



An overview of the  
United Nations Drug  
Control System

## **Preface**

This overview was prepared for the Vienna NGO Committee on Drugs (VNGOC) by David Bewley-Taylor of Swansea University and was peer-reviewed by several independent experts. It formed part of the background material for the Regional Consultations organised as part of “Beyond 2008”.

“Beyond 2008” was a project undertaken by the VNGOC in partnership with UNODC to bring the voice of NGOs around the world to the 10 year review of achievement since the adoption of the Political Declaration and Action Plan at the end of the 1998 United Nations General Assembly Special Session on the global drug problem. The project was financially supported by the European Commission, the governments of Canada, the United Kingdom, Italy, Sweden and Hungary as well as by a number of NGOs, including the Canadian Centre on Substance Abuse, the Italian Centre of Solidarity, the Open Society Institute, the Salvation Army International, the Council on Security and Development and the World Federation of Therapeutic Communities. Additionally, sponsorship and in kind support for the regional consultations and the Vienna Forum came from governments of Hungary and South Africa and from business, foundations and local government in Austria, Macau SAR, Bangladesh, Senegal, the USA, Canada, Egypt, Australia and New Zealand.

The Committee, which was established in 1983 to provide a link between NGO's, the Commission on Narcotic Drugs (CND), the International Narcotics Control Board (INCB) and the United Nations Office on Drugs and Crime (UNODC) already had experience of organising global NGO forums. It held the first NGO World Forum in Stockholm (1986) to prepare NGO input to the 1987 International Conference on Drug Abuse and Illicit Trafficking (ICDAIT). The second NGO World Forum was held during the ICDAIT and led to some important changes in the final documents adopted by the ICDAIT. The VNGOC also actively participated in the World Ministerial Conference on Drug Demand Reduction and the Cocaine Threat (1990), the United Nations General Assembly Special Session on Drugs (1990), the United Nations General Assembly Debate on the World Drug Problem (1993) and the United Nations General Assembly 20th Special Session (1998).

Annually the VNGOC coordinates NGO engagement with UN Member States at the sessions of the Commission on Narcotic Drugs. This document, together with the “Guide to CND” and the “CND Agenda Annotated for NGOs” provide the core documentation for NGOs so that they have the necessary information which will allow them to provide appropriate and effective contributions to the continuing evolution of drug policy at local, national, international and global levels. We encourage NGOs to use this material, make it as widely available as possible and to ensure that the common voice of NGOs which we created through the Declaration and Resolutions of Beyond 2008 continues to be heard and to have an impact on the policies and practices adopted to respond to global drug problems. We also encourage you to regularly visit our web site – [www.vngoc.org](http://www.vngoc.org), to join as a member of the VNGOC and to contribute your news and expertise to the global effort.



Chairperson  
Vienna NGO Committee on Drugs

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## **An Overview of the UN Drug Conventions**

### **Introduction**

The present system of worldwide drug control is based on three international conventions: the 1961 Single Convention on Narcotic Drugs, as amended by the 1972 Protocol; the 1971 Convention on Psychotropic Substances; and the 1988 Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances. By November 2006, 181 states were Parties to the Single Convention, as amended by the 1972 Protocol, and 180 nations were Parties to the 1971 and 1988 Conventions.<sup>i</sup>

Like their predecessors, this group of multilateral Conventions was established by the international community to prevent the non-scientific and non-medical production, supply and use of narcotic and psychotropic drugs. Indeed, “while the substance of the drug control Conventions is complex, their function is simple. They provide the legal structure for an international system of drug control by defining control measures to be maintained within each state that is party to these conventions and by prescribing rules to be obeyed by these Parties in their relations with each other.” These rules can be categorized into two principal methods of achieving drug control: commodity control (the definition and regulation of the licit production, supply and possession of drugs) and penal control (the suppression through criminal law of illicit production, supply and possession).<sup>ii</sup> The Conventions aim to achieve an appropriate balance between penal sanctions, the degree of real and/or potential harm associated with specific drugs, and the drugs’ therapeutic usefulness. With Parties to the Conventions thus explicitly addressing an overarching concern for the “health and welfare of mankind”,<sup>iii</sup> the international system has been developed on the implicit principle that a reduction in the illicit drug market can be achieved through predominantly supply-side measures.

It is important to appreciate that the Conventions are not self-executing. That is to say that while they impose obligations on states to apply international law, such law is not directly or immediately enforceable by a UN body. The autonomy of domestic law is stressed within all the Conventions. In combination with the inevitable ambiguity within the Conventions<sup>iv</sup> and different interpretations of many clauses,<sup>v</sup> this creates some flexibility, or “wobble room”, for Parties when formulating domestic policies.<sup>vi</sup> That said, Parties are required to remain true to the UN drug Conventions in line with the 1969 Vienna Convention on the Law of Treaties. Among other things, it obliges Parties to interpret treaties in good faith and respect the “object and purpose” of the Conventions.<sup>vii</sup> Within the context of international drug control, this means that Parties must adhere to the standards and norms of the global drug control system.

### ***The 1961 Single Convention on Narcotic Drugs, as amended by the 1972 Protocol (hereafter called the “Single Convention”)***

The bedrock of the global drug control system is the Single Convention, so called because it was designed to tidy up and replace most of the previous international agreements that had been developing piecemeal since the International Opium Convention made at The Hague in 1912.<sup>viii</sup> This codification of the existing multilateral conventions on drugs was supplemented by two other specific objectives. These were limiting the production of raw materials and simplifying the international drug control machinery.<sup>ix</sup>

In addition to a concern for the “health and welfare of mankind”, other guiding principles can be drawn from the preamble of the Single Convention. For example, that the medical use of narcotic drugs is indispensable for the relief of pain and suffering and that adequate provision must be made to ensure availability for such purposes, that addiction to narcotic drugs constitutes a serious evil for the individual and is fraught with social and economic danger to mankind, and that effective measures against abuse of narcotic drugs require coordinated and universal action. These are underpinned by the central principle of the Convention; the obligation that Parties, subject to the provisions of the Convention, limit exclusively to medical and scientific purposes the production, manufacture, export, import, distribution of, trade in, use and possession of drugs.<sup>x</sup> In line with its objectives, the Convention pays particular attention to plant-based drugs such as opium, heroin, coca, cocaine and cannabis. It places more than one hundred illicit substances<sup>xi</sup> in four schedules: that is to say, lists of drugs or preparations that are under the control of the Convention, with drugs being grouped according to their perceived liability to abuse and risks to public health.<sup>xii</sup>

The Single Convention regulates the trade in narcotic drugs by applying the principle that legal trade, both national and international, must always be authorized through licensing to distinguish it from illegal trafficking. Accordingly, much of the Single Convention addresses this issue. For example, the Convention establishes a system of estimates of drug requirements, statistical returns, and limitations on production with a view to balancing world production and utilization of scheduled drugs. The Convention also built on the trend of requiring Parties to develop increasingly punitive domestic criminal legislation.<sup>xiii</sup> As such, one of the key sections of the Convention, Article 36, states that, subject to their constitutional limitations, Parties shall adopt distinct offences, punishable preferably by imprisonment, for each of the following drug-related

activities in contravention of the Convention: cultivation, production, manufacture, extraction, preparation, possession, offering for sale, distribution, purchase, sale, delivery on any terms whatsoever, brokerage, dispatch, dispatch in transit, importation and exportation. The non-self executing nature of the Convention leaves offences and penalties to be applied up to the Parties. Furthermore, different interpretations of the term “possession” means that national variations exist concerning the imposition of penal sanctions on possession for personal consumption.<sup>xiv</sup> Parties, however, are obliged to make certain conduct criminal and apply penalties. If a Party claims to meet its obligations under the Convention through a domestic offence or penalty that does not or only partly meets the definitions of offences or penalties laid down in the drug Conventions, the Party in question may well be in breach of its international obligations.<sup>xv</sup>

The penal provisions of the Convention do allow for Parties to provide, “either as an alternative to conviction or punishment or in addition to conviction or punishment” that “abusers of drugs...undergo measures of treatment, education, aftercare, rehabilitation and social reintegration”. Such provision is in conformity with Article 38, “Measures against the abuse of drugs”.<sup>xvi</sup> This was the first multilateral provision for the treatment of drug dependency: that is to say, a provision with other than predominantly penal and supply-side emphasis. It did not, however, indicate a dramatic change in international policy.<sup>xvii</sup> Furthermore, while Article 36 is obligatory in nature, the application of Article 38 is very much up to the discretion of national governments.<sup>xviii</sup>

Fulfilling one of its key objectives, the Single Convention also instituted a simplification of the international drug control machinery with the creation of the International Narcotics Control Board (INCB or the Board). This is the watchdog responsible for overseeing the implementation of the three UN drug control conventions (see more details below).

### ***The 1971 Convention on Psychotropic Substances (hereafter called the 1971 or Vienna Convention)***

Constructed as a companion instrument to, and thus modelled on, the Single Convention, the 1971 Convention came about as a result of a growing global concern about the harmful effects of psychotropic substances, including drugs such as amphetamines, barbiturates and LSD. Up until 1971, the international system only regulated narcotic substances with psychotropics falling outside the scope of the existing instruments. Unsurprisingly, the 1971 Convention has a control system on psychotropics similar to that of the Single Convention for narcotics. Here, therefore, the basic objective is to limit the use of psychotropic substances to medical and scientific purposes. The explicit principles of the 1971 Convention as laid out in the Preamble are much like those of the Single Convention. For example, concerns for the health and welfare of mankind, a concern for public health and social problems resulting from the abuse of certain psychotropic substances, the recognition that the use of psychotropic substances for medical and scientific purposes is indispensable and that their availability for such purpose should not be unduly restricted, and a belief that effective measures against abuse require coordinated and universal action.

In a similar fashion to that of the 1961 Convention, over a hundred largely synthetic psychotropic substances are categorized in four schedules. Classification is determined according to dependence-creating properties, the potential level of abuse, and the therapeutic value of the substances. Unlike the Single Convention, however, more effort was made in the 1971 Convention to balance sanctions against the degree of harm associated with substances and their therapeutic usefulness. Any substances included in the four schedules must be licensed by the governments for manufacture, trade and distribution, with supply or dispensing being possible only under legal authority.<sup>xix</sup>

As with the Single Convention, the manufacture, export and import of psychotropic substances is controlled through strict supervision and licensing. The 1971 Convention also contains measures for cooperation against illicit traffic and for criminal sanctions in international law. A major innovation of the 1971 Convention relates to the abuse of psychotropic substances, including provision for rehabilitation and social reintegration. With reference to the demand-side of drug problems, Article 20 is seen as an advance that was later included in the 1972 amendments to the Single Convention and is regarded by some commentators as somewhat of a milestone.<sup>xx</sup> Again, however, in contrast to the penal provisions of the 1971 Convention (Article 22), a high level of national discretion for the implementation of demand reduction measures is maintained.<sup>xxi</sup>

### ***The 1988 Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances (hereafter called the 1988 Convention)***

The 1988 Convention was designed to deal with the growth of international trafficking in illegal substances, since the earlier international instruments dealt with the issue in only a limited fashion. It is essentially an instrument of international criminal law. The objective of the Convention is to harmonize national drug-related criminal laws and enforcement actions around the world in an attempt to decrease illicit drug trafficking

through the use of criminalization and punishment.<sup>xxii</sup> Specific principles derived from the Preamble focus on damaging aspects of the illicit traffic, including the need to protect social groups particularly vulnerable to drugs, such as children. The Preamble crucially also reaffirms “the guiding principles of existing treaties in the field of narcotic drugs and psychotropic substances and the system of control which they embody”.

In a similar manner to its sister treaties, annexed to the 1988 Convention are two lists, in this case termed “tables” rather than “schedules”. In line with the provisions within Article 12, these tables list substances—specifically precursors, reagents and solvents—frequently used in the illicit manufacture of narcotic drugs or psychotropic substances. Under the Convention, Parties are obliged to create and implement very specific criminal laws aimed at suppressing illicit trafficking.<sup>xxiii</sup> As such, it provides comprehensive measures against drug trafficking, including provisions on extradition, mutual legal assistance, cooperation and assistance for transit states, controlled delivery, money laundering, asset seizure, the diversion of precursor chemicals, and illicit traffic by sea and via the mail. Emphasizing its antecedents and their predominantly supply-side orientation, Article 14 of the Convention focuses on the prevention of illicit cultivation and the eradication of plants containing narcotic or psychotropic substances.

Article 14(2) is unique, however, in that it is the only point where any of the three Conventions refer to human rights. That is to say, Parties are obliged to “respect fundamental human rights” when taking measures in line with the article. Another departure from earlier Conventions involves reference to drug demand, specifically possession. Both the Single Convention and the 1971 Conventions required application of criminal policy measures only on the supply side of the drug problem.<sup>xxiv</sup> While the 1988 Convention is clearly concerned in the main with the illicit supply of drugs, one paragraph concerns itself with the individual drug user. Article 3(2) requires each party to make the possession of drugs for personal consumption a criminal offence under their domestic law. It has been suggested in the official Commentary to the Convention that that this “amounts in fact also to a penalisation of personal consumption”.<sup>xxv</sup> Article 3(2) thus conflicts with articles within the Single Convention concerning drug possession briefly mentioned above. As such, it provides an example of the inconsistencies and tensions that exist between the conventions.

The requirements of the Conventions are minimum control standards. All three treaties allow Parties to apply stricter control measures should they wish do so. Indeed, many countries impose controls and penalties that exceed their convention obligations.

It is also important to appreciate that the international drug control system, based on the three Conventions discussed here, is fluid and undergoing constant evolution. On the basis of recommendations from the World Health Organization (WHO), the Commission on Narcotic Drugs (CND or Commission) makes decisions on adding, removing or transferring between schedules or Conventions narcotic drugs and psychotropic substances under international control as laid out in the Single Convention and the 1971 Convention. The Commission, on recommendation of the INCB, also decides on whether substances frequently used for the manufacture of illicit drugs should be included in, or transferred between tables of, the 1988 Convention. The scope of the international system can also be seen to be expanding as Parties commit themselves to additional measures through resolutions and decisions of bodies such as the CND, INCB, the CND’s parent body, the Economic and Social Council (ECOSOC) and the UN General Assembly. It is worth noting that provisions within all the drug control Conventions allow Parties to move for some form of treaty revision, or denounce the treaties, although the processes are far from straightforward.<sup>xxvi</sup>

## ***The Drug Control Conventions at a Glance***

### **The UN 1961 Single Convention on Narcotic Drugs, as amended by the 1972 Protocol**

- Replaces previous international drug controls enacted in the 20<sup>th</sup> century.
- The focus is on plant-based drugs (opiates, cocaine and cannabis).
- Objective: to restrict the use of narcotic drugs to medical and scientific purposes.
- This objective involves twin elements: to ensure the suppression of illicit drug production, distribution and use; and to provide for and regulate the licit supply for medical and research purposes.
- Restricted substances are classified according to a fourfold system of Schedules, with the strictest provisions applying to those in Schedules 1 and 4.
- Suppression is largely focused on supply rather than demand.
- The Single Convention obliges Parties to criminalize the unauthorized production, distribution and possession of narcotic drugs. It explicitly recommends imprisonment for “serious offences”.
- Also obliges Parties to make prevention, treatment and aftercare services available, and to use these as either an alternative (in “less serious cases”) or a supplement to penal measures.
- All penal measures are subject to the constitutional imperatives of signatory states. “Medical and scientific” purposes are not defined.
- Establishes a system of estimates of drug requirements, statistical returns, licences and import and export controls on licit drug trade.
- Enshrines the functions of two important drug control bodies, the Commission on Narcotic Drugs (CND) and the International Narcotics Control Board (INCB).
- INCB is the organization responsible for overseeing compliance with the UN drug control system.
- CND is a functional commission of ECOSOC, and is the central policy-making authority for the UN drug control system, with power to amend Conventions.
- CND can add, delete or move drugs to any of the Schedules, on recommendations from WHO.
- The Single Convention has universal application—some of its provisions apply to all states, even if they have not signed the treaty.

### **The 1971 UN Convention on Psychotropic Substances**

- The focus is on manufactured drugs, such as amphetamines, barbiturates, hallucinogens (LSD) and minor tranquilizers.
- The 1971 Convention was drawn up using the Single Convention as a template, and it has many of the same structural features. However, it is less severe in its general tone and less restrictive in certain of its provisions. For example, with the exception of Schedule I drugs, it does not criminalize possession.
- Objective: to restrict the production, distribution and use of psychotropic drugs to medical and scientific purposes.
- The objective again comprises two thematic elements: the suppression of the illicit manufacture, distribution and possession of these substances; and the regulation and control of their licit supply.
- Substances are subject to a fourfold system of classification.
- Obliges Parties to criminalize unauthorized production and distribution, subject to their own constitutional principles.
- Extends system of licences and import and export controls to psychotropic substances listed in Schedules I and II. [Although not required by the Convention, the system of estimates of drug requirements, statistical returns, licences, import and export has been extended to all scheduled drugs through resolutions of CND.]
- Requires medical prescriptions for supplies of Schedule II, III and IV drugs to individuals.
- CND can add, delete or move drugs to any of the Schedules on recommendations from WHO.
- Control system is overseen by INCB.
- Makes more attempt than does the Single Convention to balance controls and sanctions against harm and dependence-producing effects of substances, taking into account their therapeutic utility.

### **The UN 1988 Convention against the Illicit Traffic in Narcotic Drugs and Psychotropic Substances**

- The 1961 and 1971 Conventions were intended primarily to counter diversion from the licit drug producing and manufacturing sectors. They were felt to be insufficient to counter the influence of the dynamic and flexible illicit trafficking networks that grew up in the 1970s and 1980s: hence the 1988 Convention.
- Objective: to harmonize the drug laws of Member States and enforcement actions across the globe, and to restrict illicit drug trafficking by recourse to criminalization, punishment and enhanced international cooperation.
- Parties are obliged to enact a specific body of legislation to prohibit illicit trafficking. It includes provisions related to money laundering, asset seizure, extradition, mutual legal assistance, intelligence sharing, law-enforcement training and cooperation, etc.
- Establishes a control regime for precursors, reagents and solvents frequently used in the illicit manufacture of narcotic drugs and psychotropic substances.
- CND can add, delete or move chemicals to any of the Convention’s two tables, on recommendations of INCB.
- The cornerstone of the Convention is Article 3, “Offences and Sanctions”, which obliges Parties to criminalize all supply-related activities; to “legislate...to establish a modern code of criminal offences relating to the various aspects of illicit trafficking”; and to ensure that they are prosecuted and punished as serious criminal offences.
- Article 3.1 obliges Parties to criminalize all forms of unauthorized production, manufacture, extraction and distribution/transport of narcotic and psychotropic drugs; the cultivation of opium poppy, coca bush and cannabis plant for such purposes; the possession or purchase of narcotic or psychotropic drugs for such purposes; the manufacture, transport or distribution of equipment or substances to be used in the above; and the organization, management and financing of trafficking-related activities.
- In addition, Article 3.2 obliges Parties to criminalize “when committed intentionally, the possession, purchase or cultivation of narcotic drugs or psychotropic substances for personal consumption”, contrary to the 1961 and 1971 Conventions. The provision is subject to Parties’ own constitutional principles.
- Parties are obliged to “respect fundamental human rights” when taking measures in line with Article 14, which deals with the illicit cultivation and eradication of narcotic plants. This is the sole mention of human rights in the three treaties.

## ***The Evolution of the International Drug Control System Since 1961***

Having outlined the main features of the Conventions currently in force, this guide now describes how the international system has developed since the Single Convention. It demonstrates how the development process is incremental and can sometimes be driven by the wishes of individual states as well as emerging trends in drug use and trafficking.

During the years immediately following the Single Convention, drug use and abuse increased dramatically in many countries around the world. This was particularly the case in the high-income Western nations, where a rise in the availability and use of synthetic psychotropic substances led to a growth in drug-related problems. Most of these drugs were not controlled by the existing international system based on the Single Convention since, as discussed above, this regulated only narcotic substances. After various discussions during the late 1960s concerning the international control of psychotropics, the CND discussed a draft treaty in January 1970. With some resulting modifications, this became the document for the negotiations at a plenipotentiary conference in Vienna. The 1971 Vienna Convention was signed on February 21 and, having received the necessary number of signatories, came into force on August 16, 1976.

While based on the Single Convention, the system of controls within the Vienna Convention are considerably weaker than that of its sister treaty, particularly in reference to the scheduling of psychotropics (including the lack of control for derivatives) and the system for estimating annual requirements of controlled substances. As with the formulation of all international agreements, negotiations surrounding the Convention saw different states and groups of states endeavour to further their own agendas. Indeed, the Western manufacturing countries, concerned about commercial interests, worked hard to ensure weak controls on psychotropics.<sup>xxvii</sup> This was a reversal of their position during negotiations on the Single Convention. Then “having no modern cultural affinity for organic drug use and being faced with the effects of drug abuse among their citizenry”,<sup>xxviii</sup> they had argued for strict controls on organic drugs. In opposition to the manufacturing group, what has been called the “organic group” of producer countries had argued for weak controls during the conference for the Single Convention. They were, after all, familiar with socio-cultural organic drug use and would be affected most by the supply-side orientation and measures of the Convention.

At the 1971 conference, this group now pushed hard for strict controls similar to those they had been forced to accept under the Single Convention. That the manufacturing group remained dominant is evident from the first few lines of the Vienna Convention. The Preamble is not as harsh as that of the Single Convention and omits any reference to the “serious evil” of “addiction” in relation to psychotropics. It is interesting to note that the adoption of a more remedial approach regarding the provision of rehabilitation and social re-integration was perhaps the result of pressure for the liberalisation of drug policy in certain states in the late 1960s and early 1970s. It has been argued, however, that the approach ultimately weakened support for the Convention.<sup>xxix</sup>

Despite such efforts to strengthen the international system, the United States, long a key player within transnational drug control,<sup>xxx</sup> remained dissatisfied with the measures for the multilateral control of drugs, particularly with regard to opium. As such, and within the context of President Nixon’s recently declared “war on drugs”, Washington moved to further bolster the UN drug control framework. In addition to the creation of the UN Fund for Drug Abuse Control in 1971, the early 1970s saw a US-initiated plenipotentiary conference to amend the Single Convention convened in Geneva. The US began procedures under Article 47, which permits any Party to propose amendments to the Convention.<sup>xxxi</sup> The 1972 conference, which according to UN rules was called by ECOSOC, was sponsored by 31 nations and considered a list of amendments.<sup>xxxii</sup> The resulting Protocol Amending the Single Convention on Narcotic Drugs, 1961, was signed on March 25, 1972, and came into force in August 1975. Both the high degree of agreement at the plenipotentiary conference and the speed with which the 1972 Protocol came into effect demonstrated the widespread support for the instrument. Rather than making dramatic changes to the Single Convention, the Amending Protocol actually fine-tunes existing provisions relating to the estimates system, data collection and output and strengthens law enforcement measures and extradition.<sup>xxxiii</sup> Following the 1971 Convention, it also makes greater provision for treatment, rehabilitation and prevention measures, but in this case for the users of narcotic drugs. A key feature of the 1972 Protocol is that it increases the monitoring and enforcement powers of the INCB and enhances its powers to suppress illicit traffic.<sup>xxxiv</sup>

The 1972 Protocol certainly represented a strengthening of the international system. Nonetheless, the fact that some states were still not parties to the Conventions or did not have domestic law enforcement systems adequate to combat illicit trafficking became a growing concern to the international community. Following a Venezuelan initiative in 1984, a General Assembly resolution requested ECOSOC to instruct the CND to prepare a draft convention that would add a “trafficking-specific” layer to the drug control system and complement the two existing conventions.<sup>xxxv</sup> This was circulated to governments in 1987. The CND

considered the resultant comments and requested the creation of an open-ended intergovernmental expert group to discuss the draft. The revised draft was reviewed by the CND in early 1988 and by an ECOSOC-convened group to review certain draft articles ahead of a conference to realise a Convention on illicit trafficking.

While the so-called “‘hard’ law of international drug control was being developed with moves towards a new treaty, it was “simultaneously being fleshed out in ‘soft’ law”; that is to say the development of a non-legally binding international instrument.<sup>xxxvi</sup> In June 1987, the UN Secretary-General convened a ministerial conference, the International Conference on Drug Abuse and Illicit Trafficking (ICDAIT). Attended by delegates from 138 states, from international organisations and from NGOs, this aimed at the promotion and strict implementation of treaty obligations, at both national and international levels, and resulted in the non-legally binding Comprehensive Multidisciplinary Outline of Future Activities in Drug Abuse Control (CMO).

Containing 35 specific targets, the CMO was divided into four areas: (1) prevention and reduction of illicit demand, (2) control of supply, (3) suppression of illicit trafficking, and (4) treatment and rehabilitation. No order of priority was suggested, with that decision being left to national governments. A soft-law Political Declaration was also adopted at the 1987 conference, and it is important to note that both the CMO and the Political Declaration are as concerned with reduction of drug demand and the rehabilitation of users as they are with supply reduction. Significantly, however, the former concerns had to be left in the realm of soft law, because the 1987 Conference was not willing to adopt these provisions in a formal legal instrument creating rights and obligations. By contrast, the Political Declaration recognized that mandatory treaty provisions were required to give content to the framework for the suppression of illicit drug trafficking provided by the 1987 Conference.<sup>xxxvii</sup>

Delegates at the 1987 Conference thus supported the development of a new Convention on illicit trafficking, and ECOSOC consequently moved to convene a diplomatic conference to that end. The draft convention put to the plenary conference held in Vienna late in 1988 included a wide range of national and international measures aimed at providing the international community with more effective weapons against illicit drug traffic. Attended by representatives of 106 states, a variety of intergovernmental and non-governmental organizations and other observers, the 1988 conference adopted, by consensus, the 1988 Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances. The Convention was open to ratification or accession by states and regional economic organizations, and came into force on November 11, 1990.<sup>xxxviii</sup>

The 1988 Convention and the CMO were key elements in a major UN drive for drug control in the late 1980s.<sup>xxxix</sup> The Convention itself led to a number of regional international drug control agreements based on it, and the CMO was used as policy guide by regional drug organizations<sup>xl</sup> and national governments.

But the UN still felt further support was necessary. Consequently, in 1990 the General Assembly devoted a first Special Session (UNGASS) to the drugs issue. It adopted a Global Programme of Action and a Political Declaration aimed at addressing the drug problem at the national, regional and international levels. The 1990 UNGASS also branded 1991–2000 the United Nations Decade against Drug Abuse. The goal was to “intensify international cooperation and increase efforts of States” to adhere to the principle that the “destruction of the mind and body through the deliberate ingestion of drugs for non-medical reasons is dangerous and wrong”.<sup>xli</sup>

The UN finished off its Decade against Drug Abuse in June 1998 with another UNGASS on drugs. This was the culmination of activity begun in 1993. Then, a high-level three day meeting of the General Assembly had been convened to “examine urgently the status of international cooperation” in drug control. By 1996 the General Assembly had formally decided to convene a special session.<sup>xlii</sup> Among other things, the General Assembly stated that the special session would address the drug issue on the “basis of the principle of shared responsibility and with full respect for the principles enshrined in the Charter of the UN and international law...”. The reference to shared responsibility reflected the concerns of many “producer” countries, as well as an admission by “consumer countries”, that the drug conventions focused predominantly on supply-side measures. This was an important aspect of multilateral discussion on drugs during the mid-1990s. Indeed, some delegations at the preparatory meetings for the UNGASS hoped that the long-standing “consumer-producer”/“North-South” divide within international drug control would give way to the principle of shared responsibility. The G77, brought together as a bloc of developing countries to counteract the G7, originally hoped to get an agreement on a fourth UN drug convention that focused entirely on demand reduction and would thus remove the supply-side bias of the existing treaty framework. Despite the failure to achieve this goal, a leading member of the group, Mexico, continued to play a strong role in the preparations for the UNGASS, with the event itself ultimately, and perhaps inevitably, being the result of compromise.<sup>xliii</sup>

So, after five years in the making, the UNGASS was held in June 1998. The special session saw states adopt a Political Declaration reasserting their strong commitment to drug control as a priority at both national and international levels. The Declaration emphasizes the implementation of the 1988 Convention and other provisions of drug conventions to reduce drug supply and demand. The General Assembly also adopted a Declaration on the Guiding Principles of Demand Reduction and a Resolution on Measures to Emphasise International Co-operation to Counter the World Drug Problem, as well as approving two actions plans: on the suppression of trade and use of amphetamine-type stimulants and on crop eradication and alternative development. The UNGASS also “decided” or “advocated” action in three other areas: control of precursors, judicial cooperation, and money laundering.<sup>xliv</sup>

Like the CMO and 1987 Political Declaration, the outcomes of the 1998 UNGASS fall within the soft category of international law and are not automatically binding. Nonetheless, the 1998 Declaration on the Guiding Principles of Drug Demand Reduction is significant, because it can be seen to represent the views of governments 10 years after the 1988 Convention. Moreover, the 1998 Political Declaration set 2008 as the target date for “eliminating or reducing significantly the illicit cultivation of the coca bush, the cannabis plant and the opium poppy”, as well as “eliminating or significantly reducing the illicit manufacture, marketing and trafficking of psychotropic substances, including synthetic drugs, and the diversion of precursors” and for “achieving significant and measurable results in the field of drug demand reduction”.<sup>xlv</sup> As agreed in 1998, there was an UNGASS mid-term review of progress towards these goals. In his report for the 2003 review, the Executive Director of the UN Office on Drugs and Crime, Antonio Maria Costa, stated that there was “encouraging progress towards still distant goals”.<sup>xlvi</sup>

## ***An Overview of Other UN Instruments Relating to Drug Policy***

While the three UN drug control conventions are concerned primarily with legal and penal measures, illicit drug use has to be understood as a cross-cutting issue: one that is linked not just with criminal justice questions, but with those of human rights, public and individual health, development, and the environment. Consequently a number of other UN conventions and protocols, particularly in relation to human rights issues, have close relevance for the formulation and conduct of drug policy. Some of these are discussed below.

### ***The Charter of the United Nations***

The Charter of the United Nations, the constituting document of the organization, enshrines the binding commitment of signatories to health, human rights and fundamental freedoms.<sup>xlvii</sup> Furthermore, this is stipulated in Article 103 of the Charter: “In the event of a conflict between the obligations of the Members of the United Nations under the present Charter and their obligations under any other international agreement, their obligations under the present Charter shall prevail.” This statement means that the drug control conventions must be implemented in such a manner as to be congruent with the health and human rights commitments inscribed in the UN Charter, which take priority.

The health questions that must be addressed as a facet of drug policies have been endowed with a greatly increased urgency since the advent of HIV/AIDS, a development that could not have been foreseen when the UN drug control conventions were drafted. The role of injecting drug use in the transmission of HIV/AIDS is now, however, very well documented.<sup>xlviii</sup>

### ***Universal Declaration of Human Rights***

As human rights and health-related concerns, drug use and its treatment are also ultimately referred back to another of the foundational documents of the UN system; the Universal Declaration of Human Rights. Health as a basic human right is enshrined in the Universal Declaration, which was adopted by the UN General Assembly in December 1948.<sup>xlix</sup> The treatment of drug dependence as a health problem may therefore be viewed within the overarching framework of human rights, and, according to the United Nations, policy makers should be sensitive to this framework both on ethical grounds and those of effectiveness. In the words of the UN position paper, “Preventing the Transmission of HIV Among Drug Abusers”, “Protection of human rights is critical for the success of prevention of HIV/AIDS. People are more vulnerable to infection when their economic, health, social or cultural rights are not respected. Where civil rights are not respected, it is difficult to respond effectively to the epidemic.”<sup>l</sup>

### ***The Declaration of Commitment on HIV/AIDS***

The UN has responded to the HIV epidemic by setting up UNAIDS, which is a collaborative effort now consisting of 10 UN agencies,<sup>li</sup> including the United Nations Office on Drugs and Crime (see the next section of this guide). UNAIDS derives its mandate from the Declaration of Commitment on HIV/AIDS,<sup>lii</sup> a resolution adopted at the 2001 UN General Assembly Special Session on HIV/AIDS. The Declaration of Commitment recognizes the crucial role played by human rights, and it prescribes prevention as “the mainstay of our response” to the pandemic.<sup>liii</sup>

### ***The United Nations Millennium Declaration***

In 2001 189 countries signed the United Nations Millennium Declaration,<sup>liv</sup> resolving to meet a series of development goals. The Millennium Development Goals (MDGs) together form what has become a generally accepted framework for the measurement of development. Eight in number, their combined objective is to place a new and intensified emphasis on human development as the core of economic and social progress. The sixth of the MDGs involves the combating of infectious diseases, with a particular focus on HIV/AIDS. The concrete goal is to have halted and begun to reverse the spread of HIV by 2015. In a more explicit reference to drugs, under Article 2, “Peace, Security and Disarmament”, the Declaration also notes signatory states’ intention to redouble “efforts to implement our commitment to the world drug problem”.

A number of other UN health policy documents also bear on drug policy issues. Among these is the Constitution of the WHO,<sup>lv</sup> which proclaims “the enjoyment of the highest attainable standard of health” to be one of the fundamental pillars of human rights, regardless of ethnicity, religious affiliation, political creed, and socio-economic status. The International Covenant on Economic, Social and Cultural Rights, meanwhile, provides the most comprehensive article on the right to health in international human rights law.<sup>lvi</sup>

There are thus a range of human rights and health instruments within the UN repertoire that are relevant to questions regarding drug policy. The use of illicit drugs affects areas that lie outside its strictly defined policy domain, and is, in turn, affected by them. The growing interdependence of policy domains has resulted in a degree of conflict within the UN system. The new health landscape dominated by HIV/AIDS has provided challenges that may be met in different ways. As yet, a system-wide UN consensus on how best to halt the epidemic remains fragile.<sup>lvii</sup>

## **Agencies and Actors Involved in the Implementation and Monitoring of the UN Drug Conventions**

A number of agencies and actors are involved in the functioning and oversight of the drug control Conventions. They include ECOSOC, CND, INCB, UNODC and WHO.

### **The Economic and Social Council (ECOSOC)**

ECOSOC serves as the central forum for discussing international economic and social issues, and for formulating policy recommendations addressed to Member States and the United Nations system. The UN Charter entrusts ECOSOC with international economic, social, cultural, educational, health and related matters. In order to perform these functions, the Council established various functional commissions, including the Commission on Narcotic Drugs.

### **The Commission on Narcotic Drugs (CND)**

The CND is the central policy-making body for the UN drug-control system. Its brief includes the conduct of ongoing analysis of the global drug situation and the development of proposals designed to combat drug-related problems and to reinforce the system of controls. As a formally constituted organization of the UN, the CND meets annually for up to eight days. The Commission comprises 53 UN Member States, elected by ECOSOC.

Its functions are assigned to it by the drug control conventions. These provisions authorize the CND to consider all matters related to the objectives of the Conventions and to oversee their implementation. As a treaty organ under the 1961, 1971 and 1988 Conventions, on the basis of recommendations by the WHO or the International Narcotics Control Board (INCB), the Commission decides on the regulatory measures to be taken regarding narcotic and psychotropic drugs and precursor chemicals.<sup>lviii</sup>

The body therefore plays a pivotal role in all international drug policy making. It is important to note, however, that its decisions are dependant on confirmation from ECOSOC unless stated otherwise in the drug conventions. The Commission relies on the UNODC (see below) for administrative and technical support.

### **The International Narcotics Control Board (INCB)**

The INCB is the “independent and quasi-judicial”<sup>lix</sup> control organ for the implementation of the drug control treaties. The Board was created under the Single Convention and was established in 1968.

The Board is technically independent of governments, as well as of the UN, with its 13 individual members serving in their personal capacities. The WHO nominates a list of candidates, from which three members of the INCB are chosen, with the remaining 10 selected from a list proposed by member governments. They are elected by ECOSOC and can call on the expert advice of the WHO.

The Board has the authority to assess worldwide scientific and medical requirements for controlled substances based on estimates from Member States. It then allocates quotas among Parties in an attempt to prevent leakage of drugs from licit sources into the illicit market.<sup>lx</sup> It also monitors compliance with the provisions of the drug control conventions. Areas of concern can be raised at various levels, from individual state to the UN General Assembly. The INCB itself has no power to enforce the Conventions. However, when highlighting to the Parties, ECOSOC and the CND a perceived failure to carry out obligations under the 1961 and 1971 Conventions, the INCB can recommend to Parties that they stop the import of drugs, the export of drugs, or both, from or to the country or territory concerned. Such a sanction has never been applied, and to date the Board has relied on the threat of sanctions and the tactic of “naming and shaming” what it considers to be errant Parties in its annual report.<sup>lxi</sup> Recent years have seen the INCB assume a wider role, reporting on trends in drug trafficking and illicit use, monitoring precursor chemicals in line with the provisions of the 1988 Convention,<sup>lxii</sup> and commenting on policy developments among UN Member States.

### **The United Nations Office on Drugs and Crime (UNODC)**

The UNODC is the UN agency responsible for coordinating international drug control activities. It was established in 2002 and currently has around 500 staff members worldwide. Its headquarters are in Vienna, and it has 21 field offices, as well as a liaison office in New York.

The UNODC was established by the UN Secretary-General to “enable the Organization to focus and enhance its capacity to address the interrelated issues of drug control, crime prevention and international terrorism in all its forms”.<sup>lxiii</sup>

In fulfilling its mandate<sup>lxiv</sup> “to assist Member States in their struggle” against these issues, the UNODC has a three-pillar work programme:

1. Research and analytical work to increase knowledge and understanding of drugs and crime issues and expand the evidence base for policy and operational decisions; this work is carried out by the Division for Research and Public Affairs.
2. Normative work to assist states in the ratification and implementation of the international treaties, the development of domestic legislation on drugs, crime and terrorism, and the provision of secretariat and substantive services to the treaty-based and governing bodies. This is tasked to the Division for Treaty Affairs.
3. Field-based technical cooperation projects to enhance the capacity of Member States to counteract illicit drugs, crime and terrorism, carried out by the Operations Division.

As the lead agency for international drug control activities, the UNODC plays an important role in assisting Member States, particularly so-called “producer countries” and developing states, to effectively address a wide range of drug related problems. It also occupies a unique position for the compilation of global data sets; to track and investigate international trends in drug production, manufacture, trafficking and use; and to act as a hub for the dissemination of best practice. It is the body responsible for such high-profile publications as the *World Drugs Report* and the annual reports on Afghan opium production. As such, the UNODC functions in some ways as the public face of the UN drug control system. The majority of the agency’s budget comes from voluntary donations from Member States, some 90 percent, while the remainder is drawn from the UN system.

### ***The World Health Organization (WHO)***

The World Health Organization is the United Nations specialized agency for health. It was established in 1948. Its objective<sup>lxv</sup> is the attainment by all peoples of the highest possible level of health. Health is defined as a state of complete physical, mental and social well-being—not merely the absence of disease or infirmity.

The WHO is responsible for the medical and scientific assessment of all psychoactive substances and for advising the CND about the classification of drugs into one of the schedules of the 1961 and 1971 treaties. It is in this role of expert advisor to the policy-making and monitoring bodies that the WHO figures in the United Nations drug control system.

The WHO undertakes medical and scientific review of psychotropic and narcotic substances before the CND makes decisions on their control status. Since 1949, through its Expert Committee on Drug Dependence, WHO has reviewed more than 400 substances. Between 1948 and 1999, the number of narcotic drugs under international control has increased from 18 to 118, and the number of psychotropic substances from 32 to 111.<sup>lxvi</sup>

### ***Member States***

The Member States of the UN and its drug control Conventions are ultimately responsible for the design and elaboration of the system. However, because the UN is an organization that favours action by consensus and that possesses considerable organizational and technical complexity, it can sometimes be difficult for individual states to influence policy.

As noted above, the CND is the political authority for the drug control apparatus and is the body through which it is possible to amend the Conventions, modify the scheduling of substances, and so on.<sup>lxvii</sup> An ECOSOC resolution in 1991 enlarged the membership of the Commission from 40 to 53 members, with the following distribution of seats among the regional groups: 11 for African states, 11 for Asian states, 10 for Latin American and Caribbean states, seven for Eastern European states, 14 for Western European and other states, and one seat to rotate between the Asian and the Latin American and Caribbean states every four years.<sup>lxviii</sup> Other Member States of the United Nations attend the CND as observers.

In accordance with ECOSOC resolutions,<sup>lxix</sup> members are elected according to a number of criteria: (a) they must be from among the Members States of the UN and members of the specialized agencies and the Parties to the Single Convention on Narcotic Drugs, 1961; (b) there must be due regard to the adequate representation of countries that are important producers of opium or coca leaves, of countries that are important in the field of the manufacture of narcotic drugs, and of countries in which drug addiction or the illicit traffic in narcotic drugs constitutes an important problem; and (c) election must take into account the principle of equitable geographical distribution.<sup>lxx</sup>

## References

- <sup>i</sup> See [http://www.unodc.org/unodc/en/drug\\_and\\_crime\\_conventions.html](http://www.unodc.org/unodc/en/drug_and_crime_conventions.html) The European Community became a party to the 1988 Convention in 1989. At the time of writing, there are thus 181 Parties to this Convention.
- <sup>ii</sup> Neil Boister, *Penal Aspects of the UN Drug Conventions*, Kluwer Law International, 2001, pp. 1-4. While Boister (p. 2) talks of penal controls suppressing, through criminal law, the consumption of illicit drugs, the Conventions actually explicitly regulate and penalize possession rather than consumption. See articles 33 and 36 of the Single Convention, articles 5 and 22 of the 1971 Convention, and Article 3 of the 1988 Convention. That said, it is clear that commodity and penal controls are undoubtedly ultimately intended to prevent or deter the consumption of drugs on the basis that consumption is impossible without possession. (See more on Article 3 of the 1988 Convention in the text of this guide.)
- <sup>iii</sup> See the preambles of the 1961 and 1971 Conventions. While preambles are not legally binding, they do provide an overview of the spirit of an international instrument.
- <sup>iv</sup> Like all multilateral instruments, the drug control Conventions are all a product of political compromise. As a result, in order to achieve widespread agreement they inevitably contain some ambiguous language. The Conventions, as Boister notes, are thus “saturated with textual ambiguity”. Boister, op. cit., p. 22.
- <sup>v</sup> It has been said that within international law, interpretation is an art form and not a science. See Michael Akehurst, *A Modern Introduction to International Law*, George Allen and Unwin, 1982.
- <sup>vi</sup> K. Krajewski, “How flexible are the United Nations drug Conventions?” *International Journal of Drug Policy*, Volume 10, 1999, N. Dorn & A. Jamieson, *Room for Manoeuvre; Overview of comparative legal research into national drug laws of France, Italy, Spain, the Netherlands and Sweden and their relation to three international drug conventions*. A study of DrugScope, London, 2000, for The Independent Inquiry on the Misuse of Drugs Act 1971; B. De Ruyver, G. Vermeulen, T. Vander Beken, F. Vander Laenen, & K. Geenens, *Multidisciplinary Drug Policies and the UN Drug Treaties*. Institute for International Research on Criminal Policy Ghent University (IRCP), Maklu, Antwerpen/Apeldoorn, 2002.
- <sup>vii</sup> See [http://untreaty.un.org/ilc/texts/instruments/english/conventions/1\\_1\\_1969.pdf](http://untreaty.un.org/ilc/texts/instruments/english/conventions/1_1_1969.pdf)
- <sup>viii</sup> See William B. McAllister, *Drug Diplomacy in the Twentieth Century*, Routledge, 2000; David R. Bewley-Taylor, *The United States and International Drug Control, 1909-1997*, Continuum, 2001.
- <sup>ix</sup> Neil Boister, op. cit., p. 42. Also see S. K. Chatterjee, *Legal Aspects of International Drug Control*, Martinus Nijhoff Publishers, 1981, pp. 343-344, who states that a key objective included the extension of the control system to the cultivation of other natural products in addition to opium and poppy straw, such as cannabis, cannabis resin and coca leaves (except when such leaves were used for flavouring beverages), and the adoption of appropriate measures for the treatment and rehabilitation of what were originally termed “drug addicts”. The term “drug addicts” was used in Article 38 before its amendment by the 1972 Protocol. Also see Adolf Lande, “The Single Convention on Narcotic Drugs, 1961,” *International Organization*, Vol., 16, 1962, pp. 776-797.
- <sup>x</sup> See Article 4(c).
- <sup>xi</sup> Many of these are precursors to the listed substances.
- <sup>xii</sup> In accordance with Article 2 of the Single Convention, the supply or dispensing of any substance listed in the schedules is possible only under legal authority, namely under licence. Schedule I contains substances that are subject to all of the control measures under the Convention, including heroin, cocaine and cannabis, while Schedule II comprises substances used for medical purposes that are deemed to require less stringent control in view of a lesser risk of abuse. Schedule II includes codeine and norcodeine, for example. Schedule III is effectively the schedule of exemptions and, as such, excludes a series of pharmaceutical preparations made from substances perceived not to lead to abuse or ill effects, such as powders and liquids with very low dosages of opium or cocaine. Substances under Schedule IV are permitted for amounts that may be necessary for medical and scientific research. This includes some substances from Schedule I when they are considered to have particularly dangerous properties that are not offset by therapeutic value that cannot be afforded by some other drug—cannabis, cannabis resin and heroin, for example. See De Ruyver et al., op. cit., p. 9; Chatterjee op. cit., p. 351.
- <sup>xiii</sup> J. Sinha, *The History and Development of the Leading International Drug Control Conventions* (Report prepared for the Canadian Senate Special Committee on Illegal Drugs), 2001, pp. 21-22.
- <sup>xiv</sup> See *Commentary on the Single Convention on Narcotic Drugs, 1961*, United Nations, New York, 1973, pp. 112-113
- <sup>xv</sup> Boister, op. cit., pp. 71-72.
- <sup>xvi</sup> As amended by the 1972 Protocol.
- <sup>xvii</sup> See Boister, op. cit., p. 144; Jack Donnelly, “The United Nations and the global drug regime,” in Peter H. Smith (ed.), *Drug Policy in the Americas*, Bolder: Westview Press, 1992, p. 288.
- <sup>xviii</sup> This was the case both before and after the 1972 Amending Protocol. See *Commentary on the Single Convention on Narcotic Drugs, 1961*, op. cit., p. 447; *Commentary on the Protocol Amending the Single Convention on Narcotic Drugs, 1961*, United Nations: New York, 1976, pp. 84-85.
- <sup>xix</sup> Substances in Schedule I must be strictly limited to medical and scientific purposes. However, Parties may permit the use and possession of the drugs listed in Schedules II, III and IV in specific cases, such as for industrial purposes, providing they apply the measures of control required by the Convention. De Ruyver, et al., op. cit., pp. 10-11.

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- <sup>xx</sup> See Sinha, op. cit., p. 29. In fact, Article 38 of the Single Convention as amended by the 1972 Protocol follows very closely Article 20 of the 1971 Convention. See *Commentary on the Protocol Amending the Single Convention on Narcotic Drugs, 1961*, op. cit., p. 330.
- <sup>xxi</sup> See *Commentary on the Protocol Amending the Single Convention on Narcotic Drugs, 1961*, p.330.
- <sup>xxii</sup> Statement of this objective is further outlined in Article 2(1). This explains that the purpose of the 1988 Convention is to promote international cooperation in the suppression of the international drug control traffic in order to make suppression more effective.
- <sup>xxiii</sup> Sinha, op. cit., p. 33.
- <sup>xxiv</sup> Krajewski, op. cit., p. 331.
- <sup>xxv</sup> *Commentary on the United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances 1988*, United Nations: New York, 1998, p. 80.
- <sup>xxvi</sup> See David Bewley-Taylor, "Challenging the UN drug control conventions: problems and possibilities," *International Journal of Drug Policy*, 14 (2), 2003, pp. 171-179.
- <sup>xxvii</sup> Evidence suggests that this had much to do with the influence of European and North American pharmaceutical companies at the Vienna conference. See McAllister, op. cit., p. 232.
- <sup>xxviii</sup> Sinha, op. cit., p. 20.
- <sup>xxix</sup> Boister, op. cit. p. 47 and Kettil Bruun, Lynn Pan and Ingemar Rexed, *The Gentlemen's Club: International Control of Drugs and Alcohol*, University of Chicago Press, 1975, p. 283.
- <sup>xxx</sup> See Bewley-Taylor, 2001, op. cit.
- <sup>xxxi</sup> See Bewley-Taylor, 2003, op. cit. For a detailed account of the protocol, see Ambassador Nelson G. Gross and G. Jonathan Greenwald, "The 1972 narcotics protocol," *Contemporary Drug Problems*, 1973, p. 122.
- <sup>xxxii</sup> The Conference, which had been called by the Economic and Social Council (resolution 1577 (L) of 21 May 1971), was attended by representatives of 97 states; five states sent observers, and the Conference was also attended by the World Health Organization, the International Narcotics Control Board, and the International Criminal Police Organization (INTERPOL).
- <sup>xxxiii</sup> Bositer, op. cit., p. 47.
- <sup>xxxiv</sup> As Boister notes, "The granting of this power to a purely technical body may have been the result of doubts about the utility of the cumbersome CND...for suppressing the illicit traffic on a full time basis." Bositer, op. cit., pp. 47-48. The Protocol expanded the INCB from 11 to 13 members. The US also intended to revive aspects of the 1953 Opium Protocol, an instrument superseded by the Single Convention, in an attempt to reduce licit opium production. However, in 1972 licit production was just meeting licit demand, and few countries were willing to risk a global shortage of opium for medical use. The US proposals were consequently considerably diluted. See Sinha, op. cit., p. 31.
- <sup>xxxv</sup> GA Resolution 39/141
- <sup>xxxvi</sup> Boister, op. cit., p. 53.
- <sup>xxxvii</sup> Boister, op. cit., p. 55.
- <sup>xxxviii</sup> Bositer, op. cit., pp. 55-6.
- <sup>xxxix</sup> This was seen by some as the beginning of a new era in international drug control. See Martin Jelsma, "Drugs in the UN System: The unwritten history of the 1998 United Nations General Assembly Special Session on drugs," *International Journal of Drug Policy*, 14 (2), 2003, p. 182.
- <sup>xl</sup> For example, the Organization of American States Inter-American Drug Abuse Control Commission (CICAD.)
- <sup>xli</sup> *Drug Abuse: The United Nations and Drug Abuse Control* (New York: UN International Drug Control Programme, 1992) p. 7 triggered the consolidation of the UN drug control system's administrative structures into a single structure to increase efficiency.
- <sup>xlii</sup> See A/51/611. As such, this would be devoted to "assessing the existing situation within the framework of a comprehensive and balanced approach that includes all aspects of the drug problem, with a view to strengthening international cooperation to address the problem of illicit drugs, and within the framework of the UN Convention Against the Illicit Traffic in Narcotic Drugs and Psychotropic Substances of 1988 and other relevant conventions and international instruments."
- <sup>xliii</sup> Martin Jelsma, op. cit., pp. 181-195. Also see Martin Jelsma and Pien Metaal, *Cracks in the Vienna Consensus: The UN Drug Control Debate*, WOLA Drug War Monitor, January 2004; Cindy S. J. Fazey, "The Commission on Narcotic Drugs and the United Nations International Drug Control Programme: Politics, policies and prospects for change," *International Journal of Drug Policy*, 14 (2), 2003, p. 156.
- <sup>xliv</sup> Fazey, op. cit. p. 157.
- <sup>xlv</sup> Jelsma 2003, op. cit., *Special Session of the General Assembly Devoted to Countering the World Drug Problem Together 8-10 June 1998, Political Declaration, Guiding Principles of Drug Demand Reduction and Measures to Enhance International Cooperation to Counter the World Drug Problem*, Vienna, p. 5; Fazey, op. cit., p. 166.
- <sup>xlvi</sup> *Encouraging progress towards still distant goals: Progress Report by the Executive Director as a contribution to the Mid-term (2003) Review of UNGASS*, April 8, 2003 (UNODC/ED/2).
- <sup>xlvii</sup> Article 55 states that the UN shall promote, "...b. solutions of international economic, social, health, and related problems; and international cultural and educational cooperation; and... c. universal respect for, and observance of, human rights and fundamental freedoms for all without distinction as to race, sex, language, or religion." Article 56

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pledges member states to act separately and jointly towards the foregoing objectives.

<http://www.un.org/aboutun/charter/>

<sup>xlvi</sup> Tim Rhodes, Gerry V. Stimson et al., “Drug Injecting, rapid HIV spread, and the ‘risk environment’: Implications for assessment and response”, *AIDS* 13 Suppl A: S259-69, 1999.

<sup>xlix</sup> Article 22 states, “Everyone, as a member of society, has the right to social security and is entitled to realization, through national effort and international co-operation and in accordance with the organization and resources of each State, of the economic, social and cultural rights indispensable for his dignity and the free development of his personality.” While in Article 25(1), the Declaration goes on to say: “Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control.” See Universal Declaration on Human Rights, *Adopted and proclaimed by General Assembly resolution 217 A (III) of 10 December 1948.*

<http://www.un.org/Overview/rights.html>

<sup>i</sup> “Preventing the Transmission of HIV Among Drug Abusers.” <http://www.cicad.oas.org/en/Resources/UNHIVaids.pdf>

<sup>ii</sup> These are the Office of the United Nations High Commissioner for Refugees (UNHCR), United Nations Children’s Fund (UNICEF), World Food Programme (WFP), United Nations Development Programme (UNDP), United Nations Population Fund (UNFPA), United Nations Office on Drugs and Crime (UNODC), International Labour Organization (ILO), United Nations Educational, Scientific and Cultural Organization (UNESCO), World Health Organization (WHO), and the World Bank.

<sup>iii</sup> Declaration of Commitment on HIV/AIDS, 2001.

<http://www.un.org/ga/aids/coverage/FinalDeclarationHIVAIDS.html>

<sup>liii</sup> As Paragraph 16 puts it, “Recognizing that the full realization of human rights and fundamental freedoms for all is an essential element in a global response to the HIV/AIDS pandemic, including in the areas of prevention, care, support and treatment, and that it reduces vulnerability to HIV/AIDS and prevents stigma and related discrimination...”. Paragraph 23 continues this theme, affirming that “effective prevention, care and treatment strategies will require...increased availability of and non-discriminatory access to...sterile injecting equipment...”. Paragraph 52 sets out the objective to “ensure...expanded access to essential commodities, including male and female condoms and sterile injecting equipment... (and) harm reduction efforts related to drug use...”.

<sup>liv</sup> <http://www.un.org/millennium/declaration/ares552e.htm>

<sup>lv</sup> <http://www.who.int/governance/eb/constitution/en/index.html>

<sup>lvi</sup> In a General Comment on matters arising from this instrument, the Committee on Economic, Social and Cultural Rights (CESCR), which is the UN body tasked with monitoring human rights, made the following statement regarding Article 12.2(c) of the Covenant, The right to prevention, treatment and control of diseases: “The prevention, treatment and control of epidemic, endemic, occupational and other diseases” (Art. 12.2[c]) requires the establishment of prevention and education programmes for behaviour-related health concerns such as sexually transmitted diseases, in particular HIV/AIDS.... The control of diseases refers to States’ individual and joint efforts to, *inter alia*, make available relevant technologies, using and improving epidemiological surveillance and data collection on a disaggregated basis, the implementation or enhancement of immunization programmes and other strategies of infectious disease control.”

<http://www.unhcr.ch/tbs/doc.nsf/8e9c603f486cdf83802566f8003870e7/40d009901358b0e2c1256915005090be?OpenDocument#3>

<sup>lvii</sup> See Jelsma and Metaal, op. cit.

<sup>lviii</sup> [http://www.unodc.org/unodc/en/cnd\\_mandate.html](http://www.unodc.org/unodc/en/cnd_mandate.html)

<sup>lix</sup> <http://www.incb.org/incb/index.html>

<sup>lx</sup> <http://www.incb.org/incb/mandate.html>

<sup>lxi</sup> See Boister, op. cit., p. 485; Dave Bewley-Taylor and Mike Trace, *The International Narcotics Control Board: Watchdog or Guardian of the UN Drug Control Conventions*, The Beckley Foundation Drug Policy Programme, Report Seven, February 2006, p. 4.

<sup>lxii</sup> See Article 12

<sup>lxiii</sup> [http://www.unodc.org/pdf/ed\\_guidelines\\_mediumterm.pdf](http://www.unodc.org/pdf/ed_guidelines_mediumterm.pdf)

<sup>lxiv</sup> [http://www.unodc.org/pdf/unodc\\_terms\\_reference.pdf](http://www.unodc.org/pdf/unodc_terms_reference.pdf)

<sup>lxv</sup> <http://www.who.int/governance/eb/constitution/en/index.html>

<sup>lxvi</sup> [http://www.who.int/medicines/areas/quality\\_safety/psycotrop\\_narcotics\\_intro/en/](http://www.who.int/medicines/areas/quality_safety/psycotrop_narcotics_intro/en/)

<sup>lxvii</sup> Fazey, op. cit., pp. 155-169.

<sup>lxviii</sup> CND membership over the years has increased as follows: 15 in 1946, 21 in 1961, 24 in 1966, 30 in 1972, 40 in 1983, and 53 in 1991.

<sup>lxix</sup> 845 (XXXII), and 1147 (XLI).

<sup>lxx</sup> [http://www.unodc.org/unodc/en/cnd\\_membership.html](http://www.unodc.org/unodc/en/cnd_membership.html)