UNGASS 2016:
Achtergrond en Uitkomsten

Martin Jelsma – mjelsma@tni.org
Harm Reduction Congres
Utrecht, 14 April 2016
# The treaty decades


<table>
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<tr>
<th>1960s</th>
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<td><strong>U Thant</strong></td>
<td><strong>Kurt Waldheim</strong></td>
<td><strong>Javier Pérez de Cuéllar</strong></td>
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| **1961 Single Convention on Narcotic Drugs** | **1964: Single Convention comes into effect** | **1969: UN Commission on Narcotic Drugs established** |
| **1976: Change in Dutch law enabling coffee shops** | **1977: Carter supports cannabis decriminalization** | **1978: Several US States decriminalize cannabis** |
| **1979: Deadline for opium (15 yrs); and legal regimes** | | **1980: Just Say No” campaign starts** |
| | | **1983: 1st US military operation in Andean region** |
| | | **1984: Crack epidemic takes off in US** |
| | | **1985: 1st Colombian extraditions to US** |
| | | **1986: US mandatory minimum sentences** |
| | | **1987: Conference Drug Abuse & Illicit Trafficking** |
| | | **1988: Convention Against Illicit Trafficking** |
| | | **1988: Deadline coca & cannabis (25 yrs)** |

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### The UNGASS decades


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#### UN Decade against Drug Abuse
- 1990: UNDCP established
- 1991: WHO/UNICRI Cocaine Project
- 1993: GA high-level meeting on drugs
- 1994: UNDOC's high-level meeting on drugs
- 1996: ECOSOC high-level meeting on drugs
- 1998: UNGASS on the World Drug Problem

#### Soft defecions – Polarization
- 2000: Organized Crime Convention (UNCOC)
- 2001: UNGASS on HIV/AIDS
- 2002: UNODC established
- 2003: Corruption Convention (UNGCC)
- 2004: CND Ministerial Statement (review)
- 2005: Political Declaration of HIV/AIDS
- 2006: “Containment” hypothesis launched
- 2008: “drug free” deadline
- 2009: CND Political Declaration

#### Systemic breaches
- 2011: Bolivia withdrawal of 1961 Convention
- 2012: US cannabis regulation (WA, CO)
- 2013: Uruguay cannabis regulation
- 2014: CND Ministerial Statement (review)
- 2015: GA high-level meeting on drugs
- 2016: UNGASS on the World Drug Problem
- 2019: “drug free” deadline

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1. UN Secretary-Generals: Javier Pérez de Cuéllar (Peru, 1982-1991); Boutros Boutros-Ghali (Egypt, 1992-1996); Kofi Annan (Ghana, 1997-2006); Ban Ki-moon (South Korea, 2007-2016).
2. UN Under-Secretary Generals for drug control: Margaret Anstee coordinated UN drug control activities in her capacity of Director General of the UN in Vienna (UK, 1987-1992) until UNDCP was established in 1991; Executive Directors of UNDCP and its successor UNODC: Giorgio Giacomelli (Italy, 1991-1996); Pino Arlacchi (Italy, 1997-2001); Antonio Maria Costa (Italy, 2002-2010); Yuri Fedotov (Russian Fed., 2011-?).
Widespread traditional uses

Medicinal use
Ceremonial use
Social use
Pharmaceutical preparations
1961 Single Convention on Narcotic Drugs

- incorporates key features of previous treaties: the 1925 export / import certification and the 1931 estimates / requirements system

- ‘General Obligations’ Art. 4: “limit exclusively to medical and scientific purposes the production, manufacture, export, import, distribution of, trade in, use and possession of drugs”

- requires the abolition of ‘quasi-medical’, traditional and religious uses of cannabis and coca leaf in 25 years (1989) and opium in 15 years (1979)
## Schedules 1961 Single Convention on Narcotic Drugs

<table>
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<tr>
<th>Schedule I</th>
<th>Schedule II</th>
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<tr>
<td>Substances that are highly addictive and liable to abuse, and precursors readily convertible into drugs similarly addictive and liable to abuse (e.g. cannabis, opium, heroin, methadone, cocaine, coca leaf, oxycodone)</td>
<td>Substances that are less addictive and liable to abuse than those in Schedule I (e.g. codeine, dextropropoxyphene)</td>
<td>Preparations containing low amounts of narcotic drugs, are unlikely to be abused and exempted from most of the control measures placed upon the drugs they contain (e.g. &lt;2.5% codeine, &lt;0.1% cocaine)</td>
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### Schedule IV

Certain drugs also listed in Schedule I with “particularly dangerous properties” and little or no therapeutic value (e.g. cannabis, heroin)
Schedules 1971 Convention on Psychotropic Substances

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<td>Drugs presenting a high risk of abuse, posing a particularly serious threat to public health with little or no therapeutic value (e.g. LSD, MDMA, cathinone)</td>
<td>Drugs presenting a risk of abuse, posing a serious threat to public health, which are of low or moderate therapeutic value (e.g. dronabinol, amphetamines)</td>
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<td>Drugs presenting a risk of abuse, posing a serious threat to public health, which are of moderate or high therapeutic value (e.g. barbiturates, buprenorphine)</td>
<td>Drugs presenting a risk of abuse, posing a minor threat to public health, with a high therapeutic value (e.g. tranquillizers, including diazepam)</td>
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Label for Buprenorphine Hydrochloride Injection 0.3 mg (base)/mL: NDC 0517-0725-01, FOR IM OR IV USE, Rx Only, Protect From Light.
Market response: illicit production
1988 Trafficking Convention: harsher sentences

Parties shall:

• make drug offences “liable to sanctions which take into account the grave nature of these offences, such as imprisonment or other forms of deprivation of liberty” [Art. 3, §4]
• “bear in mind the serious nature ... when considering the eventuality of early release or parole” [Art. 3, §6]
• ensure that “any discretionary legal powers ... are exercised to maximize the effectiveness of law enforcement measures in respect of those offences, and with due regard to the need to deter the commission of such offences” [Art. 3, §7]
• take measures to “eradicate plants containing narcotic or psychotropic substances, such as opium poppy, coca bush and cannabis plants, cultivated illicitly in its territory” [Art. 14, §2]
1988 Trafficking Convention: alternatives to incarceration

“in appropriate cases of a minor nature, the Parties may provide, as alternatives to conviction or punishment, measures such as education, rehabilitation or social reintegration, as well as, when the offender is a drug abuser, treatment and aftercare” [Art. 3, §4c]
### TABLE I

Precursors of psychotropic substances, such as ephedrine, piperonal, safranal, phenylacetic acid, lysergic acid; and a few key reagents such as acetic anhydride used in the conversion of morphine into heroin and potassium permanganate used in the extraction of cocaine.

### TABLE II

A wide range of reagents and solvents that can be used in the illicit production of narcotic drugs and psychotropic substances, but also have widespread licit industrial uses, including acetone, ethyl ether, toluene and sulphuric acid.
Escalation ‘War on Drugs’

- 1988 Convention; deadline 1989 coca & cannabis; crack epidemic US; military counternarcotics operations in the Andes and Central America; spraying in Guatemala, Colombia
- Assassination of Luis Carlos Galán in Colombia (August 1989) triggers 1st UNGASS on drugs
1989 – Speech Virgilio Barco
General Assembly, 29 September 1989

Demand Reduction
“the only law that the drug traffickers do not break is the law of supply and demand”

Weapons control

Chemical precursors

1989 – Speech Virgilio Barco
General Assembly, 29 September 1989

Fair trade prices:
“We cannot afford to talk idealistically of crop substitution in the case of the coca leaf while sabotaging Colombian farmers’ main cash crop and the country’s largest export” [1989 collapse of International Coffee Agreement]

Money laundering:
“Somehow our sense of justice is warped when a poor farmer who feeds his family by growing coca is seen as a greater villain than the wealthy international banker who illegally transfers millions of dollars of drug money”
1989 – Political turning point

- Soviet withdrawal from Afghanistan
- Fall of the Berlin wall; Cold War ending
- End military dictatorships in Chile, Paraguay
- War on Drugs replaces Cold War justification for US military operations abroad (Panama)
### The UNGASS decades


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**Key Events**

- **1990**: UNDCP established
- **1991**: WHO/UNODC Cocaine Project
- **1993**: GA high-level meeting on drugs
- **1995**: ECOSOC high-level meeting on drugs
- **1996**: UNODC high-level meeting on drugs
- **1997**: 1st UN World Drug Report
- **1998**: UNGASS on the World Drug Problem
- **2000**: Organisation of the 13th UNGASS (UNGASS)
- **2001**: UNDCP established
- **2002**: UNODC established
- **2003**: Corruption Convention (UNCAC)
- **2004**: CND Ministerial Statement (review)
- **2005**: Political Declaration on HIV/AIDS
- **2006**: "Containment" hypothesis launched
- **2008**: "drug free" deadline
- **2009**: CND Political Declaration
- **2011**: Bolivia withdrawal of 1961 Convention
- **2012**: US cannabis regulation (WA, CO)
- **2013**: Uruguay cannabis regulation
- **2014**: CND Ministerial Statement (review)
- **2015**: GA high-level meeting on drugs
- **2015**: 18th UNGASS on the World Drug Problem
- **2019**: "drug free" deadline

**UN Decade against Drug Abuse**

- **Soft defections – Polarization**
- **Systemic breaches**
1st UNGASS on drugs, 1990

- Proclaimed 1991 – 2000 the UN Decade Against Drug Abuse
- Adopted a 100-point Global Program of Action
- Established an Expert Advisory Group to assist Secretary-General Javier Pérez de Cuéllar (Peru) for a year

- Expert group recommends significant operational re-arrangement, leading to the establishment in 1991 of UNDCP, nowadays the UN Office on Drugs and Crime (UNODC).
Political Declaration:
“eliminate or significantly reduce the illicit cultivation of coca bush, the cannabis plant and opium poppy by 2008”

- Guiding Principles on Demand Reduction
- Action Plan: money laundering, synthetic drugs, precursor control, alternative development
- Integrated and balanced approach
We believe that the global war on drugs is now causing more harm than drug abuse itself.

Mr. Secretary General, we appeal to you to initiate a truly open and honest dialogue regarding the future of global drug control policies - one in which fear, prejudice and punitive prohibitions yield to common sense, science, public health and human rights.

500 signatories, including:

- Adolfo Perez Esquivel, Argentina
- Luiz Inacio Lula Da Silva, Brasil
- Isabel Allende, Chile
- Belisario Betancur, Colombia
- Juan Manuel Santos, Colombia
- Augusto Ramirez Ocampo, Colombia
- Oscar Arias, Costa Rica
- Daniel Cohn-Bendit, Germany
- Günter Grass, Germany
- George Papandreou, Greece
- Ramiro De Leon Carpio, Guatemala
- Andreas van Agt, Netherlands
- Miguel d'Escoto Brockman, Nicaragua
- Javier Pérez de Cuéllar, Peru
- Mario Vargas Llosa, Peru
- Allan Wagner, Peru
- George Shultz, USA
- George Soros, USA
- Mario Benedetti, Uruguay
## The UNGASS decades


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### 1990s

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- **1992**: WHO/UNODC/UNODC Project
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### 2000s

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- **2006**: “Containment” hypothesis launched

### 2010s

- **2008**: “drug free” deadline
- **2009**: CND Political Declaration
- **2011**: Bolivia withdrawal 161 Convention
- **2012**: US cannabis regulation
- **2013**: Uruguay cannabis regulation
- **2014**: CND Ministerial Statement (review)
- **2015**: GA high-level meeting on drugs
- **2016**: UNGASS on the World Drug Problem
- **2019**: “drug free” deadline

### UN Decade against Drug Abuse

- Soft defections – Polarization

### Systemic breaches
De-escalation: harm reduction
Decriminalisation: a quiet revolution

Argentina  Jamaica  Mexico  Netherlands (de facto)  Paraguay  Peru  Poland  Portugal  Spain  Uruguay  United States (state level)
The Legal Limits of Latitude

Testing the boundaries on cannabis
- Dutch coffeeshops
- US medical marijuana
- Spanish cannabis social clubs

Testing the boundaries on harm reduction
- Drug consumption rooms
- Heroin maintenance
- Pill testing
Escalation ‘War on Drugs’ continues elsewhere

- 2008 deadline; Plan Colombia, Plan Dignidad
- Human rights violations
- Aerial spraying
- Death penalty
- Mass incarceration
- Explosion of violence

Drug-War Related Murders in Mexico

![Graph showing drug-war related murders in Mexico from 2006 to 2011.](chart.png)

*Source: Reforma Ejecutómetro, Grupo Reforma*
10-year review: 1998 - 2008

UNODC 2008: “There is indeed a spirit of reform in the air, to make the conventions **fit for purpose** and adapt them to a reality on the ground that is considerably different from the time they were drafted.”


Political Declaration 2009:
Decides to establish 2019 as a target date to “eliminate or reduce significantly and measurably” the illicit cultivation of opium poppy, coca bush and cannabis; illicit production; illicit demand; money laundering, etcetera.

Political Declaration, high-level segment of the Commission on Narcotic Drugs at its 52nd session, March 2009
The UNGASS decades

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UN Decade against Drug Abuse | Soft defections – Polarization | Systemic breaches

2019: “drug free” deadline
Market response: Pharmaceuticals
Market response: New Psychoactive Substances

Number of new psychoactive substances reported to the EU Early Warning System, 2005–14
The Latinamerican ‘rebellion’

- Bolivia expels the DEA (2008)
- Ecuador closes US counternarcotics base in Manta (2009); pardon for drug couriers
- OAS Cartagena Summit (2012): “explore new approaches”; scenarios report
- Mexico, Colombia and Guatemala ask to bring forward the UNGASS: “revising the approach on drugs maintained so far by the international community can no longer be postponed” (2012)
Systemic breach: Coca regulation in Bolivia

- 2009: amendment proposal Single Convention
- 2011: withdrawal from the treaty
- 2013: re-adherence with coca reservation
Systemic breach: Cannabis regulation in Uruguay

“Someone has to be first...”
Systemic breach: Cannabis regulation in the US

Americans' Views on Legalizing Marijuana

Do you think the use of marijuana should be made legal, or not?

% No, not legal
% Yes, legal

12 16 28 25 23 25 31 34 36 44 58
84 81 70 73 73 64 64 60 54 39

GALLUP

YES WE CAN(NABIS)
WWW.NORML.ORG
Treaty reform off the table

“As a starting point, it is essential that Member States use the UNGASS to reaffirm support for the three UN drug-control conventions” (U.S. non-paper for UNGASS, June 2015)

EU common position to “maintain a strong and unequivocal commitment to the UN conventions” (December 2015)

UNGASS outcome document: “persistent, new and evolving challenges ... should be addressed in conformity with the three international drug control conventions, which allow for sufficient flexibility for States parties to design and implement national drug policies according to their priorities and needs” (April 2016)
UNGASS 2016: points of debate

- More health and development orientated drug control implemented in full compliance with human rights obligations, including the principle of proportionality
- More UN system-wide coherence on drug policy: better coordination between Vienna, Geneva and New York, and between the various UN agencies
- Improve access to controlled drugs for medical purposes
- Move away from drug-free deadlines towards more attainable harm reduction goals: less drug-related deaths, less drug market-related violence, etcetera
- Align drug control objectives with the post-2015 Sustainable Development Goals (SDGs)
UNGASS 2016: inclusive process?

- Lack of system-wide coherence clearly demonstrated in statements from other UN agencies
- Most Caribbean and African countries do not have permanent representation in Vienna
- Negotiations have mostly taken place in closed informal meetings
- Civil society participation: rhetoric versus reality
Broken consensus

- **Harm reduction**
  references to naloxone and overdose prevention, “medication-assisted therapy programmes” and “injecting equipment programmes”

- **Abolishing death penalty**
  Alternatives to incarceration, proportional sentences

- **decriminalization**

- **commitment to implement the provisions of the 2009 Political Declaration and the determination to “actively promote a society free of drug abuse”**

- **drug conventions “and other relevant international instruments” (a long-debated nuance) “constitute the cornerstone of the international drug control system”**
Civil society statement  
(CND, 14 March 2016)

“Given the highly problematic, non-inclusive and non-transparent nature of the preparatory process, the UNGASS is now perilously close to representing a serious systemic failure of the UN system. By failing to engage in meaningful critique, new ideas or language, the UNGASS Outcome Document is at risk of becoming an expensive restatement of previous agreements and conventions.”

“We call upon member states – especially those who have been shut out of the Vienna-based negotiations – to challenge the current draft of the UNGASS Outcome Document, to ensure the debate on it contents is not closed in Vienna, and to express their disappointment and dissent at the UNGASS in April.”
UNGASS on the World Drug Problem
General Assembly, New York, 19-21 April 2016

“I urge Member States to use these opportunities to conduct a wide-ranging and open debate that considers all options.”

Ban Ki-moon, 26th June 2013
1) Will the Outcome Document still be challenged?

2) Will there be dissenting statements on death penalty and harm reduction?

3) Will the broken consensus be clearly reflected in national statements?

4) Will an initiative like an expert advisory group be announced towards 2019?

5) Has the UNGASS process paved the way for more fundamental changes in the near future?
Thanks...

Sources & updates on #UNGASS2016:

UNODC: www.ungass2016.org
@ungass2016

TNI: www.tni.org/drugs
www.undrugcontrol.info
@DrugLawReform
@MartinJelsmaTNI

IDPC: www.idpc.net
@IDPCnet