



INFORMAL DRUG POLICY DIALOGUE

An initiative by the
Andreas G. Papandreou Foundation (APF)
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REPORT

The third meeting of the TNI/APF informal drug policy dialogue initiative took place in the Hotel Kreuz, Bern. The meeting was co-hosted by the Swiss Federal Office of Public Health which generously provided hospitality and logistical support. Participants, most of whom are actively involved in policy, included over forty people from 21 countries, six inter-governmental organisations, five international NGOs and several academics.

The two-day dialogue had four sessions focused on (1) the effectiveness of law enforcement in supply reduction, (2) recent developments around HIV/AIDS and harm reduction, (3) Bolivia and legal options for the coca leaf and (4) preparations for the 2008 UNGASS Review. In addition, participants were invited to visit the Bern city drug injection facility, where managers explained how the facility functioned and gave a guided tour of the premises. The visit was highly appreciated by all those who took part.

The meeting was guided by ‘the Chatham House Rule’ to encourage both a free exchange of thoughts and confidentiality at meetings. Individual contributors therefore remain anonymous and some tactical discussion points have been omitted from this report. The format of the meeting was informal and interactive. For each session a number of people were requested to provide inputs. They were not asked to prepare and deliver full speeches but rather to provide introductory remarks to spark off the round table discussion. Most of the time was devoted to an open discussion between all participants. This report provides an overview of the views expressed during the meeting that taken together reflect the overall tone of the meeting. These do not represent conclusions, however, and the views expressed do not necessarily represent majority opinions of those present.

Introduction

A representative of the Swiss Federal Office of Public Health opened proceedings with a brief explanation of the Swiss Government’s four-fold approach to drug policy. Although the problem of drugs has not been eliminated, the approach does seem to be working, as evidenced by the improved health and social status of drug users, a drop in drug-related crime and the disappearance of open drug scenes. The Federal Commission for Drug Issues has developed a new model which takes all psychoactive substances into account, including alcohol and tobacco. The aim was to develop a coherent model for all substances.

Session 1 (a): Effectiveness of law enforcement in supply reduction.

The majority of resources for drug control are devoted to law enforcement: seizures of drug shipments, disruption of involved criminal organizations, arrests/incarceration of smugglers and dealers, precursor and money-laundering control, enforcement of a ban on cultivation, etc. The original rationale behind those efforts has been to reduce availability and thereby consumption. Related policy objectives have gained more prominence: overall crime reduction aims, weakening organized crime groups and corruption schemes, and since 9/11 denying terrorist groups a potential source of funding.

What do we know about the impact of those efforts, how effective is drug law enforcement in reducing the size of drug markets? With the possible exception of the Australian heroin drought in 2001-2003, hardly any research exists that establishes a statistically significant link between interdiction efforts and street-level availability. Not even with the record-high cocaine seizures nowadays reaching nearly 40% of total estimated production. How realistic is the attempt to create a European heroin drought by enforcing the opium ban in Afghanistan and investing heavily in interdiction efforts along the major trafficking routes? What are the costs involved to reach measurable market impacts, in terms of resources, police/justice capacity and increasing prison populations? And even if scarcity would emerge, how would the market respond, what would heroin users do, what options are available to shift to other substances? Policy evaluations struggle with these issues and mostly avoid the question about market impacts altogether preferring to count outcomes in terms of new legislation, better coordination mechanisms, seizures and arrests. In the 2006 World Drug Report, the UN Office on Drugs and Crime (UNODC) claims that at least drug law enforcement efforts have *contained* the drug market and prevented it from spiralling out of control to tobacco-high prevalence figures. Is that a fair assumption to make? Is containment the best we can hope to achieve or is the goal to 'eliminate or significantly reduce' as set by the 1998 UNGASS still a valid policy objective? Would it be sensible to shift attention and resources away from eliminating/reducing drug markets towards crime reduction and to prevention, treatment and harm reduction?

The question of the effectiveness of law enforcement in reducing the supply of drugs is highly controversial. Many doubt whether the huge investments made over the last decades have proven their worth in terms of the main objective, namely to have an impact on the market. The inputs for the first session came primarily from three speakers: two individuals with long experience of drug law enforcement policing, the third an economist with particular expertise in supply-side issues.

Containment versus elimination

The only realistic goal may be to try to contain the problem of drug supply rather than try to eliminate it. UNODC's World Drug Report for 2006 suggested that drug law enforcement efforts had contained the global illicit drug market and prevented it from spiralling out of control to tobacco-level prevalence figures. The claim raises several questions. First, what evidence is there that the global illicit drug market *is* being contained, except perhaps by normal market forces? Second, if it is so, how much is this attributable to law enforcement efforts? Third, in view of the pledges made by UN Member states at the 1998 UNGASS, would containment, rather than a significant reduction in the availability of drugs, represent success or failure for law enforcement? Fourth, would any shift in resources from law enforcement to other elements of drug control mean that the global illicit drug market might no longer be so 'containable' and drug prevalence figures could spiral 'out of control' to reach those of tobacco prevalence. This leads to a further question, namely if prevalence figures determine whether the global illicit drug market is under control, then what figures would signal that it was out of control?

Nowadays the issue of what constitutes drugs law enforcement is by no means clear cut. The traditional image of police, customs, coastguard and border guard services has been blurred

by the entry into the 'war on drugs' of military and intelligence agencies that were previously deployed in cold war scenarios. A consequence of this is that the 'balanced approach' to international drug control pledged in 1998 has been more or less jettisoned in favour of 'war models' in which law enforcement is key.

For police officers, drug crime has a certain attraction in that the recorded detection rate is virtually 100%, since such crimes normally only come to light when arrests are made. Drug crimes can be a salvation in that they allow overall performance to be expressed in the form of a percentage figure that covers up lack of success in dealing with other categories of crime. Internationally, the need for cost-cutting and accommodating the requirements of globalisation and free market economies were the principal factors behind the development of the 'upstream' intervention strategy, whereby the focus of enforcement was shifted away from the national borders of user states and towards the borders of those states from which the materials or base materials originated. The result has been greatly to worsen the situations in developing producer and transit states.

If one limits the focus to arrests and seizures there would be grounds for considering law enforcement to be successful. The fact that increased arrests, seizures and imprisonments do not appear to result in any global reduction in the availability of drugs is largely the consequence of social, economic and geo-political factors that extend far beyond what is possible for law enforcement to influence. Overall, law enforcement is perhaps being more or less as effective as it can be under the circumstances. There will always be ways in which it can be improved but law enforcement will never have the means to resolve a global problem for which a fundamental and radical re-assessment is desperately required.

Efficacy and cost effectiveness

Law enforcement undoubtedly achieves statistical results in terms of seizures and arrests but as a mechanism, it is totally or partially ineffective if one considers whether enough drugs have been taken out of the system. More drugs are available now because of increased production and because of an improved logistical capability to move consignments across seas and borders. The fear factor of drugs makes them a high priority for politicians, and no one wants to risk appearing liberal. For this reason, agencies or institutions which are largely external to law enforcement tend to 'piggy back' on drugs, or feel pressured to do so against their will. For example, in several countries the military uses their involvement in drug interdiction to get extra budget for replacement of military matériel, although in fact such involvement is often minimal. For most countries, there is no doubt that investment in drug law enforcement represents a very large proportion of the total police budget.

Paradoxically, drug law enforcement seems to be most effective where it has knock-on effects outside the law enforcement environment. People who present for treatment often do so when suffering financial hardship, but being caught can sometimes be a catalyst for treatment. An opiate study was conducted in Dublin in 1996. In that year 66 per cent of all detected indictable crime was attributed to opiate users. The study was repeated over 2000 and 2001, when the percentage of all indictable crime attributed to opiate users fell to 28 per cent. The number of indictable crimes had not changed but the numbers involved in crime had reduced and the volume of crime in cash terms had decreased. The main factor that had changed was the increased availability of drug treatment and harm reduction services. There were huge numbers of benzodiazepines on the streets in Ireland in 2005 which had been diverted from manufacturing and wholesale sources. Investigation revealed control failures and these were tightened up. In both these cases law enforcement was instrumental in causing improvements in areas external to itself.

Balancing the consequences of supply reduction

From an economic point of view, other factors must be weighed up when considering the effectiveness of law enforcement, such as the quality and quantity of enforcement: in other words, how much enforcement is 'enough' and what kind of enforcement should one be aiming for? The goal should not just be to reduce supply, but to reduce the harmfulness of drug consumption and production and avoid creating behaviours as a consequence of enforcement that are themselves harmful. One must be explicit about the criterion of minimizing consequences. Enforcement is a differentiated set of instruments, each with potentially a very different set of consequences. Eradication is one example.

US anti-drug efforts are primarily supply-side based. Around 500,000 people are in prison in the US at any given time for drug offences (more than Western Europe locks up for all offences). This amounts to more than a ten-fold increase over the last 20 years. A survey of prison inmates shows that around 40 per cent were locked up for possession, although most in fact were sellers; this is the consequence of plea bargaining. The US locks up around 150 people per 100,000 for drug offences, compared to the UK rate of 140 per 100,000 for all offences. There has been an increase in incarcerations but a decline in the price of heroin and cocaine and there is no sign of decreased availability, nor of a reduction of harmful consequences from use. If one looks at problematic drug users in the US there is a prevalence rate of 20 per 1000 in the age category 15–64, which is much higher than in Western Europe. Moreover a new study has shown a large difference in the range of HIV rates between African-Americans and whites, and this is a reflection of incarceration rates. If one takes the reduction of availability as a criterion for effectiveness of drug law enforcement, one might be able to cut the number of drug law offenders in prison in the United States by half, and not make any difference to the price or to the availability of drugs. The share of dependent users of drugs such as cocaine and heroin in treatment is much lower in the U.S. than in Western European nations such as the U.K. and the Netherlands.

The objective could be to create a situation of deterrence to suppliers or users. No government except the US has tried seriously to do this. In the UK there are an estimated five million regular drug users, and 50-60,000 arrests per year. Vast sums are spent on the criminal justice process and in routine arrests and police work. If the objective is to stop the supply of substances to consumers, then it has not been attained and so is not cost-effective.

In the UK it is true that a lot of people are locked up for a short time, which for drugs might be the wrong thing to do. Law enforcement could be more cost-effective by offering residential drug treatment to prisoners. These facilities could be extended, and be linked to post release services. Prison settings are not an ideal environment for treatment, but in some respects keeping people longer in the judicial system could permit a full course of treatment to be offered, and a better chance of rehabilitation. Too many resources are devoted to keeping people in prison rather than working with them. One measure that has proved to be cost-effective in the UK is to have drug workers based in police stations.

Production variables

A research project is currently under way with a focus on reducing opiate production. It looks at the Taliban crackdown of 2001 which led to a 60 per cent reduction of output. Prices in Afghanistan rose significantly within a short time, as they did in Iran and Tajikistan, but there was no decline in heroin availability in 2001 in any major market except Australia. However as Australia is supplied by the Golden Triangle, this could not have been a direct consequence. There were some signs of a shortage in 2002 in the Turkish wholesale market but no European-wide indicator. This suggests that there was enough inventory in the region

for at least a year. Because of 9/11 and the subsequent invasion of Afghanistan we do not know what the consequences would have been after 2001. Opium prices in Afghanistan have declined but are still two or three times higher than in the pre-Taleban period, and this is difficult to understand.

There were differing views as to whether, at the time of the ban, the Taleban controlled large inventories of opium from 1999, a boom year. Inventories could well have been held because of the variability of crop supply from year to year. Yet no evidence was found of these, and their location is a mystery.

Supply control efforts cannot control the quantity that the global system needs – this is determined by users. Afghanistan used to be quite a minor producer, so why has the current situation come about? Answering this question is a complicated matter. Geopolitical factors, regional shifts in the opiates market, external interventions and enduring internal instability are all related to it. A factor is also the lack of effective government. Location of production is primarily a function of governmental control, and coincides with areas where the government or the effective powers are supportive of production. A supportive environment for opium production could be found elsewhere, for example in sub-Saharan Africa, but the area may not be sufficiently connected to consumer markets. Efficiencies in trafficking will also be a key factor. However since Colombian heroin is not sold in Europe despite the existence of well-established trafficking routes, this cannot be the answer.

In Colombia there has been a 70 per cent decline of the price of cocaine, which indicates a lower level of risk. Research should be done on why some countries produce drugs and others don't. One reason could be that in some countries there are lower risks attached to illegal activity than in others. This could be the case for Colombia, where production occurs because it is illegal rather than because it is profitable.

Session I (b) Effectiveness of law enforcement

Following some introductory remarks from a criminological point of view, the session was generally given over to a wide-ranging discussion by all participants.

Incarceration and social control

There can be no answer to whether supply reduction is effective or not because the hypothesis that supply side efforts work can never be disproved. Data such as seizures and arrests will always be produced. It might be better to concentrate on the consequences of the assumption that law enforcement works. We should give much more attention to reducing the numbers who want to use drugs and to the harmful consequences of consumption. Societies which used to be very homogeneous are now much less so. Social capital has been lost due to generational and social splits. Families do not spend time together any more and solidarity has been lost. Drug control is the easiest way to control poverty and the destructive elements of society, and incarceration is a significant tool within this process. Russia is now the chief incarcerator in Europe. Ten years ago the rate had gone down but now it is growing fast thanks to the new 'war on drugs'. England and Wales have now reached the high East European standards of incarceration, and have the highest levels of incarceration rates in Western Europe. Scandinavia has much lower rates, but even here social cohesion is being destroyed. A form of apartheid has been introduced in Copenhagen whereby certain people cannot go to certain areas of the city without risking arrest.

Drug laws are unquestionably a form of social control, as are public health measures. Drugs are here to stay, but in ever more sophisticated forms and with wider consumption. The old

moral compass is disappearing; the church has virtually disappeared. Prison is all about removal from society and retribution. It is time we started to manage the problem rather than try to eliminate it. Every day, evidence is being denied. For example, the WHO Expert Committee recommended in its 33rd report (2003) that THC should be rescheduled from Schedule II to Schedule IV of the 1971 Convention, but this recommendation never reached the CND for a decision. The evidence is there, but this may not be the trigger for change; we must find the trigger in order to move on. It is vital to bring politicians to the table. Police indicators such as seizures have come to rule the system, whereas we need to be looking at the impact of policies. Statistics can be bent to prove anything at all, and have become completely discredited. After a particular law enforcement initiative the seizure of ecstasy laboratories goes up, then after a period it declines again. Both the increase and the decrease will be used to claim ‘success’.

In conclusion, the prevalent feeling was that one should be extremely cautious of how ‘evidence’ is produced, by whom and with what objective. In the current climate of international drug control it appears that dogma is simply not susceptible to research. However police forces in general do not embrace the ‘war on drugs’ rhetoric, and would not object to a shift in priorities to harm reduction.

Session II: HIV/AIDS and harm reduction

New developments regarding harm reduction and HIV/AIDS at the UN level took place in 2006 with the re-introduction of the Brazilian draft resolution at the CND in March, and the General Assembly High Level Meeting on AIDS from 31 May to 2 June. After the aborted attempt at the 2005 CND session to provide UNODC with a clear mandate for needle exchange and other harm reduction measures among injecting drug users, hopes were high that the breakthrough at last year’s UNAIDS Programme Coordinating Board (PCB) meeting would enable a better outcome this year at the CND. The terms ‘harm reduction’, ‘human rights of drug users’ or direct reference to clean needles all did not survive in the final version of the resolution. By explicitly ‘endorsing’ the PCB outcomes, however, guidance and more room for manoeuvre for UNODC can be derived from the text; the PCB-approved language included *“the implementation of harm reduction measures”* and that *“an approach must be based on promoting, protecting and respecting the human rights of drug users.”* The 2006 CND resolution calls on member states to provide access to *“measures that are consistent with international drug control treaties and have been shown to be effective in reducing the risk of HIV/AIDS, hepatitis and other blood-borne diseases among injecting and other drug users”*.

Is guidance for UNODC to be involved in needle and syringe programmes now sufficiently clear or does its mandate remain ambiguous? What more can be done to improve UN system-wide coherence on the harm reduction issue? What are the latest developments regarding the still more controversial aspects of harm reduction policies, such as the heroin maintenance ‘trials’ and supervised injection sites? How are the involved countries dealing with the tensions with the conventions as highlighted in the INCB reports?

Inputs for this session came primarily from three expert speakers from the UN, the USA and Canada respectively.

UN and HIV/AIDS programmes

A Resolution passed at the March 2006 CND confirmed the harm reduction approach that had been approved in 2005 at the UNAIDS Programme Co-ordinating Board meeting.¹

1. E/CN.7/2006/10, CND, Report on the forty-ninth session (8 December 2005 and 13-17 March 2006), Resolution 49/4, *Responding to the prevalence of HIV/AIDS and other blood-borne diseases among drug users*. And, Joint United Nations Programme on HIV/AIDS. *Intensifying HIV prevention: UNAIDS policy position paper*. Geneva: 2005.

Without using the term harm reduction, the Resolution explicitly endorsed the PCB outcomes, in theory giving UNODC some guidance and more room for manoeuvre. However UNODC's mandate in this regard remains ambiguous and the term harm reduction still cannot be used. The US is hostile to needle and syringe exchange programmes and is the largest donor to UNODC. Further confusion may arise because there are contradictions between what is said at the UNAIDS PCB and what is said at CND.

Within UNODC, HIV/AIDS prevention is one of the strongest and best funded programmes, with a team of over 40 people. It has a current budget of around 100 million USD for ongoing projects, paid for from bilateral and multilateral donors and earmarked funds. However the team does have some difficulties in implementing comprehensive AIDS prevention within the context of UNODC's demand reduction activities. The demand/supply division may be helpful to economists but is not politically useful: from the point of view of an HIV/AIDS specialist, it is false and harmful, and does not take into account the fact that dependence is a disease.

In some cases the problems of implementing harm reduction would simply be logistical, inasmuch as it would be impossible to establish injecting rooms in countries such as Bangladesh, regardless of INCB's position. Countries such as Germany and the Netherlands, simply choose to disregard INCB's views in this area.

East Europe/Asia

If 2005 was a year in which there was definite progress with regard to harm reduction, from an East European/Asian perspective 2006 seems to have reversed that trend. Russia has rolled back its methadone programme and now has no substitution treatment nor any provision of psycho-social services. Of as many as 12 million injecting drug users in Asia and the former Soviet Union, it appears that fewer than 1 per cent has access to opiate substitution, the best-studied and most effective form of treatment. UNODC's World Drug Report routinely reports on treatment only in the vaguest terms of treatment provision, but more clarity is required here, since in some countries, incarceration is considered a form of treatment. INCB goes to Russia or to Kazakhstan and makes no mention of the fact that there is no offer of substitution treatment, and focuses its attention on buprenorphine diversion. The public health benefits of buprenorphine prescription are demonstrated by France, which has seen no new cases of HIV by IDU infection. In Uzbekistan, political opposition to substitution treatment has been overcome within the context of HIV prevention, but the problem has arisen that drug users who are not infected cannot get treatment, whereas infected drug users can.

HIV and AIDS are also the outcome of other factors such as poverty and unemployment. In Asia especially, people need jobs to regain respect. It should be remembered that not everyone lives in a democracy, and that many drug users are sentenced to death in Asia. China 'celebrates' world anti drugs day with executions. UNODC has produced an excellent document devoted to best practices in treatment, but these have not even been transferred into the form of guidelines. Principles of low threshold treatment, recovery readiness etc must be much more widely diffused.

Vancouver, Canada

The situation in Vancouver was disastrous during the 1990s, with an overlap of prescription drug abuse, alcohol and heroin problems. A drug overdose epidemic that began in 1993 with around 150 deaths each year for several years was followed by an HIV epidemic in 1996.

There was no consensus as to what to do and no coordinated response through the public health emergency services. Vancouver's injection site took seven years to set up, and has now been running for three years. Some 1.5 million dollars have been spent on evaluation. Several cohorts of drug users have been studied, and many different kinds of study have been carried out. The standards for evaluation in terms of nuisance and community impact are also extremely high. The site has achieved all the goals that had been set for it, and none of the unwelcome consequences that were feared have come to pass. Funding is only guaranteed until 2007, and the new conservative government is starting to deny the evidence, supported by INCB. However the site will not close as it enjoys considerable support. In addition to the injection site Vancouver also has 30 needle/syringe exchanges. Needle exchanges are a relatively low-cost item but there is an intense debate over effectiveness. Unfortunately the same high standards that health authorities have to maintain with regard to harm reduction are not demanded of law enforcement practices.

The issues of harm reduction introduced by the different speakers led to a discussion of how far INCB's views were actually listened to, the value of the resolutions passed at CND, and of how treatment should fit in to the overall goals of harm reduction, or the other way around. Most agreed that weaker, developing countries were less able to stand up to INCB than the more industrialised European nations with 'broad shoulders'. None of the current members of INCB has any publications on HIV to their names, and this is a major failing. Their interpretation of the conventions is open to doubt, and their reports written in an opaque way. INCB's activities should be more open to public scrutiny.

CND resolutions, which are negotiated between CND members, are of uncertain value in themselves, at least to those responsible for implementing projects. For the HIV/AIDS team working in UNODC, the only aim is to be fully able to operate. Resolutions were thought to be a useful means of inter-governmental cooperation but, from an HIV/AIDS perspective, only as long as they do not impede operational work, which can happen. For example, as a result of the recent CND Resolution UNODC must now conduct a study to estimate how many HIV-infected drug users are receiving treatment. This takes up staff time and resources while people are continuing to die because other projects are not being implemented.

It was suggested that greater emphasis be given to the concept of HIV prevention as a bridge between the IDU population and the general population. This depends on better communication between the health system, the media and politicians. Success in HIV prevention means more people are surviving and deaths are falling, but politicians seem to see that as an excuse to give less funding than before. In fact the risks of infection are just as great or greater.

Harm reduction and treatment

There were differences of views as to the weight that should be given respectively to harm reduction and treatment. It was felt that harm reduction advocates in the US had not given sufficient attention to aspects of treatment - potentially a less politically sensitive area - and that efforts should be made to find a mandate within the treatment aspects of the UN conventions that could be used to implement harm reduction. If harm reduction were rolled up into treatment, politicians would be more accepting of it. Instead it is associated with activist groups that promote drug legalisation. The terminology of harm reduction may thus result in the withdrawal of services. Another view was that treatment was part of harm reduction and that the general principles of harm reduction should be more widely diffused across the entire population. The word 'treatment' has overtones of passivity, which does not apply to most drug users. Most drug users stop without treatment, but governments should

offer a range of choices, including abstinence, from which users can avail themselves of at the opportune moment for them. In this sense there should be no difference between harm reduction and treatment because they lie along the same continuum. Substitution treatment is both harm reduction and treatment, while needle exchange provides a bridge between drug users and treatment.

The US and harm reduction

As long as the US remains the largest single donor to UNODC, implementation of harm reduction will be problematic. In fact the EU countries and the EU Commission give more than the US but they punch below their weight because there is no single voice on many issues. The US sees harm reduction as being in opposition to treatment, and that helping people out of drug use altogether and helping them get treatment are contradictory, because helping people to reduce harms leads them away from abstinence. Evidence shows that a move towards more stable behaviour may well lead to a request for treatment.

The US continues to deny the validity of evidence as regards harm reduction. The Office of National Drug Control Policy (ONDCP) has presented 16 small-scale studies showing that needle exchange is not effective.² However the study commissioned by UNAIDS and carried out by the National Academy of Sciences³ came out in favour of needle and syringe exchanges, albeit with some political hedging.

Session III : Bolivia and legal options for the coca leaf

A decades-old demand to remove the coca leaf from strict international drugs controls has come to the fore again since the government of President Evo Morales took power in Bolivia early 2006. The INCB has pointed out inconsistencies in the current legal status of the 'sacred leaf'. In the 1990s WHO research found no harmful effects of coca chewing and instead recommended research into potential beneficial effects for mankind. Is it time to correct an historical error that condemned an Andean cultural heritage to extinction? What are the arguments and the procedure to exonerate coca from its classification as a narcotic drug. Once coca chewing and coca tea would be cleared of supposed harmful and dependency-producing effects, would the leaf still have to remain on Schedule 1 of the 1961 Convention because cocaine can be extracted from it? What is the real potential for an international market of coca-based products? How realistic are today's policies of the Bolivian government under the banner of 'coca yes – cocaine no'? What are the responses so far from the side of other Latin American countries, the US, EU and UN?

Inputs for this session came from three expert speakers from Bolivia and the USA and from an academic with an anthropological background.

There are now good reasons to correct the historical error that placed coca in Schedule I of the 1961 Convention. The Bolivian government is prepared to explore all legal options for the coca leaf in order to find export opportunities for its natural resource. The first stage of the formal procedure to remove coca from Schedule I requires the Bolivian government to give formal notification of its intention to the Secretary General of the UN. This will then be passed to the WHO Expert Committee, which will examine whether coca is correctly scheduled or not, then the matter will pass to CND and finally to Ecosoc. As regards a time frame, if the Bolivian government gives formal notification to the Secretary General by May

² On 11 December 2006 (and thus after the mid-term elections) Congress passed a bill reauthorising ONDCP in which specific reference was made to the need to consider "the best available medical and scientific evidence" when evaluating the effectiveness of syringe exchange programmes.

³ 'Preventing HIV Infection among Injecting Drug Users in High-Risk Countries An Assessment of the Evidence', Institute of Medicine of the National Academies, New York, September 2006.

2007 then the issue could be discussed by CND in 2009. There are excellent arguments in favour of deleting coca leaf from the Convention.

The new Bolivian government has launched a national Plan of Development based on dignity, democracy, productivity and sovereignty. The aims include poverty reduction and the provision of a range of basic public services, anti-exclusion policies and public security, the empowerment of local communities and decentralisation. In terms of productivity, the focus is on strategic sectors of energy and environmental resources, and on generators of employment and income. The sovereignty provisions call for greater autonomy in political decision-making and on improving international relations.

The Bolivian government's position paper on coca/cocaine is not yet completed, but is expected to be ready in early 2007. Coca and cocaine will be separated into two distinct categories, with the revalorization of coca on the one hand, and cocaine control and interdiction on the other. The campaign to remove coca from Schedule I of the 1961 Convention will be based on a recognition of the beneficial properties of the plant and of coca as part of Bolivia's cultural and national identity. The cocaleros will be involved in the promotion of local initiatives and in development of markets for coca. Bolivia has also received the support of Venezuela and Cuba for the setting up of coca-based industries in Chapare and Yungas.

New normative system

As regards cocaine, the emphasis will be on the financial aspects of production and on the elements of the manufacturing process required to convert coca into cocaine. A new normative system will be set up with neighbouring countries as regards interdiction and other law enforcement measures. Several countries have shown interest in supporting the Bolivian government in this. Cocaine prevention will be based on an information campaign and holistic prevention.

Another major task that the Bolivian government has set itself is a reorganisation of the criminal justice system, and in particular the penitentiary system. Current penalties for trafficking range from 10 to 25 years for quantities of up to 10kg. A different offence of trafficking will be introduced, with a revision of penal sanctions. There will be a new national system of citizen security, and no privation of liberty without due process. Measures to prevent the corruption of judges and prosecutors will be introduced, and there will be new legislation on possession of firearms.

The current coca system is based on an agreement between the government and the cocaleros. For the current year, 2006, an eradication goal of 5000 hectares was set. The government provides the equipment for eradication, which encourages participation. Total eradication to October 2006 was 4,196 hectares, of which 97 per cent in Chapare. In the traditional coca growing area of Yungas, where there is no incentive to eradicate, an initiative is under way to produce a registration system to verify the production potential of the region with a view to setting up a national production agency. However the existence of various regional agreements makes it difficult to administer policy under one strategy.

The quality and rate of change are directly perceptible in Bolivia, especially as regards the sequencing of interventions: the primary focus is now on livelihoods, followed by voluntary eradication. Coca federations have begun to negotiate reductions and this has led to reduced violence and considerable economic development. There has been no forced eradication in Bolivia since the end of 2004, and compared to Peru and Colombia, it has the lowest rate of

increased coca cultivation. Interdiction has greatly increased, with a three-fold increase in seizures since the new government took over. All the law enforcement authorities agree that there is much better cooperation at local level.

International relations

The US, predictably, is strongly opposed to the Bolivian decriminalisation policy, but there is a split in the US administration. ONDCP and other conservative sectors see Morales as a serious threat, (although very little cocaine comes to the US from Bolivia, most goes to Brazil). A more moderate group in the State Department advocates continuing dialogue, and wants to avert further crisis during an already turbulent period. The US has lost much ground in Latin America and there is a reluctance to provoke a Venezuela-type situation. So far the US has maintained a more moderate stance, but is stepping up pressure on Bolivia to eliminate the 'cato allowance' (by which coca growers may cultivate an area of 0.16 hectares) and to eradicate further. For the US, any other course of action would threaten a fundamental pillar of its drug policy. The US could not reach a decision on whether to certify Bolivia's anti drug efforts, and instead laid out a list of conditions. Some of these Bolivia was already doing, some it will never do. The certification decision will be taken in March 2007, and will be crucial. The US will not go along with the campaign to remove coca from Schedule I and may use its leverage with other countries to strengthen opposition to that. However the mid-term elections in Congress may weaken the administration and discredit its international policies.

Looking ahead to 2008 and a change of administration, it is possible that a new government may be more aware of the need for a diplomatic approach. Morales and his government have a clear political will to push the issue of coca but there is much work to be done, not least in dealing with political dynamics in Bolivia itself. In order to succeed, the discussion must be focused within a framework of individual and commercial liberty and the right of all people in Bolivia to live with dignity. There must be a clear distinction between coca on the one hand and cocaine and other products such as cocaine paste on the other. This is the only effective way to push the procedure through the UN system.

Unresolved issues

Major problems remain unresolved. A study to estimate the domestic demand for coca leaf has not yet been undertaken, despite the offer to fund such a study from the EU Commission. Outstanding issues include the sampling methodology, the coverage of the study and the institutional capacity and transparency required to conduct it. Nothing can be done until the extent of domestic demand is known, and this varies from region to region. Some estimates suggest that up to a third of Bolivian production is smuggled across the border to Argentina, where coca chewing is legal and where, in the northern part of the country, it has become an acceptable form of middle class consumption. This form of 'new traditional use' could spread to other countries such as Brazil or Mexico, but no studies have been done to date.

Nor has a reliable assessment been made of the potential national or international markets for coca derivatives. One estimate suggested that 40 hectares would satisfy the demand for coca tea in Peru, while for Coca Cola the requirement is 400 hectares. At a rough estimate, 10,000 hectares might suffice to cover domestic demand and the industrialisation of derivatives unless substantial new international markets are opened up.

One question arising from the coca debate was whether, after an eventual removal of coca leaf from Schedule I, it could be grown for commercial purposes in other parts of the world.

In other words would the change affect only Bolivia or could countries where there was no traditional use start to grow? It might be possible to extend article 14 of the 1988 Convention so that countries where there is evidence of traditional use also have the right to produce for commercial production. However modifying the 1988 Convention would be even more complicated than removing coca from Schedule I. Furthermore it is doubtful whether a clause introducing such obvious trade protection would withstand an appeal against it from the World Trade Organisation.

Participants were reminded that during the discussions prior to the adoption of the 1961 Convention, both the Peruvian and Bolivian delegations pushed hard to have coca included. In fact opinions were divided in Peru: some approved its inclusion on the grounds that coca chewing was a barrier to social integration between whites and Indians. There was opposition to its inclusion from landlords, who paid salaries partly in coca, while those in favour of the commercialisation of coca were against coca chewing. The Indians were not asked their view. The current Colombian government is opposed to the move to delete coca from Schedule I, and for this reason the issue was not raised at a recent EU-Andean meeting.

One solution to the problem might be to enshrine the right to grow coca in the Bolivian constitution, but this is seen as sidestepping the issue that coca's inclusion in the 1961 Convention was an historical error. However the WHO criteria on potential for abuse have to be taken into account, and it will have to be shown that the removal of coca from Schedule I will not affect the status of cocaine.

New approaches

An expert in the technical aspects of the control of narcotic drugs and medicines suggested the problem could be solved by the introduction of controls of an intermediate substance within the cocaine manufacturing process, following the poppy straw/morphine analogy. In order to reinforce the analogy between coca paste and concentrate of poppy straw, coca leaf could be replaced by 'concentrate of coca leaf'. The inclusion of concentrate of coca leaf in the list of schedule I drugs would create a situation which is in complete conformity with the control of the concentrate of poppy straw, making the continuation of the international control of coca leaf superfluous. The deletion of coca leaf from Schedule I of the 1961 Convention would eliminate the prohibition of coca chewing (and drinking of mate de coca), while the inclusion of concentrate of coca leaf (coca paste) into Schedule I of the same Convention would assure the continuity of the preventive measures against the illicit manufacture of cocaine.

Much can be learned from societies that have had long exposure to plants such as coca. Informal social rules regulate drug use, and coca has a cultural weight of its own which should not be underestimated. From an indigenous point of view, any problems come from within the individual, and are not a problem of the substance itself. There should be a shift from the paradigm of reducing demand by institutional means to a model of managing demand. The Bolivian government's campaign to revalorize coca should not be viewed as defending a form of rustic folklore. It could help to change the demand dynamics by giving more space to mild natural stimulants, distinguishing clearly between those and their more harmful concentrated forms that now dominate the international market.

Session IV: (a) preparations for the 2008 UNGASS review – current state

The 49th CND session, Vienna 13-17 March 2006, two resolutions were negotiated and ultimately adopted to guide the assessment in 2008 of the implementation of the political declaration and action plans of the 1998 UNGASS on drugs. One on *“Collection and use of complementary drug-related data and expertise to support assessment by Member States of the implementation of the declarations and measures adopted by the General Assembly at its twentieth session”* and one on *“Recognizing the contribution of civil society in global efforts to address the drug problem in the context of reporting on the goals and targets for 2008 set by the General Assembly at its twentieth special session”*. Its main purpose was to strengthen the upcoming UNGASS evaluation process with evidence based methodology and analysis as well as input from outside experts and practitioners. UNODC released a non-paper at the CND that suggested a process of consultation with regional organizations, embraced the inclusion of leading academic institutions through the contribution of papers and participation in expert meetings, and recommended that the NGO community should be *“actively involved in contributing to reviewing the outcome of UNGASS”*. It also proposed to extend the UNGASS evaluation from 2008 to 2009 to allow for a full 10-year assessment and to take time for a *“period of global reflection and discussion on the way ahead”* that was also proposed in the original EU draft resolution.

What are current prospects for a transparent and objective UNGASS evaluation, for a period of global reflection and for the inclusion of independent experts and civil society? What can be learned from experiences in evaluation so far by the UNODC Independent Evaluation Unit? What are best practices to be taken into account from regional evaluation efforts at the OAS and EU levels? To what extent does the latest World Drug Report serve as an example for the UNGASS assessment with regard to the claimed drug control achievements? What are shortcomings of the BRQ-based methodology and how could the evaluation process between now and 2008/9 best be organized?

In the first part of the session, speakers from the EU and the OAS illustrated the forms of evaluation undertaken by regional drug control bodies which had proved in their view to be successful.

EU

The EU has experience of evaluating drug policy interventions, having completed a review of the Strategy and Action Plan for 2000-2004. This was a mutual evaluation process carried out by the European Commission in cooperation with EMCDDA and Europol. It was successful, despite the broad differences in policy across the 25 countries, and proved to be useful for building trust between countries.

Unfortunately EU member states are all too often inept in a UN context. The Resolution presented by the EU Commission and adopted at the 2006 CND on the ‘Collection and use of complementary drug-related data and expertise to support assessment by Member States of the implementation of the declarations and measures adopted by the General Assembly at its twentieth session’ was greatly watered down from its original format. Nevertheless it should serve to put pressure on UNODC and help to break open the policy debate.

The EU Commission will fund the work of an expert Consultative Group to carry out an independent evaluation of the extent to which the UNGASS goals have been met and of the efforts made. The exact terms of the brief are: to submit a report on ‘the results of those efforts together with recommendations on the collection and use of complementary drug-related data and expertise to the Commission on Narcotic Drugs for its consideration with a view to, as appropriate, complementing the information available to Member States and providing them with additional input to make an objective, scientifically balanced and transparent global assessment of the implementation, declarations and measures adopted by the General Assembly at its twentieth special session.’

The Consultative Group report will go to UNODC as well as to all CND member states. The Group, which initially will be working from the Biennial Report Questionnaires completed by MS governments, but which has a mandate to take into account data from any other sources it deems useful for its work, will meet two or three times. Its membership has not yet been determined but will be chosen by UNODC, after consultation with Member States, on the basis of thematic and geographic balance. At least half will come from international organisations.

The UNGASS Review report from the Executive Director is likely to evaluate processes, not outcomes, and is not expected to be an assessment that will stand up scientifically. It is unrealistic to expect the UN Member States to carry out a serious evaluation, nonetheless the ‘umbilical cord’ between governments and evaluation must be broken somehow. The aim should be to shake up the system, to inject some science into it, and send a message that ‘more of the same’ simply will not do. The Consultative Group could make an invaluable contribution in this sense. It should be encouraged to focus on outcomes, and to remember the original goals on which UNGASS 1998 was based.

OAS

The experience of the Multilateral Evaluation Mechanism (MEM) operated by the American Drug Abuse Control Commission (CICAD) of the Organisation of American States has been a positive one. Since 1999 CICAD has conducted three reviews of drug control objectives and interventions according to 86 indicators (recently reduced to 56). A group of government-appointed experts reviews the questionnaires – completed by all member states and with a high response rate - and issues reports and recommendations. The reports are sent to governments for consideration and then are sent to the OAS General Assembly. Criticisms do not result in sanctions, but in many cases have stimulated countries to improve their data methodologies, particularly on the demand side.

Methodological problems

The discussion that followed ranged over the topics of evaluation and assessment. The MEM process, which was set up partly in opposition to the US certification process (which applies sanctions to ‘under-performing’ countries) has many positive aspects but only evaluates interventions, not their impact, and this was seen as a drawback.

The problem with all UN data is that it has to be processed through foreign ministries, and that is where the system breaks down. It is questionable whether, given that the response rate to the BRQs remains low, it is worth engaging in the process at all. Is there value in trying to work inside the system or should one dissociate from the process altogether? An alternative might be to conduct a more objective assessment using locally derived, sound data which would be case-study based and much more specific.

Civil Society

The UNGASS review process calls for the involvement of civil society and NGOs and there are preparations under way for this. The EU Commission will set up a civil society forum to get feedback on drug policy making at EU level. In addition to regional gatherings there will be a big international meeting prior to the UNGASS review. One difficulty is that the NGO world is almost as variegated as the views across governments. There is a need to think creatively about how to influence this event. Some doubts were expressed about the utility and cost- effectiveness of attempting to mobilize NGO/civil society pressure, given how NGO-unfriendly CND appears to be.

Session IV (b): preparations for the 2008 UNGASS review – moving forward

Following introductory remarks about current dynamics in Vienna around the review preparations, several participants present at the meeting expressed a pessimistic view of the likely outcome of the UNGASS review process, and felt that the final evaluation would follow the pattern of the mid term review along the lines of ‘progress towards still distant goals’. Nonetheless, three clear objectives were set in 1998: the substantial reduction of demand, the substantial reduction of coca, opium poppy and cannabis cultivation, and the substantial reduction of trafficking. All the Action Plans should be studied in order to assess the results in these terms. It is clear that the objectives have *not* been met, although UNODC cannot come up with that conclusion.

The ED’s report for the UNGASS review is already in preparation and is expected to be short. The BRQs will be the primary source of information. On the last round, 93 states had reported out of 175, but it is thought that the non-responding countries were mostly small and so considered statistically less significant. The report will be vague and will only show trends and regional changes, presented largely through charts and maps. There will be no attempt at qualitative assessment. A mean figure for each region will be crunched out. Other information will be presented, for example the Global Assessment Programme will report on demand reduction issues. UNODC’s Independent Evaluation Unit did its own assessment of GAP in March 2006 that was not encouraging. The UNODC Research section is working on a drug harmfulness index known as Illicit Drug Index, and this could bring interesting results, although to date its methodology has not been divulged.

Despite the urgent need for evaluation, some felt that the likelihood of this emerging through UNODC was very small, and that the report produced by the EU-funded Consultative Group would not influence the ED’s report. However he will not be able to ignore it, and if attempts are made to manipulate or put ‘spin’ on the independent report it will be plain for all to see. The members of the Consultative Group will be appointed by UNODC in consultation with Member States, but MS should be alert in Vienna to make sure that sufficiently independent individuals are appointed. The Consultative Group will deliberate throughout 2007 but will not have long to complete a report and submit it to Member States.

UN Member states can however influence the ED’s report, so it is more important to put pressure through them than to attempt this through the Consultative Group. Member States could perhaps request a draft of the Executive Director’s report before it is issued and present their comments. So far most MS are fairly indifferent to the UNGASS review and are doing nothing about it, so anyone with influence should now be putting pressure on ministries and governments. Member States must decide what they want the next stage to be.

One highly positive aspect of the EU resolution passed at the 2006 CND was the call for ‘a period of global reflection...based on the fundamental principles of the international drug control treaties and giving due regard to measures that have led to positive outcomes and aspects that require greater effort’. Nonetheless if the evaluation is postponed until 2009 there is a risk that it may overlap with whatever celebration may be planned in Shanghai to mark one hundred years of drug control. No decision has been made so far in this regard but any such event should not be allowed to coincide with the UNGASS evaluation, as it could provide UNODC with an excuse to package everything up together. Holding two big drug events in 2009 would be problematic inasmuch as ministers would not attend both.

So far, no resolution has been passed requesting a delay to 2009, and it is not known how much interest there is outside the EU countries for a delay. Such a resolution could in theory also be used to strengthen the position of the Consultative Group. However the period of

reflection is vital. There are people who want the review point to go by as quietly as possible and one way for this to happen is to mismanage it.

The media should be brought into the evaluation process. Prior to the 1998 UNGASS there was great concern within UNODC over the media. The media are interested in the drugs issue but not necessarily in a process-oriented UNGASS meeting. UNODC may try to orchestrate the media according to its own priorities, and it would be useful to have an alternative media strategy and to invite the media to take an interest in 'non-establishment' views.

Currently, the most important task is to maximise the impact that evidence has on policy. This can be done through efforts both inside and outside the system. From the inside, the appointment of the Consultative Group is a good move which could call UNODC's bluff. Efforts should be made to ensure that the quality of experts is high and that they are credible. They must be encouraged to work on outcomes. The Political Declaration promised to review the extent to which the objectives have been achieved, so Member States cannot be let off the hook. This is the internal battle ground.

On the outside, there is a need for a parallel process of assessment. This could include the following :

- An academic review - a completely unfettered commission set up to examine the issues
- The processes by which civil society provides input to UNGASS must be strengthened and underlined with more resolutions. (The UN is in principle supportive of this.)
- The process by which each Member State decides the position it will take at the 2008 meeting is crucial, and each must try to reach a group position, whether it be within the EU, GRULAC or other.
- Most national positions are not taken after discussion with electorates but behind closed doors and by institutions. Public debates should be encouraged, since the issues touch the lives of all citizens.

As regards timing, there are two key issues. One is the risk of 'contamination' by Shanghai. The assessment must not be allowed to take place at the same time as any celebratory event. The second is the reflection period. There must be a reasonable period of time - at least six months - to allow a debate on a new action plan or guidelines. Thus a clear distinction needs to be made between the different stages in the review process as follows: (1) reporting by UNODC and the Consultative Group to CND; (2) an assessment by CND based on those inputs and a CND report to the General Assembly; and (3) a period of global reflection on the future direction of international drug control.

In conclusion, much could come out of UNGASS that is important, such as discussion of the coca issue, adjustments to the system and mandates for getting AIDS programmes right: in other words a general "tidying up" of the system. It would also be useful to consider the need to modify or reinterpret the conventions in the light of so much global transformation. UNGASS could provide an opportunity to discuss the role of INCB and UNODC and try to get them back to less politicized and thus more productive roles. The issue for the immediate future is not about whether the system works or not - although this is the single big battle - but about setting up the means for evaluating and reflecting on the functioning of the system.

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