

Negotiating the UNGASS outcome document: Challenges and the way forward

As the preparations for the United Nations General Assembly Special Session (UNGASS) on drugs¹ are well underway, the negotiation process has begun for the official outcome document that will be adopted at the Special Session in April. This outcome document should, according to the UN General Assembly, be a 'short, substantive, concise and action-oriented document comprising a set of operational recommendations... including an assessment of the achievements as well as ways to address long-standing and emerging challenges in countering the world drug problem'.² This IDPC advocacy note offers some reflections and recommendations on the negotiation process itself, and some general recommendations on the overarching tone that should be reflected in the final document.

The negotiation process for the UNGASS outcome document

Member states are now at a crucial stage of the negotiations on the text of the UNGASS outcome document following six months of preparatory discussions that have taken place in Vienna – both during intersessional meetings and at the 58th Reconvened Session of the UN Commission on Narcotic Drugs (CND).

The UNGASS Board (chaired by Egypt, and tasked by CND to oversee the Special Session preparations) invited regional groups of member states

to submit their recommendations for the outcome document by September 2015, and then collated these in one 200-page document called 'contributions' in October 2015, alongside an 'elements' paper that provided the first insight into the structure and content of the outcome document.³ On 14 January 2016, the first 'zero draft' of the outcome document was released by the UNGASS Board.⁴ A second draft was then released on 9th February 2016.⁵ The Board proposed, and the CND agreed, that most of the negotiations are to take place during 'informals' (closed and undocumented meetings) in Vienna. This approach raises some important questions.

Firstly, while it is entirely appropriate for member states to have time and space to meet and discuss the detailed text in 'informals', not all member states will be able to participate in these negotiations. We have previously highlighted that as many as 70 member states do not have permanent representation in Vienna, and even those that do will find it difficult to involve government experts from capitals in meetings that take place frequently and at short notice. As a result, the document presented to the full CND and the UN General Assembly will have only been agreed with the input of a minority of UN member states.

Secondly, civil society representatives and UN agencies (other than the UN Office on Drugs and

Crime) are unable to observe or participate in ‘informals’. If the negotiations will largely take place in these closed meetings, it does undermine the agreed commitment that the UNGASS will use ‘an inclusive preparatory process that includes extensive substantive consultations, allowing organs, entities and specialized agencies of the United Nations system, relevant international and regional organizations, civil society and other relevant stakeholders to fully contribute’.⁶ To date, the specific inputs from UN agencies, the Civil Society Task Force,⁷ or other civil society organisations,⁸ have not been tabled for discussion at either informals or intersessionals.⁹

In addition, the UNGASS Board and several member states have stated that the final draft should be finalised by the end of the UNGASS preparatory segment at the 59th Session of the CND – that is, on 16th March. Under pressure to conclude negotiations in the next 5 weeks, member states therefore run the risk of hurrying a negotiations process that is highly complex, without sufficient input from all stakeholders. This may lead to a final document of poor quality that does not adequately reflect the need for a strong and clear leadership statement from the UN system, in a time of rapidly changing challenges, and reforms to domestic policies and programmes.

IDPC recommends that while readings need to take place in ‘informals’, the text should not be considered finalised during these closed meetings without appropriate input from all member states and other key actors. Successive drafts should be made available to all stakeholders, and the full draft should be kept open until the UNGASS segment of the 59th Session of the CND, when a great deal more member states will be present and able to participate. ‘Informals’ should be limited to readings of the text and an exchange of views on specific issues contained therein, but should not be used to finalise paragraphs without properly negotiating them in the more open CND intersessional meetings. In addition, the option of negotiating language at the UNGASS itself should not be discounted. This is based on the principle that ‘nothing is agreed until everything is agreed’. Finally, submissions

towards the zero draft from the Civil Society Task Force and from UN agencies must be formally considered as part of an open and inclusive process.

General recommendations on the UNGASS outcome document

Many rich and diverse discussions have taken place in the preparations for the UNGASS on drugs, recognising that this is a deeply complex issue, which requires careful consideration and innovative thinking. The UNGASS outcome document should therefore incorporate a clear recognition of the limited progress that has been made towards the 2019 goals and an acknowledgment of new realities relating to the drug market, as well as an acceptance of the need for new approaches. The tone of any outcome document cannot be one of complacency, with governments simply reaffirming the aim to ‘achieve a society free of drug abuse’ (as is the case in the latest draft),¹⁰ reiterating existing approaches, and avoiding an honest assessment of ‘what works and what does not work’.

The decision of the General Assembly to bring the UNGASS forward from 2019 was taken in response to an urgent call from a group of Latin America countries stating that ‘revising the approach on drugs maintained so far by the international community can no longer be postponed’ and that the UN needed to exercise leadership to ‘conduct an in depth review analyzing all available options’.¹¹ The UNGASS needs to be a watershed moment in global drug policy. The outcome document should therefore take a progressive tone that demonstrates that the UN is serious about addressing the challenges and the lack of progress in international drug control, as well as the many negative consequences caused by a repressive approach. Any text that lacks this sense of urgency and endorses ‘business as usual’ will render the multilateral system out of touch with realities on the ground.

The outcome document should therefore acknowledge the fact that traditional prohibition-led drug policies have not achieved a reduc-

tion in the scale of the illicit drug market or in the prevalence of drug use – as evidenced in successive UNODC World Drug Reports¹² – and should highlight the need to adopt and implement new, innovative approaches. The document should also make it clear that the protection of health and human rights are the key priorities of international drug control, and should make a strong link to Agenda 2030 and the Sustainable Development Goals (recognising that the SDGs provide an overarching framework for UN system-wide work and that drug policies should contribute to, and not undermine, the achievement of these overarching goals).¹³

Similarly, the document should explicitly read across to other broader UN commitments – not least the human rights framework of treaties and declarations – explicitly stating that drug control policies need to be implemented in full compliance with these commitments, and describing what this means in terms of the right to health, indigenous rights, proportionate punishments, and the rights of women and children. In addition, UNAIDS has requested that the UNGASS outcome document includes a clear commitment to the reduction of new HIV infections among people who inject drugs, and to the package of prevention, treatment and care measures that have been proven to achieve this objective.¹⁴ UNAIDS, together with other UN agencies, has also called for the removal of criminal sanctions for drug use as part an enabling policy environment.¹⁵

In addition, the document should include a clear statement that people who use drugs should receive support and protection rather than punishment, and should strengthen the existing calls on member states to develop and implement alternatives to prosecution, punishment and incarceration.

Finally, the outcome document should recognise that women who use drugs often face greater stigma, discrimination and risks than men, and their health and social needs may differ significantly. Furthermore, the document should highlight that women incarcerated for non-violent drug offences represent the fastest growing

prison population, with devastating impacts on their lives, their families and societies as a whole.

Box 1. IDPC's asks for the UNGASS¹⁶

1. Ensure an open and inclusive debate
2. Re-set the objectives of drug policies
3. Support policy experimentation and innovation
4. End the criminalisation of the most affected populations, including people who use drugs and subsistence farmers engaged in illicit crop production
5. Commit to the harm reduction approach.

The structure of the UNGASS outcome document

Member states have discussed the ideal structure at length, and have agreed to return to this issue as the content of the text develops. IDPC has advocated for a five-pillar structure for the outcome document that reflects the five themes agreed for the UNGASS roundtables in CND resolution 58/8.¹⁷ These five pillars usefully encompass the key issues of concern to member states and facilitate clearer alignment and coherence with the wider UN system. The opening paragraph of each section can give a clear statement of how the drug control system aims to contribute to these wider objectives – for example by improving health, reducing crime, or promoting human rights, and social and economic development.

Drugs and health:

Covering demand reduction, prevention, harm reduction, evidence-based drug dependence treatment, the protection of public health, and the availability of controlled drugs for medical purposes.

Drugs and human rights:

Covering proportionality of sentences and criminal justice reform (with specific attention given to women), and full protection of all human rights in drug control, including indigenous, cultural and religious rights.

Drugs and crime:

Covering supply reduction, international cooperation, control of precursors, money laundering, reducing market-related violence, corruption, and the link with armed conflict and terrorism.

Drugs and development:

Covering social and economic development in areas of concentrated drug production, trafficking and consumption, including alternative development. A strong link to the newly agreed SDGs should be outlined under this theme (although the SDGs, like human rights obligations, are essentially cross-cutting and relevant to all themes).

New challenges:

Covering new psychoactive substances, new routes of supply and patterns of consumption, new challenges to the multilateral system posed by innovative policy developments and the need to balance obligations under the UN drug control treaties within broader co-existing international legal frameworks.

Box 2. The E-Book of Authorities

During UN-level consensus-based negotiations of text such as the UNGASS outcome document, it is always easier to propose and defend language that has been debated and agreed previously by member states – i.e. wording from previous resolutions or declarations. In recognition of this, IDPC, the Transnational Institute and Harm Reduction International (with support from the UNODC and Open Society Foundations) have created and maintained an online resource catalogue of agreed UN language on a selection of topics, covering: human rights, harm reduction, the death penalty, access to controlled medicines, proportionality of sentencing, alternative development, and flexibilities in the UN drug conventions. This ‘E-Book of Authorities’ aims to show the extent of existing international support for evidence-based policies, and to support the negotiations and debates on international drug policy: www.bookofauthorities.info.

‘Operational and action-oriented’

IDPC remains concerned that the text is not the ‘action-oriented document’ that was request-

ed,¹⁸ and omits any tangible, measurable or practical operational recommendations that respond to the challenges of the global illicit drug market in the 21st century. There are many areas of text that loosely call for action from member states, but have no specific actions that will be taken at UN level to respond to current and emerging challenges. In light of so many changes to the drug market and domestic policies, this lack of action will be hard to defend. IDPC has previously made suggestions on areas for constructive multilateral actions (see Box 3), and reiterate here that these should be included in the UNGASS outcome.

Box 3. Four specific UN actions to include in the UNGASS outcome document¹⁹

6. Agree upon a concerted UN-wide effort and action plan to close the gap in the availability of, and access to, controlled substances for medical use
7. Set up a technical working group to review the headline objectives of the international drug control system, with a view to agreeing a new and comprehensive approach in 2019
8. Set up an expert advisory group to review contemporary tensions within the UN drug control architecture
9. Establish a robust mechanism through which best practices and experiences can be shared between governments and professionals.

Endnotes

¹ See: www.ungass2016.org & <http://idpc.net/policy-advocacy/the-un-general-assembly-special-session-on-drugs-ungass-2016>

²

http://www.unodc.org/documents/ungass2016//Background/A_RES_70_181.pdf

³ The member states contributions on the UNGASS outcome document are available here: <http://idpc.net/alerts/2015/09/the-zero-draft-for-the-2016-ungass-contributions-from-member-states-and-regional-bodies>

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https://dl.dropboxusercontent.com/u/64663568/misc/Draftoutcomedocument_14January2016.pdf

⁵ http://cndblog.org/wp-content/uploads/2015/03/UNGASS-draft-outcome-document_9-February-2016.pdf

⁶

https://www.unodc.org/documents/ungass2016//Background/A_RES_69_201.pdf

http://www.unodc.org/documents/ungass2016//Contributions/Civil/CSTF/Civil_Society_Task_Force_Recommendations_for_Zero_Draft_September_2015.pdf

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https://www.unodc.org/ungass2016/en/contribution_ngos.html

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https://www.unodc.org/ungass2016/en/contribution_UN_Entities.html

¹⁰ See para 2 of the latest draft: http://cndblog.org/wp-content/uploads/2015/03/UNGASS-draft-outcome-document_9-February-2016.pdf

¹¹ *Declaración Conjunta*, New York, 1 October 2012,

http://mision.sre.gob.mx/onu/images/dec_con_drogas_esp.pdf

¹² See, for example: <http://www.unodc.org/wdr2015/>

¹³ Health Poverty Action & International Drug Policy Consortium (2015), *Drug policy and the sustainable development goals*, <http://idpc.net/publications/2015/11/drug-policy-and-the-sustainable-development-goals>

¹⁴ Joint United Nations Programme on HIV/AIDS (2015), *A public health and rights approach to drugs*,

http://www.unaids.org/sites/default/files/media_asset/JC2803_drugs_en.pdf

¹⁵ Joint United Nations Programme on HIV/AIDS (2015), *A public health and rights approach to drugs*,

http://www.unodc.org/documents/ungass2016//Contributions/UN/UNAIDS/JC2803_drugs_en.pdf; UN Task Force on Transnational Organized Crime and Drug Trafficking as Threats to Security and Stability - Policy brief on gender and drugs, UN Women (2014), *A gender perspective on the impact of drug use, the drug trade, and drug control regimes*,

https://www.unodc.org/documents/ungass2016//Contributions/UN/Gender_and_Drugs_-_UN_Women_Policy_Brief.pdf; United Nations Development Program (June 2015), *Addressing the development dimensions of drug policy*,

<http://www.undp.org/content/dam/undp/library/HIV-AIDS/Discussion-Paper--Addressing-the-Development-Dimensions-of-Drug-Policy.pdf>; World Health Organisation (July 2014), *Consolidated guidelines on HIV prevention, diagnosis, treatment and care for key populations*,

<http://www.who.int/hiv/pub/guidelines/keypopulations/en/>

¹⁶ International Drug Policy Consortium (2014), *The road to UNGASS 2016: Process and policy asks from IDPC*,

<http://idpc.net/publications/2014/10/the-road-to-ungass-2016-process-and-policy-asks-from-idpc>

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https://www.unodc.org/documents/ungass2016//Background/CND_Resolution_58_8.pdf

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http://www.unodc.org/documents/ungass2016//Background/ARES_70_181.pdf

¹⁹ International Drug Policy Consortium (2015), *IDPC recommendations for the “zero draft” of the UNGASS outcome document*, <http://idpc.net/publications/2015/07/idpc-recommendations-for-the-zero-draft-of-the-ungass-outcome-document>

About this advocacy note

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About IDPC

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

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