



Vienna NGO Committee
on Narcotic Drugs

BEYOND 2008

GLOBAL NGO FORUM

NGO REGIONAL CONSULTATION EASTERN EUROPE AND CENTRAL ASIA (BELGRADE / KIEV) 2007

Introduction and Consultation Material

BEYOND 2008

*A Global NGO Forum contributing to the Review of Achievement since the 1998 UN General Assembly Special Session on Drugs**

1 Background

1.1 The 1998 United Nations General Assembly Special Session (UNGASS)

Since the mid-1980s concern about drugs and drug related problems has resulted in a considerable increase in international action aimed at reducing and eliminating the production, manufacture, trafficking and misuse of drugs controlled under the international drug control conventions ^[1].

In 1993 a special session of the UN General Assembly was held to review progress halfway through the UN Decade against Drug Abuse and Illicit Trafficking. This was followed by a further General Assembly Special Session in 1998 to mark the end of the Decade and to agree proposals for future action in drug control.

The 1998 UNGASS was significant for a number of reasons. To hold two Special Sessions on the same theme in such a short time was unusual. It adopted the Guiding Principles on Drug Demand Reduction, for the first time given drug demand reduction a high profile in drug control policy and strategy. And it agreed a Political Declaration which included specific, measurable targets to be achieved by 2008. Although these were very ambitious targets, there was an intention to develop a more evidence based approach to policy and practice in the drugs field.

The UN Commission on Narcotic Drugs (CND) was given responsibility to request two-yearly reports from all member states on their efforts to meet the above-mentioned goals and targets for the years 2003 and 2008 and to analyse these reports in order to enhance the cooperative effort to combat the world drug problem.

The Ministerial Segment of the CND in 2003 was intended to provide a mid-term analysis of the situation. In 2008 the CND will receive reports on achievement to date whilst the 2009 CND will include a high level segment to reflect on achievement and identify future policies and strategy.

1.2 The NGO Committees on Narcotic Drugs

The Vienna NGO Committee on Narcotic Drugs was established in the early 1980s to provide a link between international NGOs concerned with drug related problems and the UN drug control bodies. Subsequently a sister NGO Committee was established at UN Headquarters in New York.

In 1986 the Committees organised an NGO Inter-Regional Forum in Stockholm to prepare NGO input to the International Conference on Drug Abuse and Illicit Trafficking (ICDAIT), which was to be held in Vienna in 1987.

In 1987 the Committees organised the 2nd NGO World Forum during the ICDAIT. It was able to produce and distribute its report before the end of the conference and successfully achieved amendments to the Comprehensive Multidisciplinary Outline, which was the main product of the ICDAIT.

In 1990 the Committees nominated the NGO representatives to the World Ministerial Summit on Drug Demand Reduction in London. They made a joint presentation to the plenary and were represented on the committee which produced the final declaration.

The Committees were also present at the 1993 UNGASS and made significant contributions to several of the resolutions which were agreed there.

In 1994 the 3rd NGO World Forum was held in Bangkok. It was organised jointly by the NGO Committees and UNODC and the final declaration from the Forum was presented to the CND and to the UN Economic and Social Council.

* more information available at www.vngoc.org

For the 1998 UNGASS, an NGO Village was organised and six NGO presentations were made to the plenary, reflecting the wide range of NGO contribution in responding to the global drug problem.

The membership of the Committees has continued to expand and is no longer confined to NGOs in consultative status with ECOSOC. In Vienna, the NGO Committee has for many years organised a forum during the CND. This has been open to NGO Committee members and to all those attending the Commission. Additionally, regular meetings are held attended by representatives of UNODC providing an opportunity for exchange and for programme planning. In recent years the NGO Committee has contributed to discussions on the theme for International Day Against Drug Abuse and Illicit Trafficking (26 June) and offered input to the development of the UNODC strategic plan.

1.3 “Beyond 2008” International NGO Forum

The planned review and reflection on achievement since the 1998 UNGASS provides an opportunity for NGOs to contribute their own perspectives.

At present there is no formal mechanism available for either the Commission on Narcotic Drugs or UNODC to consult with NGOs or with civil society generally. NGOs in Consultative Status with the Economic and Social Council (ECOSOC) of the United Nations may use the established arrangements for making a statement or distributing a conference room paper to the CND, but this is not a consultation process. UNODC actively engages with NGOs at different levels, but it also has no clear mechanism for consultation. In consequence, although there are a number of different stakeholders involved in drug control, not all are given a role in the development of policy and strategy.

"Beyond 2008" is intended as a means of collecting together the experiences and ideas of NGOs globally and of developing new and improved arrangements for engaging civil society in the planning of future policies and strategies in the field of drug control.

To achieve this, three specific objectives have been identified, along with a representative consultative process aimed at obtaining input from NGOs globally. The objectives and consultation process are described in detail below.

It is important to note that there will be many different inputs from the NGO community to the CND review of achievement and the development of ideas for the future. The primary function of "Beyond 2008" is not to advocate any specific philosophy or approach to drug control. Rather, "Beyond 2008" is intended to provide the CND and UNODC with the experience of NGOs in achieving the targets set by the 1998 UNGASS and to offer CND and UNODC proposals for the principles which should govern future action and the engagement of all stakeholders in the development of drug control measures and activities.

"Beyond 2008" is a project of the Vienna NGO Committee on Narcotic Drugs. It has been financially supported by a number of NGOs and Governments or governmental organisations. In general, NGO contributions have been made directly to the NGO Committee whilst governmental contributions have been channelled through UNODC. A Memorandum of Understanding between the Vienna NGO Committee and UNODC has established the basis for implementing the "Beyond 2008" project whereby the NGO Committee and UNODC jointly execute the project. The NGO Committee is the primary implementer with technical support from UNODC. Quarterly reports are provided to UNODC which, in its turn, provides internal reports and reports to those who provided funds via UNODC. For operational purposes, the New York NGO Committee on Narcotic Drugs and Psychotropic Substances is a partner organisation with the Vienna NGO Committee.

2. The Regional Consultations in Kiev and Belgrade: Their Purpose and Objectives

2.1. Purpose

The consultation process for "Beyond 2008" is at two levels. There will be 9 regional consultations which will be held between September 2007 and February 2008 and an international consultation in Vienna in July 2008.

The nine regions for "Beyond 2008" are:

Australia and New Zealand	East Europe and Central Asia	European Union and EFTA
Latin America and the Caribbean	North Africa and the Middle East	North America
South Asia	South East and East Asia and the Pacific	Sub-Saharan Africa

Each regional consultation is intended to elicit the experience and ideas of a representative sample of NGOs from that region which can be brought to the international consultation in Vienna and will contribute to the documents to be prepared and submitted to the CND in 2008 and 2009.

The regional consultation is the most important mechanism for gathering qualitative information from a representative sample of NGOs working in a particular region. It is not intended as a means for gathering opinions or for promoting specific policies or strategies in the field of drug control. Other organisations and associations are in a position to make such representations. This is not to deny the importance of experience. Rather it stresses the importance of evidence to provide a basis for the NGO contribution through "Beyond 2008" to the CND and UNODC. This material for the regional consultation, which will be replicated for the international forum in Vienna, therefore asks questions designed to elicit information and experience supported by evidence and examples.

2.2. Objectives

Objective One: to highlight tangible NGO achievements in the field of drug control, with particular emphasis on contributions to the 1998 UNGASS Action Plan such as achievement in policy, community engagement, prevention, treatment, rehabilitation and social reintegration;

Objective Two: to review best practices related to collaboration mechanisms among NGOs, governments and UN agencies in various fields and propose new and/or improved ways of working with the UNODC and CND;

Objective Three: to adopt a series of high order principles, drawn from the Conventions and their commentaries, that would be tabled with UNODC and CND for their consideration and serve as a guide for future deliberations on drug policy matters.

3. The Consultation Working Papers

3.1. Objective 1: NGO Achievement

3.1.1. Background

To collect data on the contribution of NGOs to achieving the targets established by the 1998 UNGASS an on-line questionnaire has been developed. The questionnaire is based on the Biennial Reporting Questionnaire (BRQ) developed by UNODC to collect information from governments and has been adapted for use by NGOs.

Every NGO participating in a regional consultation must complete the NGO Questionnaire, which can be found at www.vngoc.org and is available in Arabic, Chinese, English, French, Russian and Spanish.

In addition to the quantitative information collected through the questionnaire, we would like to collect qualitative information through the regional consultation. The intention is that the qualitative data should help to illustrate NGO achievement and experience and add to the data from the questionnaire.

3.1.2. Issues for discussion

In what ways have NGO activities in the field of drug control developed in your country/region in the period since the 1998 UNGASS?

- from this question we are looking for data on developments within the NGO sector, for instance, increases in activity, funding from public sources, expansion of services, increased staffing, increase in clients, etc.

What examples of alternative development projects undertaken by or involving NGOs in your country/region have been most effective and why is this?

- from this question we are looking for evidence of effectiveness, in particular, information about projects which have been evaluated and data on the contribution of NGOs

What examples of drug demand reduction projects/services undertaken by NGOs in your country/region have been most effective and why is this?

- from this question we are looking for evidence of effectiveness, in particular, information about projects which have been evaluated and data on the contribution of NGOs

3.2. Objective 2: Improved Collaborative Mechanisms

3.2.1. Background Working Paper

In its actions within the Economic and Social Council the United Nations appears to have had a genuine intention to allow Civil Society a view. “Functional Commissions” have been established which meet annually to discuss and agree policy in relation to areas such as Human Rights, Status of Women, Sustainable Development and Narcotic Drugs. Involvement and input from Civil Society is, however, patchy and governments tend to retain control of decision-making.

In February 2003, Kofi Annan appointed the Panel of Eminent Persons on United Nations – Civil Society Relations and asked Fernando Henrique Cardoso, the former President of Brazil, to chair it. It was tasked to:

“review existing guidelines, decisions and practices that affect civil society organizations’ access to and participation in United Nations deliberations and processes; to identify best practices in the United Nations system and in other international organizations with a view to identifying new and better ways to interact with non-governmental organizations and other civil society organizations; to identify ways of making it easier for civil society actors from developing countries to participate fully in United Nations Activities; and to review how the Secretariat is organized to facilitate, manage and evaluate the relationships of the United Nations with civil society and to learn from experience in different parts of the system.”¹

The report states that:

*“The most powerful case for reaching out beyond its constituency of central Governments and enhancing dialogue and cooperation with civil society is that doing so will make the United Nations more effective.”*²

Recommended reforms were based on 4 main paradigms:

- Become an outward-looking organization
- Embrace a plurality of constituencies
- Connect the local with the global
- Help strengthen democracy for the twenty-first century

The report goes on to make a series of recommendations, including in relation to the following*:

- Fostering multi-constituency processes

“The General Assembly should include civil society organizations more regularly in its affairs, since it no longer makes sense to restrict their involvement in the intergovernmental process to the Economic and Social Council.”

- Investing more in partnerships

“They must be viewed as “partnerships to achieve global goals” not “United Nations partnerships”, decentralized to relevant country and technical units and driven by needs, not funding opportunities.”

- Focusing on country level engagement

¹ UN General Assembly, 58th session, agenda item 59 “Strengthening of the UN System”, Note by the Secretary General

² UN General Assembly, 58th session, agenda item 59 “Strengthening of the UN System”, pages 8 - 12

* This is not the complete list, simply the areas which seem most relevant to the current task.

“The Panel’s proposals entail strengthening the capacity of resident coordinators and other United Nations staff to maximise partnership opportunities and better prioritise their relations with all constituencies.”

- Tackling accreditation and access issues

“...today this process is overly politicized, expensive and can present a barrier, especially for developing country civil society organizations, hence major reforms are proposed to emphasise technical merit.”

- Providing global leadership

“The United Nations should use its moral leadership to urge coordinated approaches to civil society... This should emphasise principles of constituency engagement, partnership, transparency and inclusion, with a special emphasis on those who are normally underrepresented.”

Current engagement with NGOs is mainly through accreditation with ECOSOC. The Division for ECOSOC Support and Coordination (DESC) services the Council’s Committee on NGOs by processing accreditation applications made by interested NGOs and by maintaining the database of those already accredited. The Division for Social Policy and Development (DSPD) is tasked with keeping civil society organizations informed of the activities relating to the intergovernmental mandates it serves. Formal relationships are governed by ECOSOC Resolution 1996/31. It is not clear how consistently NGOs have been involved with any parts of the system, what the outcomes have been or how far the bureaucracy and over-politicisation have inhibited the development of really effective partnerships. However, an example of what seems to have been a very meaningful attempt at engagement was the work leading up to and including the UNGASS review meeting on HIV/AIDS which was held in New York in 2006. A useful guide “Meaningful Involvement of Civil Society in the UNGASS Review Meeting” was produced in advance by the International Council of AIDS Service Organisations (ICASO) and Health and Development Networks (HDN)³.

Current engagement with Civil Society on Drugs Issues

The principle central body for liaison with UNODC is the Vienna NGO Committee*. UNODC (and before that, UNDCP) have allocated staff to work in collaboration with NGO representatives, including organising for NGO fora (1986, 1987, 1994 and 1998) and annual NGO meetings held at the same time as the Commission for Narcotic Drugs (CND). In recent years this partnership has deepened, including in planning for the “Beyond 2008” NGO Forum. UNODC staff regularly attend the Vienna NGO Committee’s meetings, offering useful input and insight to its deliberations. In October 2006, “Towards Security and Justice For All” UNODC’s draft new strategy was shared with the Vienna NGO Committee. Among the intended results is:

“Increased partnerships with NGOs that advance capacities to apply international standards and norms in community-centred drugs and crime prevention programmes.”⁴

Within the annual CND meetings, however, NGOs are sparsely represented and it would seem that the UN has not succeeded in championing the cause of engagement with civil society and NGOs with the majority of national government delegations.

Examples of engagement with civil society on drugs issues elsewhere

For this particular attention has been given to the current activities of the European Commission in trying to engage Civil Society in Drugs Policy. The Commission organised a conference in January 2006 with more than 100 civil society representatives in attendance. This informed the Green Paper⁵ which was published in June 2006 and was then put out for consultation with European NGOs. The Finnish Presidency subsequently hosted a discussion forum in November 2006, attended by the Commission and the drug leads of the 25 EU countries, which included presentations from 3 NGOs about their work and how they believe the Commission should engage with civil society on drugs issues. The Green Paper defines the main aims of involving civil society as being

³ ICASO and HDN “Meaningful involvement of civil society in the UNGASS review meeting” 2006

* Note – I am at present unclear about the role and activities of the New York Committee – any commentary would be most useful.

⁴ UNODC “Towards Security and Justice for All: Making the world safer from drugs, crime and terrorism” Draft for discussion, 21st September 2006

⁵ Commission of the European Communities “Green Paper on the role of Civil Society in Drugs Policy in the European Union” June 2006

- To support policy formulation and implementation through practical advice
- To ensure an effective two-way information flow
- To stimulate networking among civil society organizations

The consultation includes asking NGOs about the usefulness of setting up a new Civil Society Forum on Drugs and/or supporting the growth of EU-wide thematic networks on specific drug-related issues.

More broadly, the Civil Society Contact Group, with support from the European Commission has published a research review “Civil Dialogue, Making it work better” which included a review of European experience and case studies from national governments.⁶

Findings from consultation with members of the Vienna NGO Committee on Narcotic Drugs

From their experiences, NGO representatives have found the following helpful:

- When UNODC has proactively sought to engage with NGOs
- When there has been a consistent, ongoing and transparent dialogue, involving UNODC, national governments and NGOs; this process is aided by having a well-resourced and knowledgeable named liaison person

Conversely, they have found the following unhelpful:

- When NGOs are treated as inferior to government representatives
- When there is too much bureaucracy and politicisation of issues
- When NGOs submit advice and recommendations and receive no response
- When meetings are too large or not well planned

Recommendations

The following recommendations have been suggested:

1. UNODC should actively integrate the Cardoso report’s recommendations into its work plan
2. CND should commit UNODC to having a consistent, ongoing and transparent dialogue with NGOs
3. CND should encourage all national delegations to include NGO representation
4. NGOs’ work should be given a high profile at CND
5. CND should allow NGOs to take exhibition stands to share experiences with delegates and with each other – *this occurred in 2007 via the Vienna NGO Committee on Narcotic Drugs*
6. All new NGOs should have access to basic information about CND and its mechanisms - *this was done in 2007 via the Vienna NGO Committee on Narcotic Drugs*
7. There should be more transparent information on the UNODC site in preparation for CND, including a Frequently Asked Questions section - *this was done in 2007 via the Vienna NGO Committee on Narcotic Drugs in cooperation with UNODC*
8. The relationship between UNODC, CND and NGOs should be “results based” and should be monitored via a joint monitoring, consultation and planning group, with NGO representation
9. UNODC should support more transfer of experiences and networking on legislative experiences, prevention and treatment, including existing pharmacological therapy approaches
10. UNODC should support the establishment of thematic networks on specific drug-related issues, including prevention and treatment, whether at regional, transregional or global level

⁶ E. Fazi and J. Smith, The Civil Society Contact Group “Civil Dialogue, Making it work better” 2006, available from <http://act4europe.horus.be/module/FileLib/Civil%20dialogue,%20making%20it%20work%20better.pdf>

3.2.2. Issues for discussion

How do governments currently consult with or engage NGOs and civil society in the development of drugs policy, strategy and practice?

- from this question we are looking to identify the different mechanisms being used, what has worked well and what has worked less well.

What is the experience of NGOs in engaging with UNODC and other UN organisations and agencies at the country, regional or headquarter levels?

- from this question we are looking to identify the mechanisms being used by different UN bodies, what has worked well and what has worked less well

To what extent are NGOs and civil society organisations involved in preparatory work for key UN meetings linked to drug control issues, such as the Commission on Narcotic Drugs, ECOSOC meetings, and relevant meetings of, for example, WHO, UNESCO, ILO and UNAIDS?

- from this question we are looking to collect information on ways in which NGOs are directly or indirectly involved with key international organisations, what has worked well and what has worked less well

Based on the responses to the above questions, and using the recommendations made at the end of the Working Paper as a basis, how might NGOs be more effectively engaged in the development of policy, strategy and practice in the field of drug control.

- from this question we are looking for good practice and new ideas for collaboration and engagement. In developing ideas, some of the considerations which need to be taken into account are:
 - different mechanisms might be needed at different levels (national, regional, international) and for different purposes (policy, strategy, practice)
 - there are thousands of NGOs, how can a representative selection be made
 - what communication and information systems would be most effective
 - what do NGOs want from collaboration and engagement
 - what can NGOs give to collaboration and engagement

3.3. Objective 3: High Order Principles

3.3.1. Background Working Paper

An Overview of the UN Drug Conventions.

This first section of the primer is designed to provide the reader with an overview of the key features of the Conventions including their objectives and principles.

The present system of worldwide drug control is based upon three international conventions. These are 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.ⁱ

Like their predecessors, this group of multilateral conventions was established by the international community with the objective of preventing 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 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 by two principal methods of achieving drug control. These are 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.)ⁱⁱ The conventions operate with the intention of creating an appropriate balance between penal sanctions, the degree of real and/or potential harm associated with specific drugs and their therapeutic usefulness. With Parties to the conventions thus explicitly addressing an overarching concern for the “health and welfare of mankind,”ⁱⁱⁱ 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^{iv} and different interpretations of many clauses,^v this creates some flexibility, or “wobble room,” for Parties when formulating domestic policies.^{vi} 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.^{vii} 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.^{viii} 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.^{ix}

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.^x 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^{xi} 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.^{xii}

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.^{xiii} 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.^{xiv} 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.^{xv}

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, after-care, rehabilitation and social reintegration.” Such provision is in conformity with article 38, “Measures against the abuse of drugs.”^{xvi} 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 was not, however, indicative of a dramatic change in international policy.^{xvii} Furthermore, while Article 36 is obligatory in nature, the application of Article 38 is very much up to the discretion of national governments.^{xviii}

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 for 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 is 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 only being possible under legal authority.^{xix}

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 co-operation against the 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.^{xx} 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.^{xxi}

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 only dealt with the issue in 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.^{xxii} 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.^{xxiii} As such, it provides comprehensive measures against drug trafficking, including provisions on extradition, mutual legal assistance, co-operation 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.^{xxiv} 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.”^{xxv} 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 the application of stricter control measures by Parties 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, upon recommendation of the INCB, also decides on the inclusion in or transfer between tables of the 1988 Convention substances frequently used for the manufacture of illicit drugs. 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.^{xxvi}

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 20th 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, licenses and import and export controls on licit drug trade.
- Enshrines the functions of two important drug control bodies, the Commission on Narcotic Drugs (the CND) and the International Narcotics Control Board (the INCB).
- The INCB is the organization with responsibility for overseeing compliance with the UN drug control system.
- The 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 upon recommendations from WHO
- The Single Convention has universal application—some of its provisions apply to all states, even if they have not signed up to 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 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 licenses 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, licenses, 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 upon recommendations from WHO
- Control system is overseen by the INCB.
- Makes more attempt than 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 which grew up in the 1970s and 80s. 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 co-operation, 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 upon 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, the next section of this primer provides an overview of 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 only regulated 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 convened in Vienna. The 1971 Vienna Convention was signed on 21 February and, having received the necessary number of signatories, came into force on 16 August 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.^{xxvii} 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,”^{xxviii} 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 impacted 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 liberalization 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.^{xxix}

Despite such efforts to strengthen the international system the United States, long a key player within transnational drug control^{xxx} 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.^{xxxi} The 1972 conference, which according to UN rules was called by ECOSOC, was sponsored by thirty-one nations and considered a list of amendments.^{xxxii} The resulting Protocol Amending the Single Convention on Narcotic Drugs, 1961, was signed on 25 March 1972 and came into force 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.^{xxxiii} 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.^{xxxiv}

The 1972 Protocol certainly represented a strengthening of the international system. Nonetheless, the fact that some states were still not parties to the conventions and/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.^{xxxv} 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 an ECOSOC convened group to review certain draft articles ahead of a conference to realize 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.^{xxxvi} 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 thirty-five specific targets, the CMO was divided into four key areas. These were: (1) prevention and reduction of illicit demand (2) control of supply (3) suppression of illicit trafficking (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.^{xxxvii}

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 the illicit drug traffic. Attended by the 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 11 November 1990.^{xxxviii}

The 1988 Convention and the CMO were key elements in a major UN drive on drug control in the late 1980s.^{xxxix} The Convention itself led to a number of regional international drug control agreements based upon it and the CMO was used as policy guide by regional drug organizations^{xi} 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.”^{xii}

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.^{xiii} 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, and 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 longstanding “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 which 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.^{xliii}

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.^{xliiv} 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 ten 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.”^{xliiv} 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, Mr. Antonio Maria Costa, stated that there was “encouraging progress towards still distant goals.”^{xlivi}

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 which 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.^{xliiii} Furthermore, it is stipulated in Article 103 of the Charter that: “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 which 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.^{xliiii}

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.^{xlix} 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.”^l

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 ten UN agencies^{li} including the United Nations Office on Drugs and Crime (see the next section of this primer). UNAIDS derives its mandate from the Declaration of Commitment on HIV/AIDS,^{lii} 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 prescribes prevention as “the mainstay of our response” to the pandemic.^{liii}

The United Nations Millennium Declaration

In 2001 189 countries signed the United Nations Millennium Declaration,^{liv} 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 two, “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 upon drug policy issues.

Among these is the Constitution of the WHO^{lv} 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.^{lvi}

There are thus a range of human rights and health instruments within the UN repertoire which have relevance to questions arising from drug policy. The use of illicit drugs impacts on areas which lie outside its strictly-defined policy domain, and is, in turn, impacted upon 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 which may be met in different ways, and, as yet, a system-wide UN consensus on how best to respond to halting the epidemic remains fragile.^{lvii}

The 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 or Commission)

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 a period not exceeding 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 the regulatory measures to be taken on narcotic and psychotropic drugs and precursor chemicals.^{lviii}

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

The International Narcotics Control Board (INCB or Board)

The INCB is the “independent and quasi-judicial”^{lxix} 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 upon 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 and subsequently allocates quotas among Parties in an attempt to prevent leakage of drugs from licit sources into the illicit market.^{lx} It also monitors compliance with the provisions of the drug control conventions. Areas of concern can be raised at different 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.^{lxi} 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,^{lxii} and commenting on policy developments among UN Member States.

The United Nations Office on Drugs and Crime (UNODC or Office)

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”.^{lxiii}

In fulfilling its mandate^{lxiv} “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 global data sets, to track and investigate international trends in drug production, manufacture, trafficking and use and to act as a central hub for the dissemination of best practice. It is the body responsible for such high-profile publications as the “World Drugs Report”, the annual reports on Afghan opium production, and so on. 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%, 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 and its objective, as set out in its Constitution,^{lxv} 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.^{lxvi}

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, owing to the fact that the UN is an organization which favours action by consensus, and 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.^{lxvii} 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; eleven for African States; eleven for Asian States; ten for Latin American and Caribbean States; seven for Eastern European States; fourteen for Western European and other States; and one seat to rotate between the Asian, and the Latin American and Caribbean States every four years.^{lxviii} Other member states of the United Nations attend the CND as observers.

In accordance with ECOSOC resolutions^{lxix} members are elected according to a number of criteria. These are (a) they must be from among the States Members 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.^{lxx}

3.3.2. Issues for discussion

These questions are designed to generate data concerning the operation of the UN international drug control conventions at national and local levels. They should be considered in conjunction with the Conventions Primer and study of the conventions (see http://www.unodc.org/unodc/en/drug_and_crime_conventions.html) along with relevant national drug control legislation. The questions are grouped into sets, with each set prefaced by a brief explanatory paragraph.

Introduction.

The present system of worldwide drug control is based upon three international conventions. These are 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. These enjoy widespread adherence with, as of July 2007, 183 states being Parties to the first and second of the three conventions, and 182 to the third.^{lxxi}

Q1) Objectives of the conventions.

Within an overarching concern for the "health and welfare of mankind,"^{lxxii} the two key objectives of the drug control conventions are (a) to prevent the non-scientific and non-medical production, supply and use of narcotics and psychotropic drugs listed in the conventions (b) to ensure the availability of such drugs where appropriate for medical use in the relief of pain and suffering. Accordingly, all the conventions contain penal provisions to which Parties, subject to their own constitutional limitations, must adhere. Furthermore, the international framework operates a system of estimates of drug requirements, statistical returns, licenses and import and export controls on the licit drug trade.

In your country, have controls or legislation introduced to fulfil the obligations of the UN Drug Control Conventions supported achievement of the objectives of the conventions?

- from this question we are seeking information with specific examples to substantiate the information in three areas:

- a) positive and/or negative impact of controls or legislation to prevent the illicit production, distribution and use of the targeted substances?
- b) positive and/or negative impact of controls or legislation to limit the diversion of pharmaceutical products?
- c) positive and/or negative impact of controls or legislation to maintain adequate supplies of drugs for therapeutic needs?

Q2) Flexibility within the Conventions and their interpretation.

As noted above, the autonomy of domestic law is stressed within all the conventions. In combination with inevitable ambiguity within the text of the conventions, reservations made by states at the time of signing, and different interpretations of many clauses, this creates some flexibility for Parties when formulating domestic policies. For example, it's up to each Party to define what constitutes "scientific and medical purposes." Furthermore, while articles within the conventions do provide for penal sanctions, they also provide for alternative measures to incarceration (See Article 36 of the 1961 Single Convention, Article 22 of the 1971 Convention and Article 3 of the 1988 Convention.)

Nonetheless, Parties are required to remain true to the UN drug conventions, interpret the treaties in good faith and respect their "object and purpose."^{lxiii} It is also important to note that the requirements of the conventions are minimum control standards. All three treaties allow the application of stricter measures by Parties should they wish to do so.

In your country, has national, state or city legislation used the flexibility within the UN Drug Control Conventions?

- from this question we are seeking information with specific examples to substantiate the information on, for example:
 - a) are there instances where legislation adopted to fulfil the obligations of the conventions is, in a systematic fashion, not fully enforced?
 - b) has legislation been adopted that exceeds the obligations of the conventions?
 - c) are there instances where the discretionary measures (e.g. education and treatment as an alternative to or in addition to prosecution and punishment) provided for in the convention are not available

Q3) Emphasis on the Supply and Demand sides of the drug issue within the Conventions.

While the conventions focus predominantly on supply-side measures, there is reference to the demand-side of the drug problem. For example, article 38 of the 1961 Single Convention, "Measures against the abuse of drugs," talks of "treatment, education, after-care, rehabilitation and social reintegration."^{lxiv} However, while article 36 of the Single Convention, which focuses on issues such as cultivation, production, manufacture and distribution, is obligatory in nature, the application of article 38 is very much up to the discretion of national governments.^{lxv} Rather it is a treaty obligation that Parties shall "give special attention to and take all practicable measures for" implementing measures against the abuse of drugs. A similar situation exists within both the 1971 and 1988 Conventions. Here a high level of national discretion for the implementation of demand reduction measures is maintained in article 20 of the 1971 Convention, "Measures against the Abuse of Psychotropic Substances"^{lxvi} and article 14 of the 1988 Convention, "Measures to eradicate illicit cultivation of narcotic plants and to eliminate illicit demand for narcotic drugs and psychotropic substances."

In your country, has emphasis on supply-side controls within the conventions affected the development and implementation of demand reduction measures?

- from this question we are seeking information, with specific examples to substantiate the information, about the balance between drug supply reduction and drug demand reduction activities and the balance between different types of drug demand reduction activities.

Q4) Unintended consequences of the Conventions.

As outlined previously, the Conventions have clear objectives, amongst which are: to restrict the use of listed drugs to scientific and medical purposes; to ensure an appropriate supply of licit drugs to meet therapeutic and research requirements; to control the distribution of pre-cursors, and; to harmonize national drug-related criminal laws and enforcement actions.

However, it widely recognized both in the physical and social sciences that mechanisms intended for the regulation and control of complex systems can often generate effects that were not foreseen by those responsible for their design and implementation. Such effects can be either positive or negative; that is,

they may work to further these objectives, despite being unplanned, or they may militate against the intended goals of the system.

In the cross-cutting field of drug control, such effects may make themselves felt across a range of sub-domains: human rights, public and/or individual health, scientific research, social inclusiveness, political and economic development, for example.

Do you believe that adherence to the Conventions has resulted in unintended consequences for your country, whether positive or negative in character?

- from this question we are seeking information with specific examples to substantiate the information

Q5) High Order Principles as a guide for future deliberations on drug policy matters

As has already been noted, the founding documents of the United Nations, along with the founding documents and conventions adopted by other UN agencies and subsidiary bodies, contain basic principles which govern their actions. For instance, the Charter of the United Nations and the Declaration of Human Rights contain basic principles and the UN Drug Control Conventions have been adopted within the context of these founding documents.

These broad principles adopted by Member States in founding the United Nations system are inevitably subject to interpretation and over time these interpretations have evolved. Even within the different bodies of the United Nations it is possible that a common principle is interpreted differently.

The 1998 UNGASS adopted the “Guiding Principles on Drug Demand Reduction”. At present there are no equivalent guiding principles for drug supply reduction. At the same time the articles in the drug control conventions concerned with drug demand reduction are discretionary whilst those concerned with drug supply reduction are mandatory

- a) What over-arching principles might be suggested for consideration by CND and other UN bodies when developing proposals for drug control in the future?**
- b) What processes might be adopted to facilitate application and review of these principles?**

ⁱ See 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.

ⁱⁱ 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/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 main body of text of this primer.)

ⁱⁱⁱ 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.

^{iv} 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.

^v 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.

^{vi} 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 and 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.

^{vii} See http://untreaty.un.org/ilc/texts/instruments/english/conventions/1_1_1969.pdf

^{viii} See William B. McAllister, *Drug Diplomacy in the Twentieth Century*, Routledge, 2000, and David R. Bewley-Taylor, *The United States and International Drug Control, 1909-1997*, Continuum, 2001.

^{ix} Neil Boister, op. cit., p. 42. Also see S. K. Chatterjee, *Legal Aspects of International Drug Control*, Martinus Nijhoff Publishers, 1981, pp. 343-4, 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, for example 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.

^x See article 4 (c)

^{xi} Many of these are precursors to the listed substances.

^{xii} In accordance with article 2 of the Single Convention, the supply or dispensing of any substance listed in the schedules is only possible under legal authority, namely under license. Schedule I contains substances that are subject to all of the control measures under the Convention, including heroin, cocaine and cannabis, while Schedule II is comprised of 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 which 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 and Chatterjee op. cit., p. 351.

^{xiii} 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.

^{xiv} See *Commentary on the Single Convention on Narcotic Drugs, 1961*, United Nations, New York, 1973, pp. 112-113

^{xv} Boister, op. cit., pp. 71-72.

^{xvi} As amended by the 1972 Protocol.

^{xvii} See Boister, op. cit., p. 144 and Jack Donnelly, ‘The United Nations and the global drug regime,’ in Peter H. Smith (ed.), *Drug Policy in the Americas*, Boulder: Westview Press, 1992, p. 288.

^{xviii} 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 and *Commentary on the Protocol Amending the Single Convention on Narcotic Drugs, 1961*, United Nations, New York, 1976, pp. 84-85.

^{xix} Substances in Schedule I must be strictly limited to medical and scientific purposes. Parties, however, may permit the use and possession of those 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.

^{xx} 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.

^{xxi} See *Commentary on the Protocol Amending the Single Convention on Narcotic Drugs, 1961*, p.330.

^{xxii} Statement of this objective is further outlined in article 2 (1). This explains that the purpose of the 1988 Convention is to promote international co-operation in the suppression of the international drug control traffic in order to make suppression more effective.

^{xxiii} Sinha, op. cit., p. 33.

^{xxiv} Krajewski, op. cit., p. 331.

^{xxv} *Commentary on the United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances 1988*, United Nations, New York, 1998, p. 80.

^{xxvi} See David Bewley-Taylor, “Challenging the UN drug control conventions: problems and possibilities,” *International Journal of Drug Policy*, 14 (2), 2003, pp. 171-179.

^{xxvii} 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.

^{xxviii} Sinha, op. cit., p. 20.

^{xxix} 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.

^{xxx} See Bewley-Taylor, 2001, op. cit.

^{xxxi} See Bewley-Taylor, 2003, op. cit. and 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.

^{xxxii} 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).

^{xxxiii} Bositer, op. cit., p. 47.

^{xxxiv} 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.

^{xxxv} GA Resolution 39/141

^{xxxvi} Boister, op. cit., p. 53.

^{xxxvii} Boister, op. cit., p. 55.

^{xxxviii} Bositer, op. cit., pp. 55-6

^{xxxix} 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.

^{xl} For example the Organization of American State’s Inter-American Drug Abuse Commission (CICAD.)

^{xli} *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

^{xlii} 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.”

^{xliii} 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 and 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.

^{xliiv} Fazey, op. cit. p. 157.

^{xliv} 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 and Fazey, op. cit., p. 166

^{xlvi} *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)

^{xlvii} 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 pledges member states to act separately and jointly towards the foregoing objectives. <http://www.un.org/aboutun/charter/>

^{xlviii} 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.

^{xlix} 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>

^l Preventing the Transmission of HIV Among Drug Abusers. <http://www.cicad.oas.org/en/Resources/UNHIVaids.pdf>

^{li} 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), World Bank.

^{lii} Declaration of Commitment on HIV/AIDS, 2001. <http://www.un.org/ga/aids/coverage/FinalDeclarationHIVAIDS.html>

^{liii} 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...”

^{liv} <http://www.un.org/millennium/declaration/ares552e.htm>

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

^{lvi} 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>

^{lvii} See Jelsma and Metaal, op. cit.

^{lviii} http://www.unodc.org/unodc/en/cnd_mandate.html

^{lix} <http://www.incb.org/incb/index.html>

^{lx} <http://www.incb.org/incb/mandate.html>

^{lxi} See Boister, op. cit., p. 485 and 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.

^{lxii} See article 12

^{lxiii} http://www.unodc.org/pdf/ed_guidelines_mediumterm.pdf

^{lxiv} http://www.unodc.org/pdf/unodc_terms_reference.pdf

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

^{lxvi} http://www.who.int/medicines/areas/quality_safety/psycotrop_narcotics_intro/en/

^{lxvii} Fazey, op. cit., pp. 155-169.

^{lxviii} 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.

^{lxix} 845 (XXXII), and 1147 (XLI),

^{lxx} http://www.unodc.org/unodc/en/cnd_membership.html

^{lxxi} See 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 183 Parties to this Convention.

^{lxxii} See the preambles of the 1961 and 1971 Conventions. The preamble of the 1988 Convention refers to concerns regarding the “health and welfare of human beings” and is based upon the foundations laid down by its earlier sister treaties. While preambles are not legally binding, they do provide an overview of the spirit of an international instrument.

^{lxxiii} This requirement is in line with the 1969 Vienna Convention on the Law of Treaties. See

http://untreaty.un.org/ilc/texts/instruments/english/conventions/1_1_1969.pdf

^{lxxiv} As amended by the 1972 Protocol.

^{lxxv} 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 and *Commentary on the Protocol Amending the Single Convention on Narcotic Drugs, 1961*, United Nations, New York, 1976, pp. 84-85.

^{lxxvi} See *Commentary on the Protocol Amending the Single Convention on Narcotic Drugs, 1961*, p.330.