



REPORT

1st Brandenburg Forum on Drugs and Development Policies “TAKING STOCK OF UNGASS 2016 AND THE CHALLENGES AHEAD”

The 1st Brandenburg Forum on Drugs and Development Policies took place from July 11 to July 13, 2016, at the Hotel Schloss Lübbenau in the picturesque Brandenburg, Germany. The Forum was hosted by the Deutsche Gesellschaft für Internationale Zusammenarbeit (GIZ) GmbH on behalf of the Federal Ministry for Economic Cooperation and Development of Germany (BMZ), jointly with the Drug Commissioner of the Federal Government of Germany, the Ministry of Foreign Affairs of the Netherlands, the International Drug Policy Consortium (IDPC) and the Transnational Institute (TNI). Within the framework of the Global Partnership on Drug Policies and Development (GPDPD) project, the meeting brought together 48 expert participants from Germany, Brazil, Colombia, Ghana, Jamaica, Kenya, Mexico, the Netherlands, Portugal, Thailand, the United Kingdom, and the United States – as well as from the United Nations Development Programme (UNDP), the United Nations Office on Drugs and Crime (UNODC), the World Health Organization (WHO) and the Joint United Nations Programme on HIV/AIDS (UNAIDS), and several international, regional and national civil society partners.

The 1st Brandenburg Forum aimed to provide a forum, protected by confidentiality rule, for an open and timely discussion after the UN General Assembly Special Session on Drugs (UNGASS) 2016, reflecting on its positive outcomes and remaining challenges alike. **This report summarizes exclusively the discussions during the meeting and does not reflect the institutional positions of the co-hosting parties.**

Session 1: “Analysis of the Outcomes of UNGASS 2016”

The opening session sought to discuss whether the expectations from UNGASS on the world drug problem in April 2016 had been fulfilled. The response was mixed, reflecting the complexity of debates at the international level.

A number of participants reflected on challenges and concerns surrounding the UNGASS preparatory processes. For example, several participants highlighted the tough nature of consensus-based negotiation itself, together with a perceived lack of transparency, time pressures, the

Participant Feedback

As part of efforts to improve and refine ongoing activities under the GPDPD project, a total of 34 evaluation forms were completed and collected at the end of the Forum. The feedback was overwhelmingly positive: 94% of participants agreed that they had acquired new ideas on development-oriented drug policy; 65% acquired new ideas on health-oriented drug policy; and all agreed that ideas from the conference could be applied to their work. Finally, 97% of participants said that their expectations from the Forum had been fulfilled, and expressed interest in attending future fora.

exclusion of civil society and other relevant actors from decisive moments of the substantive debates, and the unclear decision making processes by the UNGASS Board. Several participants also noted the divergence between official country positions at the UN and their domestic practices on the ground. For example, some countries that implement harm reduction interventions domestically were not willing to endorse these in the political negotiations in Vienna. It was generally agreed that important lessons should be drawn from the shortcomings of the UNGASS process, but that the international community should also spend the time and efforts on the content issues, looking forward on how to best use the positive gains made in the outcome document as noted below.

There were several areas in which participants felt that the outcome document itself¹ fell short – due to a lack of coordination and political will among some countries. Some participants mentioned disappointment over the absence of references in the outcome document to shifting resources to health-based approaches, decriminalisation, harm reduction, the failures of current drug policies, the ongoing use of the death penalty, regulation of the global financial system, corruption, any future actions and monitoring mechanisms, and cannabis regulation models now in use in several countries (cited by one participant as “the elephant in the room”). Some participants also mentioned the principle of “a world free from drug abuse” to be impractical and the predominance of safeguards and disclaimers throughout the document. Furthermore, some participants also lamented the statement that the international drug conventions provide “sufficient flexibility” to member states, effectively stifling any critical review of the conventions themselves.

While acknowledging the inherent frustrations of diplomatic processes such as the UNGASS, most participants were also keen to highlight achievements and progress in the outcome document. These included, inter alia: references to the relevant UN minimum standards about the treatment of prisoners (Bangkok Rules, Tokyo Rules and Nelson Mandela Rules); support for “alternative or additional measures with regard to conviction or punishment” (paragraph 4 j); the strengthened focus on a balanced approach that includes human rights and public health responses; the expanded structure which better highlights controlled medicines; the linkages made to the Sustainable Development Goals (SDGs); the more comprehensive inclusion of development, including alternative development interventions in urban settings and a broader reference to socio-economic development in general; incorporation of the relationship between law enforcement and violence; and the strong inclusion of gender perspectives. Outside of the outcome document itself, participants also cited positives such as the greater engagement of the “UN family” in the preparations, and how the UNGASS debates themselves helped to open new political space – with 32 countries supporting harm reduction in their statements, 61 opposing the drug penalty, 16 referencing the need for proportionality, and 17 discussing the need for new approaches, etc.

The strong engagement of civil society as a key stakeholder was also mentioned as a positive outcome, despite some significant challenges in New York and Vienna. At the actual UNGASS in New York, a last minute change in the procedure for civil society access resulted in many representatives, who had travelled from all over the world, being denied access to observe the plenary and the roundtables due to heightened security concerns. Civil society participants were included in some government delegations, and the Civil Society Task Force represented more than two years of work and advocacy and came together well to deliver inputs and an Informal Interactive Stakeholder Consultation in New York in February 2016.² However, concerns were raised about how well these civil society inputs were incorporated into the UNGASS outcomes, and about the sustainability of funding for this level of civil society engagement. The media coverage and attention was also cited by some participants as a positive aspect of the UNGASS process.

¹ <http://www.un.org/Docs/journal/asp/ws.asp?m=A/RES/S-30/1>

² <http://www.cstfondrugs.org/activities-1/>

Overall, it was felt that the UNGASS of April 2016 – in spite of its procedural shortcomings – represented a relevant step forward on the road towards the next UN review in 2019 or 2020 – “a cross-cutting x-ray to understand everyone’s positions, alliances and the roles they may play”, as one participant put it. Several participants also highlighted the need to build upon the UNGASS to support bottom-up policy changes, to strengthen civil society and academic engagement, to further develop debates on topics such as novel psychoactive substances, and to advocate for the implementation and evaluation of the outcome document commitments. The potential role of an expert advisory group to take the debates forward was also highlighted by a number of participants, and is discussed in greater detail below.

Session 2: “Setting the Focus for Future Action”

This session utilised an innovative “design thinking” approach that helped to further reflect upon the UNGASS 2016 and, crucially, to begin the process of conceptualising and mapping out the way forward. Participants were divided into four mixed groups, and each group rotated around five “stations” to tackle five different questions designed to inform the remaining discussions. In the groups, participants were encouraged to brainstorm and then prioritise responses to the questions by pinning their ideas onto large notice boards.

1. “What opportunities has the UNGASS created and how can those be implemented?”

Within this group, participants discussed the progress that had been made with regard to human rights, health and development issues. Areas mentioned by participants included harm reduction, removing criminal sanctions for drug use (decriminalisation), proportionality of sentencing, gender issues, and removing barriers to access to controlled medicines. While many considered the final agreed language in the outcome document on some of those issues as disappointing, the general sense was that the UNGASS process as a whole had brought significant advances to the global debate that could be built upon in the years to come and could help in awareness-raising efforts with governments, donors and the media.

In addition, the group noted that the visibility of other parts of the UN family in the UNGASS process was highly welcomed. This strengthened coordination will serve to improve system-wide coherence and mechanisms to ensure the continued engagement of all the relevant UN entities, alongside improved engagement with civil society and affected communities. One possible idea that was raised to take this agenda forward was that of an expert advisory group.

The UNGASS outcome document with its broader structure of seven themes (as compared to the previous limited 3-pillar structure of demand reduction, supply reduction and international cooperation) was welcomed by the group given that it created an opportunity for a more balanced basis for structuring the global debate and negotiations towards 2019/2020.

Finally, the group highlighted possibilities to strengthen the mutual linkages between the SDGs and drug policy. This might include greater commitments of resources, as well as leadership to move discussions forward to ensure greater coherence between drug control and development objectives. A mentioned tangible point was the suggestion to use the SDGs as an opportunity to encourage a shift of metrics away from focusing only on alternative development (AD) towards a broader range of development goals.

2. “What are the critical issues of the UNGASS outcomes that need to be addressed?”

Participants in this group brainstormed the areas that they felt had been overlooked or under-emphasised by the UNGASS but needed heightened focus in the coming years. They identified the need to build the political will to challenge and change things, and to ensure a more open and honest debate about what is and what is not working in terms of drug control efforts. A key area that the group highlighted was the need for greater understanding and consideration of human

rights obligations in drug policy. Concerns around the continued use of the death penalty for drug offences in a minority of countries were specifically mentioned. The group noted that the UNGASS outcomes highlight the urgent need to “un-clutter criminal justice systems” through legislative reforms, introducing proportionality of sanctions and alternatives to incarceration as well as consideration of removing criminal punishment for drug use.

The broadening out of the development issues was welcomed by participants, underscoring that in following up on UNGASS there needs to be better integration between the drug control and the SDGs agenda. In line with this, the group identified a need to commit to measurable, meaningful metrics and targets for drug control, and to proper monitoring and evaluation of international efforts and obligations. The group discussed the proposal to create an expert advisory group which could help to address complex and challenging issues such as improving coherence with the SDGs and human rights, scenarios for resolving tensions and inconsistencies within the UN drug control system and possible revisions of its underlying architecture.

The last area mentioned was the need for the meaningful and full participation of civil society, affected communities, the scientific community, all UN entities and all member states in future negotiations to help address some of the barriers that some member states and other stakeholders continue to face.

3. “How to connect drug policy to the SDGs in order to make policies more holistic and to improve UN system-wide coherence?”

To address the question posed to this group, the participants identified the need to ensure that the SDGs are more visible in national debates on drug control and not only discussed at the UN level. In addition, collaborative dialogue between civil society, UN agencies and governments on the intersection between the SDGs and drug policies would help to advance holistic policies and programmes. Related to this was the discussion on the need for thorough assessment of development and drug control policies at the UN and national level in order to agree on coherent roadmaps and indicators based on a bottom-up approach that takes into account realities on the ground. The group noted that leadership from the incoming UN Secretary-General on system-wide coherence and ensuring inter-agency cooperation would be crucial.

As identified in both groups 1 and 2, also in this group several participants recommended the development of specific drug policy metrics in the context of the SDGs, which in turn could support the alignment of a possible new post-2019 Political Declaration with the 2030 SDGs review timeframe. Participants noted that metrics must be appropriate to the national level, and should include a focus on (and engagement with) the affected populations such as growers, indigenous populations, women and girls, young people, and people who use drugs.

Finally, this group suggested a focus on sequencing at the national level through impact assessments, greater research and education to inform policy makers about what does and does not work. This may require reform of the policy-making architecture to redirect funding accordingly and achieve greater coordination.

4. “How can procedural aspects of international drug policy be improved with a view to 2019?”

This group reflected on the procedural process for the UNGASS and sought to make recommendations for the process towards 2019/2010. Some participants noted a need to improve transparency in the Vienna negotiations through more democratic and inclusive processes (rather than the overuse of closed “informal informals” as was seen during the UNGASS preparations), and encouraging national delegations to include cross-cutting expertise (not just law enforcement) and civil society representatives, as already practiced by many governments. Indeed, the issue of civil society participation was also a key point raised in the group. Ensuring inclusive debates with civil society and affected populations, and even allowing direct civil society presence in drafting,

negotiations and reviews was suggested by several participants. The general feeling was that mechanisms for meaningful participation could be much improved at all levels.

Several participants acknowledged that there had been improvements in bringing in other parts of the UN family into the UNGASS debate and that member states should consider creating a mechanism to strengthen system-wide coherence across the UN. This could potentially be driven by the new UN Secretary General and achieved with clearly identified roles as well as with dedicated resources for WHO, UNDP and UNAIDS among others.

In terms of other procedural elements, this group identified the need for a clear roadmap between now and 2019/2020, and suggested an open discussion about whether or not a new 10-year Political Declaration is even needed. Participants felt that any preparatory body should be more inclusive and should work in a more transparent way than the UNGASS Board did – particularly ensuring adequate time for discussions and negotiations. Some participants suggested that a new document should not be adopted at the start of a potential next high level meeting, and could potentially be supported by the work of an independent expert advisory group to provide advice on key issues, as well as by more training and support for country delegations to develop negotiation skills and technical knowledge.

5. “How to deal with legislative challenges for member states?”

The fifth group discussed legislative challenges for governments in the post-UNGASS period. Several participants noted that providing evidence-based, transparent expert and legal advice to governments on the options and flexibilities afforded to them under the UN drug control conventions is critical. Furthermore, the exchange of best practices and impacts, both in terms of innovative policies and new approaches should be encouraged. This could include the provision and promotion of model drug laws that reflect the available evidence, best practices and human rights commitments – and developed with the engagement of civil society and affected populations.

Session 3: What to Aim for Next?

The next part of the meeting comprised four group discussions covering public health, development, human rights and the UN system – and focused on key recommendations for the next steps towards 2019/2020.

1. Public Health

The group’s discussion began with a focus on the relationship between law enforcement and public health goals – as punitive legal environments can impede even the best harm reduction services when people feel too fearful to access support. In the view of some participants, the decriminalisation of drug use would be a prerequisite for an effective public health approach – but there remains a need to better define what this means in practice and which models exist and work best. According to many statements, voluntary and evidence-based drug treatment is preferential to imprisonment – but this required better quality of care in many countries, especially for women. The forthcoming UNODC model drug laws were mentioned in this regard, but were also criticised by some participants for falling short on presenting decriminalisation and harm reduction models, and for the inadequacy of the consultation and review processes thus far.

The discussions also covered the need to focus more on (and better document) the scale and coverage of harm reduction services, on protecting and increasing the global funding for harm reduction, and on better adapting these services for women, for stimulant users and for non-injecting drug use. The UNGASS outcome document uses the term “medication-assisted treatment”. Participants agreed that this term should be properly defined. Participants also covered the need to

capitalise on the UNGASS commitments around access to controlled medicines, as well as the need to include drug prevention when talking about health.

2. Development

The group discussion recognised the importance of the UNGASS with regards to the linkages between development and drug control – even though the SDGs do not directly address drug policies. For the first time, the UNGASS document broadened the traditional paradigm of alternative development addressing merely illicit drug crop cultivation, opening the term towards urban settings and other drug economy related phenomena. Additionally, some participants welcomed the clear reference of the UNGASS outcome document to the SDGs. In addition, several participants stated that moving forward under the umbrella of the SDGs and the language of the UNGASS outcome document would require an ongoing debate on a broader and longer-term philosophy elaborated in conjunction with the development community and affected populations. Moreover, it was stated that the recently adopted broader approach of AD requires further research and policy experimentation to make the case. Several participants perceived this new language to open policy options for less-punitive approaches towards small traders in urban markets (similar to the AD approach towards small farmers) and for prioritising socio-economic development, violence reduction and citizen security as overarching SDG policy targets over short-term and narrowly-defined drug control objectives.

Another issue that regularly surfaced in the discussion related to the changing perceptions regarding ‘licit’ and ‘illicit’ plants and drugs. As perceived by some participants, policy developments in the areas of indigenous rights, access to controlled medicines and cannabis regulation have also questioned traditional concepts about ‘legitimate uses’ of cannabis, opium poppy and coca leaf. Some participants underscored that those changes should be taken into consideration as well in a broader perspective on drugs and development.

3. Human Rights

The group discussion highlighted how the UNGASS had taken the human rights agenda further than ever before with respect to the drug control debates referring to the specific pillar on human rights that has been included in the Outcome Document. It was noted that attention must now be paid to fulfilling the mandate and momentum that the UNGASS has created – to emphasize human rights issues in drug control policies in an integrated manner.

Participants discussed the capacity gap in awareness and understanding of these human rights issues, particularly at the national level. According to several statements, this would be coupled with a lack of financial resources and donor attention to the issue of human rights within drug control. It was mentioned that expertise on the intersection between drug policy and human rights is still lacking and that greater investment is needed in this area. More work is also needed to continue to ensure that drug policy is on the agenda of the international human rights mechanisms, and also to translate international language and commitments into something that local implementers and affected communities can operationalise and measure. In particular, the idea of creating specific and meaningful metrics on human rights compliancy with drug control policies, connecting indicators and objectives, would be a positive and helpful development, according to the working group.

Other proposed ideas included developing guidance on how to report on human rights in relation to drug control (for example, engaging with the HRC to include violations in their annual meetings and reports), and more direct condemnation from UNODC and the International Narcotics Control Board (INCB) of states that violate human rights in the name of drug control. The UNGASS has set a clear mandate for the UN drug control entities to strongly promote drug control that is compliant with human rights and to highlight problematic and damaging policies. The principle of ‘do no harm’ was mentioned several times as one that should underpin the design and delivery of drug control

programmes. Finally, the participants also discussed the importance of country statements against the death penalty, even though this was blocked from being included in the UNGASS outcome document.

4. The UN System

In summarising the discussions from this group, the rapporteur highlighted three main areas. Firstly, the group discussed the need for improvements to the institutional architecture of the UN drug control system. This included the need to reaffirm and strengthen the existing mandate of WHO, although it was also noted that WHO has not always been able to play its role under the treaties and that member states need to apply pressure and provide resources to ensure leadership on this issue. At the same time, according to some deliberations, the INCB has undergone an evolution in recent years and can further improve and integrate its positions and transparency, including processes to improve civil society involvement and input. It has been stated by some participants that the CND itself could be used more effectively by member states to ensure the relevance and legitimacy of a 2019/2020 forum.

Secondly, the group discussed wider mechanisms for cross-UN coordination, including the alignment of a possible new ten-year Political Declaration in 2020 with the 2030 SDG agenda and timeframe. After the failure in the past to elaborate a System-Wide Action Plan (SWAP) on drugs, some participants called for a new mechanism that would improve coherence, to ensure that all relevant UN agencies maintain expertise and resources for drug control issues, and to build upon the progress made at the UNGASS.

Thirdly, the legal architecture of the UN drug conventions was discussed, with many participants conceding that it would be difficult to come up with something that is structurally different in the current political climate. Beyond utilisation of the “flexibility” that the conventions allow (as acknowledged in the UNGASS outcome document), several participants highlighted that member states require a “safe space” for an honest debate to explore alternative policy scenarios for the future. It was noted by some participants that such a space currently does not exist within the UN system. Linked to this, it was suggested in some statements that an expert advisory group could play an important role in confronting internal inconsistencies between the three drug control treaties, and supporting the development of new metrics and review mechanisms. Finally, several participants agreed that the issue of cannabis regulation cannot be ignored in 2019/2020 like during the 2016 UNGASS process, because there is the anticipation that many more jurisdictions will have regulated their cannabis markets by then.

Session 4: The Way to 2019/2020

After short rapporteur presentations from the four group discussions above, this final session sought to wrap-up from three days of dialogue, reflection and hard work, and to elucidate some of the immediate next steps and actions needed. It was broadly agreed that any proposals need to be further elaborated and refined through informal consultations, before being formally tabled for discussion ahead of the CND. The formal preparations for 2019/2020 should ensure to include all member states and other stakeholders in a transparent and well-defined process. Some participants mentioned the possibility of a UN inter-agency task force (similar to the UN Task Force on Transnational Organized Crime and Drug Trafficking) to accompany the 2019/2020 review and to ensure coherence with the SDG process.

The importance of improved communication and alignment of common positions between like-minded groupings of countries (such as through the Brandenburg Dialogue, the G7, the so-called “Cartagena Group” and other informal dialogues and coordination efforts among member states).

More effective coordination could enhance preparations for 2019/2020 and help to improve participation in any Vienna-based debates.

Some participants also called for a formal evaluation to garner “lessons learned” from the UNGASS process, as the international community moves into the inherently political process discussions for 2019/2020. There could be separate evaluations from member states, UN agencies and civil society (for the latter, an evaluation of the Civil Society Task Force is underway). Some participants felt that reforms of the negotiation process would be vital, and many agreed that a clear road map is needed to clarify the official procedures, mandates and timeframes looking forward.

It was also widely agreed that progress towards a broader consensus could only be made in the coming year by also engaging more of the current status-quo minded countries to discuss the key issues such as harm reduction, human rights, development or the death penalty.

Finally, on the development agenda, participants reiterated the need to address economic and social development aspects under the guise of the SDGs, as well as the need to discuss funding mechanisms for cross-cutting drug control, development and human rights work and impact assessments. It was also confirmed that future GPDPD activities will likely include further Expert Group Meetings on the broader AD paradigm alluded to in the UNGASS outcome document, as well as a second Brandenburg Forum in early 2017 to build upon and further develop the discussions.