and proportionate, and called on member states that still have the death penalty to abolish it.

Association Proyecto Hombre from Spain asked about the role of the INCB in encouraging Member States to adopt evidence-based drug policies, and to prevent policies that are based on beliefs rather than scientific evidence. The President responded that the INCB's role is monitoring member state responses and assisting them to implement policies that are balanced and humane, based on scientific data and epidemiological studies.

In response to a question from the European Association of Palliative Care about the INCB's actions and plans to ensure improved availability and access to controlled medicines for medical and scientific use, the President outlined the Board's efforts, including through gathering information from member states and CSOs on accessibility (published as a supplement to their Annual Report), and launching an e-learning project for Latin American member states.

Perhaps unsurprisingly, half of the questions submitted in advance related to cannabis, reflecting developments around the world introducing the availability of cannabis for both medical and non-medical use. The Turkish Green Crescent asked for the INCB's view on the availability of CBD-infused drinks in some countries, which they said may result in the 'promotion of cannabis as a healthy substance' especially for younger generations. The President explained that responsibility for determining whether a substance has medical use lies with the WHO, however medical cannabis programmes need to be well-structured to avoid adverse effects and lowering perceptions of risk relating to consumption.

Instituto RIA of Mexico asked how the INCB determined quotas for the production of medical cannabis around the world, particularly for dried flowers and other extracts, to which the President responded that national governments provide an estimate that is in line with the expected scale of production and that can guard against diversion into illicit supply. Those projections are reviewed by the Board, taking into consideration the prevailing market

conditions. The Board requires data on raw materials and provide conversion factors to help governments calculate their estimates.

On the issue of hemp, and how the INCB foresees the challenges in its regulation in accordance with the international conventions, raised by Veterans for Medical Cannabis Access in the US, the President stated that hemp is not mentioned in the 1961 Convention and its controls do not apply to cultivation for industrial purposes. If cultivation is for the flowering tops of the cannabis plant, then member states are obliged to apply controls regardless of the level of THC or CBD content.

Outlining the context of some member states choosing to legally regulate their domestic adult-use cannabis markets, while acknowledging that it does not comply with certain provisions of the drug treaties, Transform Drug Policy Foundation from the United Kingdom asked the INCB what options could realistically be pursued to resolve the treaty tensions around cannabis regulation. The President reiterated that the conventions limit the use of substances to medical and scientific purposes, as one of the primary means of safeguarding humanity, and there is no exception. He said that member state obligations are not owed to the Board, and it is true that some member states have decided to regulate cannabis for non-medical purposes, which is in violation of the treaties. The Board is committed to upholding the conventions and will pursue a dialogue with all countries, he continued. The Washington Office on Latin America pointed out that an increasing number of US states are likely to enact laws to legally regulate adult-use of cannabis although the US federal government continues to contend that the US remains in full compliance with its drug treaty obligations, and asked if the INCB considers the US to be in full compliance and if not, what measures it is taking to encourage such compliance. The President responded by noting that the Board calls on member states that allow non-medical use of cannabis to bring back their systems within the frame of the conventions, and pointed out that it is currently in discussion with member states about this.

## Informal Dialogue with the WHO Delegation: A welcome addition

Given that the discussions surrounding the recommendations of the WHO Expert Committee on Drug

Dependence on cannabis have been dominant in discussions at the CND since June 2018, the newly-added Informal Dialogue with the Head of the WHO Delegation was very highly anticipated by NGOs. At the start of the session, VNGOC Vice Chair Lucia Goberna introduced Vladimir Poznyak, MD, PH.D, of the WHO's Management of Substance Abuse programme and Gilles Forte, B.Pharm, Ph.D, of the Essential Medicines and Health Products Department and the WHO ECDD Secretariat. Dr. Poznyak began the session by clarifying the departments that are actively involved in drug policymaking: mental health and substance use, HIV, the access to medicine division, and a fourth dealing with traditional medicine.

The questions throughout the session generally probed WHO implementation plans around certain issues and raised concerns around others. Only two questions focused on the ECDD recommendations.

One of the first questions came from the International Association for Hospice and Palliative Care (US) exploring WHO's work on implementing the recommendations of Chapter 2 of the UNGASS Outcome Document, citing lack of access to morphine in certain countries in Eastern African. Emphasizing the WHO's commitment to this issue, Dr. Poznyak described WHO's work consisting of revising the international guidelines based on new evidence, engagement with countries to improve access, and supporting capacity building. He noted that each is restrained by financial capacities and political will.

In response to a question posed jointly by UTRIP Institute (Slovenia) and Community Anti-Drug Coalitions of America (CADCA) (US) expressing concern that prevention systems in most countries are subject to tensions at the local level, which gives little chance to develop long-term, sustainable and successful partnerships between authorities, public services and CSOs, Dr. Poznyak described WHO's prevention programmes based on policy guides in the field of alcohol, drugs, and the misuse of prescription medicines, including an upcoming project on child and adolescent health based on new evidence.

Proyecto Hombre (Spain) inquired about the WHO's role in accelerating the deployment by member states of evidence-based and integral drug policies and attempting to prevent strategies based on beliefs or perceptions which are not supported by scientific evidence. Dr. Poznyak responded that it does 'what is within our mandate and in our core

functions' within five critical dimensions: prevention of use, vulnerability risks, treatment and care, harm reduction and access to medicines. Since 2007 the WHO has created processes and strict rules to consider the various aspects of a given issue, and make recommendations that are very specified, are screened for conflicts of interests, and are fully based on scientific evidence.

NGOs also probed WHO on its approach to several specific concerns. For example, Slum Child Foundation (Kenya), queried what WHO was doing to address the problems caused by the belief in many in rural areas in Kenya that mental health issues are a result of witchcraft. Agreeing that cultural myths and beliefs often block access to health care and promote stigma, Dr. Poznyak described the Work of WHO on the policy level with the Global Mental Health Action Plan, and engaging communities/CSOs on the ground.

Similarly, the Network of People Who Use Drugs (Belarus/Kazakhstan) drew attention to the low quality of OST programs in the EECA region and asked how WHO is able to help solve issues such as low availability of methadone in hospitals or inadequate services in general. Dr. Poznyak emphasized that all of WHO's policy documents have clear messages about substitution availability, as OST is a 'first line' response. Noting that that position is 'firm and unchanged' he pointed out that its implementation is ultimately up to member states. He committed to remain in dialogue with all partners and member states providing scientific background and evidence.

The Eurasian Harm Reduction Association (Lithuania) highlighted the fact that the significant increase in the use of new psychoactive substances (NPS) has led to serious mental health consequences for people using drugs. Dr. Poznyak asserted that while it was 'difficult' to come up with recommendations because the 'evidence base is still weak' they had developed a best practices document and were planning to do more research. Penal Reform International (UK) queried how WHO was addressing the lack of harm reduction in prisons as most countries had not implemented measures according to international guidelines. Citing the theory that 'when a person enters prison, they should be deprived of freedom but not of health', Dr. Poznyak assured that managing prison settings was one of the main facets of WHO's demand reduction program. IDPC inquired as to whether WHO would consider launching a global campaign on overdose





Civil society gets ready for an Informal Dialogue with WHO officials Credit: Marie Nougier, IDPC

prevention and Dr. Poznyak acknowledged that the exponential increase in opioid overdose deaths in certain jurisdictions deserves a global response.

One question raised concerns with the WHO policies themselves: Women and Harm Reduction International Network (UK) inquired whether there would be any monitoring arrangements to ensure that there are no negative consequences from stigmatizing attitudes resulting from emphasis on the 'disease model' in the WHO UNODC International Standards for the Treatment of Drug Use Disorders. Dr. Poznyak defended the standards, asserting that they had been thoroughly analysed, vetted and extensively tested and are based on a 'bio-psycho-social model' (not a pure medical model). That said he encouraged WHIRN to report any instances where human rights were not protected.

There were also two questions concerning the ECDD recommendations. The first, from Turkish Green Crescent (Turkey) was whether, considering the heated discussions regarding the ECDD's recommendations on the limits of CBD and THC in epilepsy medicine, there would be any possibility for WHO to amend the recommendation or give the scientific community more time for in-depth research and discussion on the issue. Dr. Forte acknowledged that the vote on the recommendation had been postponed, and stated that it seemed from the informal discussion that the decision will be further postponed. However, he felt that with the informational sessions (with 300+ questions) that most questions had been answered already and that because of the low abuse potential of CBD

and the scientific evidence demonstrating its effective in treating a few important conditions, it was unlikely to be revisited.

Towards the end of the session, Instituto Ría (Mexico) inquired whether WHO believed that cannabis causes greater harm than legal substances such as alcohol or tobacco. Dr. Forte responded that it is important to acknowledge the harms that cannabis can impose in specific situations and populations, which is why the ECDD recommends that cannabis remain in Schedule I; however, the committee is recommending that changes be made to the scheduling to reflect information that was not available in 1961. Moreover, he noted that the ECDD mandate does not allow the committee to compare cannabis to alcohol and other drugs (despite numerous requests to do so by member states). Going on to make exactly that comparison, Dr. Poznyak then asserted that 'of course' they are incomparable, noting that according to the latest WHO estimates cannabis use results in 13,000 deaths a year globally tied to road traffic accidents – much less than deaths attributable to alcohol and some other drugs. He went on to emphasize that this does not mean that cannabis does not cause health problems – it is an 'intoxicating substance' that can result in use disorders. He noted that the ECDD is in the process of updating its publication on the health concerns of non-medical cannabis use, which will weigh all the impacts of such use. He ended by reiterating that cannabis is not comparable to alcohol and tobacco – it is a completely different level of harm, he said.

## Box 5 VNGOC Annual General Meeting

On Wednesday 4 March, the [Vienna NGO Committee on Drugs \(VNGOC\)](#) held its Annual General Meeting (AGM) – with more than 130 voting members attending either in person or remotely. The membership of this Committee is purposefully broad – comprising more than 200 members around the world working on harm reduction, policy reform, drug use prevention, abstinence-focused services, recovery, rehabilitation and other issues – and the participation at the AGM once again reflected this diversity.

Alongside the usual AGM business (adoption of the annual report, accounts, etc), the meeting included further discussions around the structure and future of the Committee itself. On the latter, a proposal was put to the membership present for the VNGOC to formally re-join the UN's '[Conference Of Non-Governmental Organizations in Consultative Relationship with the United Nations](#)' (CoNGO) – providing greater strength in union and coordination with other NGO Committees on all topics addressed by the UN. Although there is limited institutional memory on either side, VNGOC appears to have withdrawn from CoNGO around ten years ago in order to register as a legal entity in its own right – but the rules around CoNGO have now changed and these two scenarios are no longer mutually exclusive. However, the decision to re-join was blocked by just two members in the room and the VNGOC Board (who had been hoping for consensus) regrettably did not push it through via a vote. It will be re-presented to the membership next year, but it is important for the Committee's work that decisions such as this are not allowed to be 'vetoed' by a very small and obstructive minority of the membership.

This was followed by a vote on the 'future of the NGO Committees' – the latest in a series of discussions about the VNGOC as a global network, and its relationship with the New York NGO Committee on Drugs (NYNGOC) – which is a CoNGO member and held its first Vienna based formal meeting this year, yet is regarded by some VNGOC members as unbalanced and unnecessary. Unhelpfully, the UNODC Civil Society Team once again failed to acknowledge the value of the NYNGOC, repeating their stance that "they only

work with one Committee" – which flies in the face of CoNGO rules on civil society participation at the UN. Following the mandate given in March 2019, the VNGOC Board undertook a [consultation](#) over the summer in which 75% of respondents were in favour of "greater collaboration" between VNGOC and NYNGOC, and offered three options for the membership to select from:

- Maintain the status quo (two separate, independent committees: VNGOC and NYNGOC).
- Greater collaboration with NYNGOC, while maintaining independence.
- Pursuing the possibility of one 'Global NGO Committee on Drugs'.

The discussion reflected the ongoing tension between the members that see VNGOC as *the* global Committee – and the only NGO committee on drugs that should be recognized by the UN – while others are keen for a more collaborative arrangement or even a merger between the two Committees. However, in the end there was a clear majority support in the room for option (a), as this is by far the simplest option for the Board going forward.

In the Board elections, three positions – Deputy Chair, Treasurer and Secretary – were open and all three incumbents (Lucía Goberna from Dianova, Tania Ramirez from MUCD, and Orsi Fehér from SSDP) were re-running with support from IDPC in acknowledgement of the work these three women had put in over the past two years. However, after three close-run and well-run voting processes, three new Board members were selected for two-year terms (two of whom are also IDPC members):

- Matej Kosir, UTRIP (Slovenia) as the new Deputy Chair
- Hellen Waiswa Lunkuse, WFAD (Uganda) as the new Treasurer
- Ergin Beceren (Turkey), Turkish Green Crescent as the new Secretary

Once again, the elections ran smoothly thanks to the volunteers on the Nominations Committee (Amy Ronshausen from Drug Free America Foundation, George Ochieng Odalo from Slum Child Foundation, and Olga Szubert from Harm Reduction International).



## UNODC Budgetary, governance and management issues

While covering familiar ground, the standard discussion on this agenda item this year was slightly different due to the recent appointment of Ms. Waly as UNODC Executive Director. Indeed, this was reflected at several points during the statement from the Director of the Division of Management. For example, having noted that with the support of member states the UNODC is committed to generating lasting improvement to people's lives and to play a greater role to tearing down barriers to international peace and security and, crucially, protecting human rights, Mr. Thatchaichawalit highlighted how the Executive Director is looking into a 'longer term vision' for the office and engaging in dialogue to that end with Member States before December 2020 and the reconvened session. What this exactly 'longer term vision' is remains to be seen. It will, however, be an important issue to watch. In terms of ongoing activities, Mr. Thatchaichawalit also noted how the UNODC is engaged not only in UN development system and management reform, but also consolidating the benefits of the new UN accountability framework within its workplans. Together with the business transformation team, he said, 'we are working towards improving business data and increasing agility, effectiveness and efficiency for managers and a better administrative structure'.

As is always the case, UNODC funding, more specifically funding shortfalls, was a key point of

discussion. In this regard, Mr. Thatchaichawalit, pointed out that the UNODC is reviewing its funding model and the way it appropriates funding sources, noting that the Office was cognizant of the need to engage with member states at the early stages of the funding process. Emphasizing the UNODC's appreciation of 'strong donor confidence in our work,' he noted that projected contributions of US\$629 million for 2020-21 were up 10 per cent on those from 2018-19. Nonetheless, the Plenary was informed, General Purpose Funding contributions were once again down; this time by US\$8.8 million. This is a familiar situation which, the delegations were told, would 'impact on' the Office's ability to deliver functions and plan'. Indeed, as part of the ongoing efforts to improve the situation, Mr. Thatchaichawalit highlighted how the Office would continue the 'active dialogue' with members states to increase both core and soft earmarked contributions, with member states apparently already committed to bring 'core resources' to a level of 30 per cent over the next five years through a 'funding compact'. As is perennially the case, concerns were also raised about contributions from the regular UN budget, although, without expanding on the source of the funding, it was noted that a new INCB secretariat position was to be funded from this budgetary stream. Demonstrating the UNODC's commitment to UN wide cost saving initiatives, the Director of the Division of Management was also keen to stress the Office's exploration of a range of approaches, including reducing the number of events and engaging with system-wide models.

Following Mr. Thatchaichawalit's statement, the floor was given to the representative from Spain.



Several members of the Support. Don't Punish campaign meet during the 63rd session of the CND Credit: Adria Cots Fernandez, IDPC



Speaking in his capacity as co-chair of the standing open-ended intergovernmental working group on improving governance and financial situation of the UNODC (FINGOV), he gave an overview of the its deliberations.<sup>80</sup> This included mention of management and development system reform, human resources, the mainstreaming of a gender perspective and new or ongoing regional programmes on technical assistance. The take home message here was that ten years since its establishment, FINGOV continues to be an essential mechanism in enhancing transparency and accountability and enabling constructive dialogue between member states and the UNODC. In this regard, the Spanish representative noted that ‘we hope this dynamism of member states will continue to contribute to the good work of the working group’.

Several states responded to both statements. Most openly supported the work of FINGOV (For example, US, Jamaica and China) with recurring issues being the need to ensure transparency in the operation, including funding, of the UNODC (US, Switzerland), the need for gender parity (US, Japan, Brazil, China), and, in the case of Brazil and Jamaica, improvements in geographical representation. Interestingly, while Jamaica highlighted the problem of declining non-earmarked funding – urging donors to contribute ‘flexible’ funds – two delegations used the opportunity of Item 4 to highlight the importance of UN system-wide coherence. The Mexican delegate argued for the need to promote synergies and constant dialogue with other UN bodies and agencies, ‘which today are key to comprehensively tackling the world drug problem’. More specifically, the Swiss delegate called out the UNODC as the leader of the Task Team and stressed how her country would appreciate being regularly informed at the CND on the work of the Team. It is necessary to build more bridges between different UN agencies, she said, before going on to note how drug policy in Vienna cannot be separate from that of Geneva and New York – ‘we need to bring them closer together’. Offering further detail, the delegate noted how a liaison bureau with an officer will soon be opening in Geneva and that the Swiss government liked the idea of a similar liaison office in Vienna to help better integrate the work of the UNODC with WHO and UNOHCHR.

## Conclusion

Although a relatively quiet Commission, debates and negotiations across this year’s session once again provide an interesting snapshot of the current dynamics within international drug policy debates. As is often the case, the session might be classified as a ‘mixed bag’. The CND certainly generated some positive outcomes. For example, ongoing, and universal, support for ensuring access to and availability of internationally controlled substances for medical and scientific purposes is to be welcomed. Further, as statements in both the CoW and the plenary revealed, many member states remain supportive of engagement with civil society. And, while much work is required regarding the use of supplementary data on, among other things the human rights impacts of drug policy, the revised ARQ can be seen as an improvement on its previous iteration. That said, systemic tensions around other key areas of concern remain. And are arguably deepening; a dynamic that, despite going almost unmentioned during the session, has the potential to be enhanced by the ravages of COVID-19.

International regimes focusing on a range of issue areas always contain a degree of dissonance amongst their members. Their success, however, rests upon the willingness of states to find compromise and, with the goal of achieving mutually beneficial gains, accept a degree of subjective sub-optimality from the system. Nonetheless, it can be argued that the UN-based multilateral drug control framework is currently experiencing abnormal, perhaps irresolvable, levels of division. It appears as if year on year – despite the new Executive Director’s inspirational discovery of the ‘Vienna Consensus’ – ever more effort is required to sustain a ‘business as usual’ façade. Returning to an image we first introduced in 2018, with the inescapable sands of divergence within its gears, the CND’s consensus driven machinery continues to grind away, but in an increasingly laboured and shuddering fashion.<sup>81</sup> It is true that this year, as at recent sessions, the system has been able to tolerate divergence in high-level views on the quest for a ‘drug free world’ versus a preference for harm reduction and market management approaches, and even to a certain extent endure diverging views on some aspects of human rights. But, as events in March revealed, increasing endeavour is now required to keep the wheels



Ambassador Khan and Jo Dedeyne-Amann, at the closing of the 63rd session of the CND Credit: UNODC SGB

turning as intended. Indeed it is noteworthy that, beyond the pre-session toils of Ambassador Khan, agreement on one of the more divisive issues of the week was only achieved through the use of caveats to the consensus.<sup>82</sup> In this case, the delivery – or support for – statements by a substantial number of like-minded states restating their backing for the UN System Common Position and the Task Team upon adoption of draft resolution L3.<sup>83</sup>

Nonetheless, while side-stepping – for the time being – opposing views on mechanisms to improve system-wide coherence, cannabis has become a particularly visible and more problematic nexus of discord. And one that has arguably deflected attention, and energy, from other issues of concern. Increased focus has manifested itself most clearly in Canada's adoption of legally regulated cannabis markets for non-medical adult use; a policy choice that runs counter the UN conventions and will never be accepted as the legitimate action of a regime member by a range of states led by the Russian Federation. Yet, the fact that a vote on the ECDD's scheduling recommendations had to be postponed for an unprecedented second time also does much to reveal high levels of systemic unrest. As many member states on both sides of the debate recognized, with the scheduling process being at the heart of the control architecture, its failure to operate risks the integrity of

the entire system.

So, what next? It is difficult to say with any certainty how things will play out, but the future shape of the system is likely to depend to a large extent on two, somewhat related, issues. The first relates to Canada. Will other states join Ottawa in shifting away from the prohibition of cannabis for non-medical adult use? It should be recalled, that despite the coronavirus pandemic, the government of New Zealand still intends to move forward with its general election and a conjoined referendum on the issue in December 2020. Some, arguably overoptimistic, cannabis industry analysts are already suggesting that a likely COVID-19 induced recession will make the tax revenues from regulated markets increasingly attractive to a range of other countries beyond Luxembourg,<sup>84</sup> a state that is already planning a policy shift. And if so, how will Canada and other states (including Uruguay that quietly changed its approach in 2012), reconcile their position relative to UN drug control treaty obligations? Perhaps the Task Team, already clearly so loathed by Moscow, will build upon its first report<sup>85</sup> and play an important role in developing arguments connecting drug policy to other UN regimes and norms around human rights and public health. Second, and a more immediate issue of concern, is the planned vote of cannabis rescheduling later this year. It seems inconceivable that this can be postponed again. Indeed, in the

face of COVID-19, preliminary ‘virtual’ meetings are already being planned; an understandable technical ‘work around’ that has, however, already raised concerns about civil society engagement. Yet, how the voting pans out will not only clearly identify fault lines within the system. It will also do much to determine how states engage with that system in the future.

## Acknowledgments

The lead author, Dave Bewley-Taylor, would like to express gratitude to members of the IDPC team as well as Nazlee Maghsoudi (University of Toronto, Centre for Drug Policy Evaluation, NYNGOC and Canadian Students for Sensible Drug Policy), Penny Hill (Harm Reduction Australia), Orsi Feher (Students for Sensible Drug Policy) and Tom Blickman (Transnational Institute) for their various contributions to this report.

## Endnotes

1. In fact, over the course of the session there was very limited reference to the coronavirus. Perhaps unsurprisingly, China was one of the few states to make any explicit reference. For example, in the plenary, the Chinese delegate noted ‘since the outbreak of the COVID epidemic, we have done all possible to prevent and control the spread. Our transparent, open and responsible response have been highly recognised by the WHO, as well as State leaders and experts’.
2. See for example, Hamilton, I., & Stevens, A. (26 March 2020), ‘How coronavirus is changing the market for illegal drugs’, *The Conversation*, <https://theconversation.com/how-coronavirus-is-changing-the-market-for-illegal-drugs-134753>
3. For an overview of the environment into which Ms. Waly entered and associated reform oriented policy recommendations, see International Drug Policy Consortium (February 2020), *Recommendations for the new UNODC Executive Director: Opportunities and challenges in global drug policy*, <https://idpc.net/publications/2020/02/recommendations-for-the-new-unodc-executive-director-opportunities-and-challenges-in-global-drug-policy>
4. Available at: <http://cndblog.org/>
5. Available at: <http://www.cndapp.org/>
6. United Nations Office on Drugs and Crime (March 2020), *Statements at the opening and the general debate of the 63<sup>rd</sup> session of the Commission on Narcotic Drugs*, [https://www.unodc.org/unodc/en/commissions/CND/session/63\\_Session\\_2020/63-statements.html](https://www.unodc.org/unodc/en/commissions/CND/session/63_Session_2020/63-statements.html)
7. See video link at: Ibid.
8. See United Nations System Chief Executives Board for Coordination (18 January 2019), *Summary of deliberations, Second regular session of 2018*, CEB/2018/2, <https://undocs.org/en/CEB/2018/2>; and Transform Drug Policy Foundation (2019), *Key UN board endorses reform*, <https://transformdrugs.org/un-chief-executives-endorse-decriminalisation/>
9. Other purposes include to help boost coordination across the system and deliver more effective assistance and to produce timely briefs and encourage joint-programming and resource mobilization for drug-related programmes. See UN system coordination Task Team on the Implementation of the UN System Common Position on drug-related matters (March 2019), *What we have learned over the last ten years: A summary of knowledge acquired and produced by the UN system on drug-related matters*, [https://www.unodc.org/documents/commissions/CND/2019/Contributions/UN\\_Entities/What\\_we\\_have\\_learned\\_over\\_the\\_last\\_ten\\_years\\_-\\_14\\_March\\_2019\\_-\\_w\\_signature.pdf](https://www.unodc.org/documents/commissions/CND/2019/Contributions/UN_Entities/What_we_have_learned_over_the_last_ten_years_-_14_March_2019_-_w_signature.pdf)
10. It is perhaps noteworthy that the Africa Group failed to deliver a statement. Why this was the case this year remains unclear, although a possible explanation lies with internal divisions.
11. Bewley-Taylor, D. (2012), *International Drug Control: Consensus Fractured* (Cambridge University Press), p. 123.
12. Regarding the work of Germany and France to construct an ‘Alliance for Multilateralism’, see Luple, A. (5 August 2019), ‘Two Tasks to Get Past the Crisis of Multilateralism’, *IPI Global Observatory*, <https://theglobalobservatory.org/2019/08/two-tasks-get-past-crisis-multilateralism/>.
13. While the gist is the same, more precisely the Chinese delegate noted ‘We hope Member States will uphold consensus and shared drug free future’.
14. The chair of the Pompidou Group also explicitly welcomed the International Guidelines on Human Rights and Drug Policy as an ‘important international reference instrument’. For information on the Guidelines see International Centre on Human Rights and Drug Policy, UNAIDS, World Health Organization & United Nations Development Programme (2019), *International guidelines on human rights and drug policy*, <https://www.undp.org/content/undp/en/home/librarypage/hiv-aids/international-guidelines-on-human-rights-and-drug-policy.html>



15. K. Pettus (March 2020), 'IAHPC Advocacy at the WHO Executive Board Meeting and Beyond', *International Association for Hospice and Palliative Care Newsletter*, <https://hospicecare.com/what-we-do/publications/newsletter/2020/03/policy-and-advocacy/>
16. The New Zealand delegate used the term 'harm minimization'.
17. Sweden made explicit reference to Opioid Substitution Therapy.
18. For example, according to informal conversations with a key UN agency official, having taken on the role, the Norwegian chair of ECOSOC in January 2020 asked all ECOSOC functional commissions to make presentations concerning their work with the goal of improving coordination.
19. Alsema, A. (1 January 2020), 'Colombia Announces Resumption of Aerial fumigation of coca, again', *Colombia Reports*, <https://colombiareports.com/colombia-announces-resumption-of-aerial-fumigation-of-coca-again/>
20. See Bewley-Taylor, D. & Hallam, C. (June 2019), *The 2019 Commission on Narcotic Drugs and its Ministerial Segment: Report of Proceedings*, June 2019 (International Drug Policy Consortium), pp. 18-19, <https://idpc.net/publications/2019/06/the-2019-commission-on-narcotic-drugs-and-its-ministerial-segment-report-of-proceedings>; Walsh, J., Jelsma, M., Blickman, T., & Bewley-Taylor, D. (March 2019), The WHO's first-ever critical review of cannabis: A mixture of obvious recommendations deserving support and dubious methods and outcomes requiring scrutiny (Global Drug Policy Observatory, Washington Office on Latin America & Transnational Institute), Policy Briefing March 2019, [https://www.tni.org/files/publicationdownloads/who-cannabis-wola\\_tni\\_gdpo-march\\_2019.pdf](https://www.tni.org/files/publicationdownloads/who-cannabis-wola_tni_gdpo-march_2019.pdf)
21. See for example see Austen, I. (20 December 2019), 'Legal Marijuana's Unresolved Issues a Year on' and 'From Canada's Legal High, a Business Let-down', *The New York Times*, <https://www.nytimes.com/2019/12/20/world/canada/legal-marijuanas-unresolved-issues-a-year-on.html>
22. See International Drug Policy Consortium (February 2019), *10 Years of Drug Policy in Asia: How Far have we come? A Civil Society Shadow Report*, <https://idpc.net/publications/2019/02/10-years-of-drug-policy-in-asia-how-far-have-we-come-a-civil-society-shadow-report> and *The post-2015*; and International Drug Policy Consortium (August 2015), *The post-2015 drug strategy for ASEAN: Towards a new paradigm in drug policy?*, <https://idpc.net/publications/2015/08/the-post-2015-drug-strategy-for-asean-towards-a-new-paradigm-in-drug-policy>
23. United Nations, ECOSOC, Commission on Narcotic Drugs-Commission on Crime Prevention and Criminal Justice, (February 2020), *Draft decision submitted by the Chair: Improved and streamlined annual report questionnaire*, E/CN.7/2020/L.7, <https://undocs.org/E/CN.7/2020/L.7>
24. United Nations, ECOSOC, Commission on Narcotic Drugs-Commission on Crime Prevention and Criminal Justice, (December 2019), *Improved and streamlined annual report questionnaire: Note by the Secretariat*, E/CN.7/2020/12, <https://undocs.org/E/CN.7/2020/12>
25. Bewley-Taylor, D. & Nougier, M., 'Measuring the "World Drug Problem": 2019 and Beyond', in Klein, A. & Stothard, B. (Eds) (2018), *Collapse of the Global Order on Drugs: From UNGASS 2016 to Review 2019* (Emerald Publishing), pp. 65-83.
26. United Nations, ECOSOC, Commission on Narcotic Drugs-Commission on Crime Prevention and Criminal Justice (February 2020), *Guidelines for the completion of the annual report (ARQ)*, [https://www.unodc.org/unodc/en/commissions/CND/session/63\\_Session\\_2020/session-63-of-the-commission-on-narcotic-drugs.html](https://www.unodc.org/unodc/en/commissions/CND/session/63_Session_2020/session-63-of-the-commission-on-narcotic-drugs.html)
27. Information on all the draft resolutions can be found in: Commission on Narcotic Drugs-Commission on Crime Prevention and Criminal Justice, *Sixty-third session Draft Proposals*, [https://www.unodc.org/unodc/en/commissions/CND/session/63\\_Session\\_2020/63draft-resolutions.html](https://www.unodc.org/unodc/en/commissions/CND/session/63_Session_2020/63draft-resolutions.html)
28. Project Ion Incident Communication System, the Precursors Incident Communication System and the global Operational Partnerships to Interdict Opioids' Illicit Distribution and Sales project, as well as the current work of the United Nations Office on Drugs and Crime global Synthetics Monitoring: Analyses, Reporting and Trends programme and the United Nations Toolkit on Synthetic Drugs
29. United Nations, General Assembly (December 2019), Resolution 74/178, *International cooperation to address and counter the world drug problem*, A/RES/74/178, <https://undocs.org/en/A/RES/74/178>
30. The following WHA resolutions were included in the first draft of resolution L4: 1) WHA67.19 on strengthening of palliative care as a component of comprehensive care throughout the life course, 2) WHA69.25 on addressing the global shortage of medicines and vaccines, and 3) WHA70.12 on cancer prevention and control in the context of an integrated approach.
31. United Nations Commission on Narcotic Drugs (March 2018), Resolution 61/11. *Promoting non-stigmatizing attitudes to ensure the availability of, access to and delivery of health, care and social services for drug users*, [https://www.unodc.org/documents/commissions/CND/CND\\_Sessions/CND\\_61/CND\\_res2018/CND\\_Resolution\\_61\\_11.pdf](https://www.unodc.org/documents/commissions/CND/CND_Sessions/CND_61/CND_res2018/CND_Resolution_61_11.pdf)
32. United Nations, International Narcotics Control Board (February 2016), *Availability of Internationally Controlled Drugs: Ensuring Adequate Access for Medical and Scientific Purposes. Indispensable, adequately available and not unduly restricted*, [https://www.incb.org/documents/Publications/AnnualReports/AR2015/English/Supplement-AR15\\_availability\\_English.pdf](https://www.incb.org/documents/Publications/AnnualReports/AR2015/English/Supplement-AR15_availability_English.pdf)
33. In the aftermath of the adoption, the league of youth-led organizations, the Paradigma coalition, officially expressed its regret that a resolution that could have created a space for meaningful inclusion, had instead been used for the purposes of aiding hidden agendas and political bargaining.
34. United Nations, General Assembly (May 2016), Resolution S-30/1. *Our joint commitment to effectively addressing and countering the world drug problem*, OP 7(d), A/RES/S-30/1, <https://www.unodc.org/documents/postungass2016/outcome/V1603301-E.pdf>
35. CND Blog (6 March 2020), *Plenary item 12. Adoption of the report of the Commission on its sixty-third session*, <http://cndblog.org/2020/03/plenary-item-12-adoption-of-the-report-of-the-commission-on-its-sixty-third-session/>
36. For full details of the scheduling processes see Hallam, C., Bewley-Taylor, D., & Jelsma, M. (June 2014), *Scheduling in the international drug control system* (Transnational Institute & International Drug Policy Consortium), <https://www.tni.org/en/briefing/scheduling-international-drug-control-system>
37. For more details see United Nations, ECOSOC, Commission on Narcotic Drugs (March 2020), *Draft report 'Implementation of the international drug control treaties'*, E/CN.7/2020/L.1/Add.3, <https://undocs.org/E/CN.7/2020/L.1/Add.3>
38. See United Nations, ECOSOC, Commission on Narcotic Drugs (January 2020), *Compilation of all questions and answers on the WHO recommendations on cannabis and cannabis-related substances raised during the fourth and fifth intersessional meeting of the Commission at its sixty-second session*, E/CN.7/2020/CRP.4, [https://www.unodc.org/documents/commissions/CND/CND\\_Sessions/CND\\_63/CRPs/ECN72020\\_CRP4\\_V2000845.pdf](https://www.unodc.org/documents/commissions/CND/CND_Sessions/CND_63/CRPs/ECN72020_CRP4_V2000845.pdf); United Nations, ECOSOC, Commission on Narcotic Drugs (February 2020), *Changes in the scope of control of substances: proposed scheduling recommendations by the World Health Organization on cannabis and cannabis-related substances*, E/CN.7/2020/CRP.9, [https://www.unodc.org/documents/commissions/CND/CND\\_Sessions/CND\\_63/CRPs/ECN72020\\_CRP9\\_V2001435.pdf](https://www.unodc.org/documents/commissions/CND/CND_Sessions/CND_63/CRPs/ECN72020_CRP9_V2001435.pdf); United Nations, ECOSOC, Commission on Narcotic Drugs (February 2020), *Changes in the scope of control of substances: proposed scheduling recommendations by the World Health Organization*, E/CN.7/2020/CRP.10, [https://www.unodc.org/documents/commissions/CND/CND\\_Sessions/CND\\_63/CRPs/ECN72020\\_CRP10\\_V2001436.pdf](https://www.unodc.org/documents/commissions/CND/CND_Sessions/CND_63/CRPs/ECN72020_CRP10_V2001436.pdf).

39. United Nations, ECOSOC, Commission on Narcotic Drugs (March 2020), Draft Decision submitted by the Chair. Changes in the scope of substances: proposed scheduling recommendations by the World Health Organization on cannabis and cannabis-related substances, E/CN.7/2020/L.8, <https://undocs.org/E/CN.7/2020/L.8>
40. See Barrett, D. (2020), *Child Rights and Drug Control in International Law*, Brill Nijhoff.
41. Indeed, following a similar statement regarding the extant system's ability to cope with 'designer' precursors at the launch of the Annual Report, there was some discussion within reform-minded quarters concerning a more general change in the Board's stance on the conventions. (See for example: Global Commission on Narcotic Drugs (March 2019), STATEMENT: Time for a bold debate on the modernization of the drug control normative framework, <https://www.globalcommissionondrugs.org/statement-time-for-a-bold-debate-on-the-modernization-of-the-drug-control-normative-framework>). It is true that, by association, admission of the dated nature of the convention framework in one aspect of its operation opens the door for discussions concerning modernization elsewhere. Nonetheless, close examination of the President's statement at the launch on February 27<sup>th</sup> also reveals how references to 'fit for purpose' were linked to discussions of 'designer' precursors (pre-precursors) See [https://www.youtube.com/watch?v=gT-6fLvLrTc\\_1](https://www.youtube.com/watch?v=gT-6fLvLrTc_1), 1 hour) It might be argued of course that the CND statement was intended to clarify the more unstructured responses to a journalist's question at the launch event.
42. Item 5c Highlighted that 'Some States have moved to legalizing cannabis for non-medical use, therewith breaching their obligations under the treaties, as the Board has repeatedly and publicly expressed
43. <https://www.ohchr.org/en/professionalinterest/pages/ccpr.aspx>
44. CND Blog (4 March 2020), *Item 5. Implementation of the international drug control treaties (continued)*, <http://cnblog.org/2020/03/item-5-implementation-of-the-international-drug-control-treaties-continued/>
45. CND Blog (3 March 2020), *Item 5. Implementation of the international drug control treaties*, <http://cnblog.org/2020/03/plenary-item-5-implementation-of-the-international-drug-control-treaties/>
46. CND Blog (5 March 2020), *Plenary: Item 6. Follow-up to the implementation at the national, regional and international levels of all commitments, as reflected in the Ministerial Declaration of 2019, to address and counter the world drug problem (Continued)*, <http://cnblog.org/2020/03/plenary-item-6-follow-up-to-the-implementation-at-the-national-regional-and-international-levels-of-all-commitments-as-reflected-in-the-ministerial-declaration-of-2019-to-address-and-counter-the-3/>
47. CND Blog (3 March 2020), *Item 5. Implementation of the international drug control treaties*, <http://cnblog.org/2020/03/plenary-item-5-implementation-of-the-international-drug-control-treaties/>
48. CND Blog (3 March 2020), *Item 3: General debate (continued)*, <http://cnblog.org/2020/03/item-3-general-debate-continued/>
49. CND Blog (4 March 2020), *Item 5. Implementation of the international drug control treaties (continued)*, <http://cnblog.org/2020/03/item-5-implementation-of-the-international-drug-control-treaties-continued/>
50. CND Blog (3 March 2020), *Item 5. Implementation of the international drug control treaties*, <http://cnblog.org/2020/03/plenary-item-5-implementation-of-the-international-drug-control-treaties/>
51. CND Blog (4 March 2020), *Item 5. Implementation of the international drug control treaties (continued)*, <http://cnblog.org/2020/03/item-5-implementation-of-the-international-drug-control-treaties-continued/>
52. Aguilar, S., Gutierrez, V., Sanchez, L. & Nougier, M. (April 2018), *Medicinal cannabis policies and practices around the world* (International Drug Policy Consortium & Mexico Unido contra la Delincuencia), [http://fileserv.idpc.net/library/Medicinal%20cannabis%20briefing\\_ENG\\_FINAL.PDF](http://fileserv.idpc.net/library/Medicinal%20cannabis%20briefing_ENG_FINAL.PDF)
53. CND Blog (3 March 2020), *Item 5. Implementation of the international drug control treaties*, <http://cnblog.org/2020/03/plenary-item-5-implementation-of-the-international-drug-control-treaties/>
54. CND Blog (5 March 2020), *Plenary: Item 6. Follow-up to the implementation at the national, regional and international levels of all commitments, as reflected in the Ministerial Declaration of 2019, to address and counter the world drug problem (Continued)*, <http://cnblog.org/2020/03/plenary-item-6-follow-up-to-the-implementation-at-the-national-regional-and-international-levels-of-all-commitments-as-reflected-in-the-ministerial-declaration-of-2019-to-address-and-counter-the-3/>
55. CND Blog (4 March 2020), *Item 5. Implementation of the international drug control treaties (continued)*, <http://cnblog.org/2020/03/item-5-implementation-of-the-international-drug-control-treaties-continued/>
56. CND Blog (3 March 2020), *Item 3: General debate (continued)*, <http://cnblog.org/2020/03/item-3-general-debate-continued/>
57. CND Blog (4 March 2020), *Item 5. Implementation of the international drug control treaties (continued)*, <http://cnblog.org/2020/03/item-5-implementation-of-the-international-drug-control-treaties-continued/>
58. CND Blog (3 March 2020), *Item 3: General debate (continued)*, <http://cnblog.org/2020/03/item-3-general-debate-continued/>
59. CND Blog (3 March 2020), *Item 5. Implementation of the international drug control treaties*, <http://cnblog.org/2020/03/plenary-item-5-implementation-of-the-international-drug-control-treaties/>
60. CND Blog (4 March 2020), *Item 5. Implementation of the international drug control treaties (continued)*, <http://cnblog.org/2020/03/item-5-implementation-of-the-international-drug-control-treaties-continued/>
61. CND Blog (5 March 2020), *Plenary: Item 6. Follow-up to the implementation at the national, regional and international levels of all commitments, as reflected in the Ministerial Declaration of 2019, to address and counter the world drug problem (Continued)*, <http://cnblog.org/2020/03/plenary-item-6-follow-up-to-the-implementation-at-the-national-regional-and-international-levels-of-all-commitments-as-reflected-in-the-ministerial-declaration-of-2019-to-address-and-counter-the-3/>
62. Ibid.
63. Ibid.
64. Ibid.
65. Ibid.
66. Ibid.
67. CND Blog (5 March 2020), *Plenary: Item 7. Inter-agency cooperation and coordination of efforts in addressing and countering the world drug problem*, <http://cnblog.org/2020/03/plenary-item-7-inter-agency-cooperation-and-coordination-of-efforts-in-addressing-and-countering-the-world-drug-problem/>
68. CND Blog (5 March 2020), *Plenary: Item 6. Follow-up to the implementation at the national, regional and international levels of all commitments, as reflected in the Ministerial Declaration of 2019, to address and counter the world drug problem (Continued)*, <http://cnblog.org/2020/03/plenary-item-6-follow-up-to-the-implementation-at-the-national-regional-and-international-levels-of-all-commitments-as-reflected-in-the-ministerial-declaration-of-2019-to-address-and-counter-the-3/>
69. Ibid.
70. Ibid.
71. A summary of the dialogue is available here: CND Blog (5 March 2020), *Informal Dialogue with the UNODC Executive Director*, <http://cnblog.org/2020/03/informal-dialogue-with-the-unodc-executive-director-2/>

72. For a fuller account, see the UNODCs new side report [https://www.unodc.org/unodc/en/commissions/CND/session/63\\_Session\\_2020/session-63-of-the-commission-on-narcotic-drugs.html](https://www.unodc.org/unodc/en/commissions/CND/session/63_Session_2020/session-63-of-the-commission-on-narcotic-drugs.html)
73. See, for example, <http://cndblog.org/2020/03/side-event-exploring-the-regulation-of-cannabis-markets-in-latin-america/>
74. See, for example, <http://cndblog.org/2020/03/sco-and-unodc-in-the-fight-against-the-illicit-drug-threat-countering-drug-traffic-ing-via-darknet/>
75. For a summary of the event see <http://cndblog.org/2020/03/implementing-the-united-nations-bangkok-rules-women-and-drug-policies/>
76. For a summary of the event, visit <http://cndblog.org/2020/03/side-event-next-steps-for-data-collection-on-drugs-experiences-from-un-agencies/>
77. For a summary of the event, visit <http://cndblog.org/2020/03/side-event-drug-reform-from-a-punitive-to-a-supportive-approach-the-norwegian-proposal/>
78. Year-by-year data available at IDPC's archives upon request. The 2020 analysis is based on the side events initially scheduled in the official programme. Several side events were cancelled as the organisers did not attend the CND due to COVID-19. As initially outlined in IDPC, *The 2015 Commission on Narcotic Drugs and its Special Segment on Preparation for the United Nations General Assembly Special Session on the World Drug Problem: Report of Proceedings* <https://idpc.net/publications/2015/06/the-2015-commission-on-narcotic-drugs-and-its-special-segment-on-preparations-for-the-ungass-on-the-world-drug-problem-report-of-proceedings> p. 31, classifications are as follows: 'Progressive' – NGOs promoting policy reform; 'status quo' – NGOs that remain entrenched in the traditional zero tolerance approach towards drugs; 'neutral' – those not easily classifiable.
79. United Nations Office on Drugs and Crime (2009), *From coercion to cohesion: Treating drug dependence through health care, not punishment*, [https://www.unodc.org/docs/treatment/Coercion\\_Ebook.pdf](https://www.unodc.org/docs/treatment/Coercion_Ebook.pdf)
80. See 'Note by the Secretariat on the work of the standing open-ended working group on improving the governance and financial situation of the United Nations Office on Drugs and Crime' [E/CN.7/2020/3-E/CN.15/2020/3](https://www.unodc.org/unodc/en/commissions/CND/session/63_Session_2020/session-63-of-the-commission-on-narcotic-drugs.html)
81. IDPC, *The 2018 Commission on Narcotic Drugs: Report of Proceedings*, June 2018, p. 31 <https://idpc.net/publications/2018/06/the-2018-commission-on-narcotic-drugs-report-of-proceedings>
82. It might be argued that another caveat to consensus was the footnote added to the ARQ technical guidelines.
83. While in no way underplaying their significance, it is important to highlight that these were explanatory statements of position rather than the more legally substantive Interpretive Statements or Declarations sometimes formally attached to soft law instruments in order to clarify the meaning or scope attributed by the declarant. See UN, *Report of the International Law Commission, Sixty-Third Session (26 April – 3 June and 4 July – 12 August 2011) General Assembly, Official Records, Sixty-sixth Session, Supplement No. 10* pp. 62-3 and Specifically in relation to international drug policy see David R. Bewley-Taylor, *International Drug Control: Consensus Fractured*, Cambridge University press, 2012, p. 2
84. See, for example, Prohibition Partners, 'Covid-19: The turning point for global cannabis legalisation', April 3, 2020 <https://prohibitionpartners.com/2020/04/03/covid-19-the-turning-point-for-global-cannabis-legalisation/>
85. UN system coordination Task Team on the Implementation of the UN System Common Position on drug related matters, What we have learned over the last ten years: A summary of knowledge acquired and produced by the UN system on drug-related matters, March 2019 <https://www.aidsdatahub.org/what-we-have-learned-over-last-ten-years-summary-knowledge-acquired-and-produced-un-system-drug>



**The International Drug Policy Consortium** is a global network of non-government organisations that specialise in issues related to illegal drug production and use. The Consortium aims to promote objective and open debate on the effectiveness, direction and content of drug policies at national and international level, and supports evidence-based policies that are effective in reducing drug-related harm. It produces briefing papers, disseminates the reports of its member organisations, and offers expert advice to policy makers and officials around the world.

© International Drug Policy Consortium Publication 2020

Report design by Mathew Birch: [hello@whatifweconsulting.com](mailto:hello@whatifweconsulting.com)

Cover artwork by Rudy Tun: [rudo.tun@gmail.com](mailto:rudo.tun@gmail.com)

This report provides an overview of the central issues debated during the 63rd session of the Commission on Narcotic Drugs, an analysis of the negotiations of the CND resolutions, and highlights from civil society participation.

Funded, in part, by:



**OPEN SOCIETY  
FOUNDATIONS**



**ROBERT  
CARR  
FUND**

for civil society  
networks