

Drug War *Monitor*

JANUARY 2004

Cracks in the Vienna Consensus: *The UN Drug Control Debate*

by Martin Jelsma and Pien Metaal (Transnational Institute – TNI)

“Laws – and even the international Conventions – are not written in stone; they can be changed when the democratic will of nations so wishes it.”¹

Four decades have passed since the first United Nations drug control convention entered into force. Numerous UN conferences and summits have been devoted to negotiating a harmonized global approach to illicit drugs. Yet more and more cracks are now beginning to appear in the supposedly universal model which is, in reality, based on a highly fragile consensus. The failure to counter the ever-growing problems related to the abuse of illicit drugs has led countries to question the validity of current policies and to experiment with approaches less driven by the U.S.-inspired ideology of “zero tolerance” and more rooted in pragmatism. This has led to increasing acceptance of the concept of harm reduction for consumers, where drug use is treated as a public health rather than a law enforcement problem. On the production side, discussion centers on the need to secure alternative livelihoods for involved farmer communities and how to most effectively promote alternative development. The policy debates are heating up within the polarized environment of the UN drug control system, under the pressure of the looming 2008 deadline established in 1998 by the UN General Assembly Special Session on Drugs to achieve significant and measurable results in reducing world drug supply and demand.

Background

Drug control has its origins in the desire to protect human well-being. The international community, concerned about the impact of drugs on public health, began to prohibit a series of substances and establish measures to suppress production, distribution and abuse “for the health and welfare of mankind,” according to the opening phrase of the first UN drug control treaty in 1961. Ever since, the illicit drug economy has grown exponentially, while the strategy for fighting it has escalated into a full-scale war, including the use of military operations against small farmers engaged in the production of drug-linked crops, chemical fumigation of those crops, and mass imprisonment and even death penalties for drug law offenders in some countries. The prohibition of illicit drugs also placed the market of this lucrative trade in the hands of criminal organizations, creating huge illegal funds that have fueled corruption and armed conflicts around the world.

The way in which the global regime was set up decades ago is questioned by many as a historical error which has aggravated, rather than helped resolve, the problems. An expanding group of nations is involved in efforts to undo the unintended negative

A WOLA BRIEFING SERIES

A publication of WOLA's “Drugs, Democracy and Human Rights” project, which examines the impact of drug trafficking and U.S. international drug control policies on human rights and democratization trends throughout Latin America and the Caribbean

UNITED NATIONS



The UN is the arena where arguments for less punitive policies are only slowly making headway, and must be defended against the doctrines of the past.

consequences of the drug war that have built up over the past decades; they opt for a return to the original aspiration of protecting the welfare of mankind through a process of evaluation and experimentation based on empirical evidence.

On the demand side, this has led to the establishment of harm reduction practices that have had positive results in terms of reducing the negative consequences of drug use through practices such as: needle exchange programs that reduce the transmission of HIV/AIDS among injecting drug users in dozens of countries around the world; the establishment of drug injection rooms to reduce the number of overdose deaths in Switzerland, Germany, the Netherlands, Spain, Canada and Australia; and medical heroin prescription programs for long-term addicts in Switzerland, the Netherlands, Germany and Spain. The successes of these experiments are prompting increasing numbers of countries to consider the introduction of similar harm reduction measures. Meanwhile, to lighten the burden on law enforcement agencies and the justice apparatus, many countries have decriminalized drug consumption *per se* and the police no longer enforce measures against possession of drugs for personal consumption. Specifically for cannabis, the decriminalization trend is spreading from the few pioneer countries that liberalized legislation long ago to new ones, including the United Kingdom and Canada. In many places, the new approaches are already showing concrete results in reduced crime rates, fewer overdose deaths, better access to health services for the most problematic user groups, and more rational use of resources within law enforcement and judicial institutions. (Please see "A review of the evidence-base for harm reduction approaches to drug use" by Neil Hunt, at <http://forward-thinking-on-drugs.org/review2.html> for more information.)

With regard to production, in particular the cultivation of drug-linked crops like coca leaf, opium poppy and cannabis, the space for policy diversity under the UN drug control conventions is much smaller; several regions, in fact, have experienced an escalation of the war on drugs over the past years. The search for more humane and pragmatic approaches toward production can be observed within the debate on alternative development, with proposals that urge the complete delinking of forced crop eradication from rural development projects in areas with illicit cultivation. The drug issue is seen increasingly as a cross-cutting theme within the broader context of developmental aims and conflict prevention. The idea that a harm reduction approach is needed as much on the production side as on that of consumption is slowly gaining ground.

The UN is the arena where arguments for less punitive policies must be defended within the strictures of the conventions and against the doctrines of the past, and are only slowly making headway. Such viewpoints must confront, among other countries, the United States, which leads efforts to maintain the status quo and tends to oppose open debate or questioning of present policies. In April 2003, the UN Commission on Narcotic Drugs (CND) met in Vienna for a mid-term review of the progress made towards goals set five years earlier in New York, at the 1998 UN General Assembly Special Session (UNGASS) on the world drug problem. This meeting can be seen as a missed opportunity to modify drug policy goals in a way that would take current realities and experience into account, and to candidly discuss the growing tensions between policy practices and the letter of the law. Still, cracks in the "Vienna consensus" have become more visible, opening new opportunities for positive change in the years ahead.

Drug control in the UN system

Drugs are an issue of concern to the international community as a whole. In fact, it is one of the first issues for which international agreements were negotiated and where the

Continuation of a Failed Policy

Especially on the supply reduction side, there is an astonishing lack of sound argumentation about the consequences and impact of policy interventions on the illicit market. The general assumption seems to be that interdiction operations contribute to achieving the aim of supply reduction simply because they are designed to do so. Market responses and counter-measures by criminal groups involved are not taken into account when judging the overall impact. Very basic questions are rarely posed. For example, if price developments are a useful indicator of drug availability, there are no data on the basis of which one could argue that the many seizures of shipments have ever reduced prices or the availability of illicit drugs. They seem, rather, to have prompted increased production to balance the losses. Tightening precursor control is more likely to increase their black market prices, increase criminal R&D investments in replacement chemicals and exacerbate corruption in the chemical industry, rather than reducing the availability of the illicit drugs, which is ostensibly their main aim. Already the smuggling of precursors has become an illegal business as profitable as smuggling drugs themselves.

Looking at the available estimates for key indicators like global production and price trends, positive conclusions as to the effectiveness of the current drug control regime cannot be drawn. "Attempts to combat illegal drugs by means of law enforcement have proved so manifestly unsuccessful that it is difficult to argue for the status quo," said the chairperson of the House of Commons Home Affairs Select Committee in the United Kingdom, Chris Mullin, when he released the Committee's report *The Government's Drugs Policy: Is It Working?* in May 2002. The report concluded: "If there is any single lesson from the experience of the last 30 years, it is that policies based wholly or mainly on enforcement are destined to fail. It remains an unhappy fact that the best efforts of police and Customs have had little, if any, impact on the availability of illegal drugs and this is reflected in the prices on the street which are as low as they have ever been. The best that can be said, and the evidence for this is shaky, is that we have succeeded in containing the problem."*

From *An Agenda for Vienna: Change of Course*, Drugs & Conflict Debate Papers No. 6, Transnational Institute, March 2003, p. 19.

* *The Government's Drugs Policy: Is It Working?*, House of Commons Home Affairs Select Committee, United Kingdom, May 2002.

global harmonization of approaches and laws has advanced most. There is no other issue today where one can find a universalized discourse translated into almost identical national legislation around the world. Behind this apparent universality, however, multiple divides running across the drug policy debate have led to continuous frustrations and confrontations at the level of the United Nations. These have led to inconsistencies within the UN drug control machinery that, to date, remain unresolved:

- ▶ The first of these is the cleavage between **repression** and **protection**, between law enforcement and social policy, between punishment and assistance. Regarding the consumption of drugs, either crime or health concerns are emphasized, placing responsibility in the hands of either the police or the medical profession. For production, whether crop eradication or development is prioritized determines whether the military or a development agency is given the leading role.
- ▶ A related split is that between **dogma** and **pragma**, between the philosophies of "zero tolerance" and "harm reduction," between those who believe that the problem can be eliminated and those trying to learn how best to cope with it, between those reconfirming the status quo and those reassessing it.
- ▶ As with so many other issues, the divide between **North** and **South** is present – between donors and recipients, between the powerful and the dependent, between

UN Acronyms

CICP

Center for International Crime Prevention

CND

UN Commission on Narcotic Drugs

ECOSOC

Economic and Social Council

GRULAC

Group of Latin American and Caribbean States

INCB

International Narcotics Control Board

OIOS

UN Office of Internal Oversight Services

UNAIDS

Joint United Nations Program on HIV/AIDS

UNDCP

UN International Drug Control Program

UNGASS

UN General Assembly Special Session

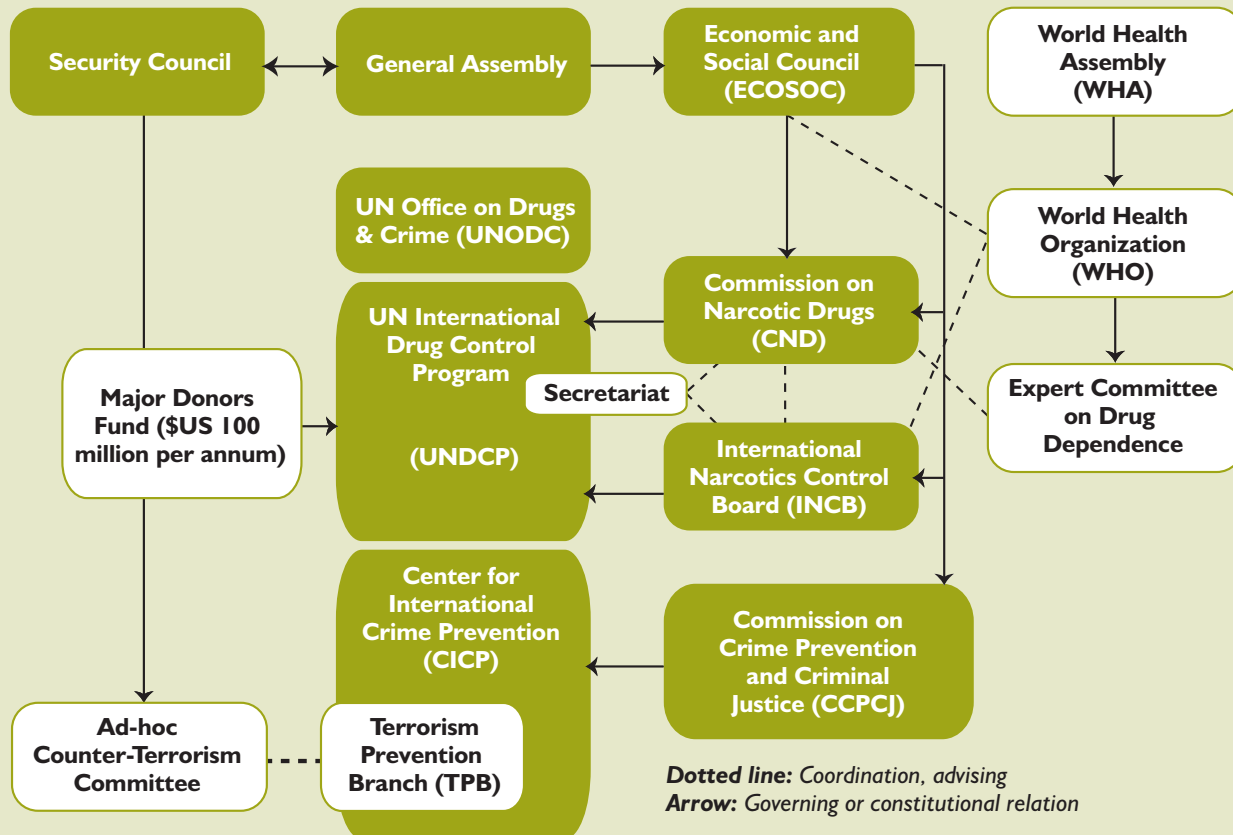
UNODC

UN Office on Drugs and Crime

WHO

World Health Organization

United Nations Drug Control



those with political room for maneuver and those whose tap may be turned off if their words or actions displease their funders.

- Finally, there is balance between **demand** and **supply**, that is, whether it is consumption or production that should be considered most to blame for the expansion of the illicit drug market. Some believe it is more effective to concentrate resources on demand reduction because supply tends to accommodate demand, while others hold that the levels of demand can best be influenced by cutting off the flow of drugs, thereby reducing availability, driving up prices and stifling demand.

At the time the first UN treaty was negotiated, the illicit cultivation and production of plant-based drugs were mainly concentrated in the developing countries of Asia and South America, and consumption in the industrialized countries of Europe and North America. Today this distinction is greatly decreased. The boom of amphetamine-type stimulants, including ecstasy, has led to major production in the North (as well as the South), while cannabis cultivation on an industrial scale has become common in the North (for instance in Canada, the Netherlands and the United States). Consumption has also become a global issue and is increasingly prevalent in production and transit countries. Today most heroin addicts are to be found in countries like Pakistan, Iran, India and possibly China, while Brazil has become the second-largest cocaine consumer after the United States. While this blurring of drug-producing and drug-consuming

countries has caused some shifts along the fault-lines of the four divides, these latter remain very much intact.

Every UN debate and the resulting treaty articles or resolutions can be traced back to different positions on these four overlapping scales. Consensus-seeking, which is at the core of how the UN system functions, has not been easy in the midst of these divides; the agreed-upon discourse is consequently filled with language like “balanced approaches,” “comprehensive measures” and “integrated strategies.” A type of virtual reality was created in the conference halls, as if somehow these different positions all contributed to a common goal, reinforcing one another, while in fact, some are incompatible or mutually exclusive. This has made it difficult to determine where the drug issue should be placed within the UN organizational structure.

The UN Commission on Narcotic Drugs

The Commission on Narcotic Drugs (CND) is the central policy-making body within the UN system for dealing with all drug-related matters. It operates as one of the functional commissions of the Economic and Social Council (ECOSOC).² The CND “analyzes the world drug situation and develops proposals to strengthen the international drug control system to combat the world drug problem,” according to its own description, and functions as the governing body of the UN International Drug Control Program (UNDCP), approving its budget and providing policy guidance on its activities. The fifty-three CND member states meet annually in Vienna, in sessions that are open to attendance by other countries, other UN agencies and NGOs possessing ECOSOC consultative status.³

During the annual session, reports from the UN Office on Drugs and Crime (UNODC) and the International Narcotics Control Board (both described in greater detail below – please see the organizational chart in this document) are discussed and decisions are made about the scheduling of substances under the 1961 and 1971 conventions, based on recommendations from the World Health Organization (WHO) Expert Committee (also described below). The CND was responsible for drawing up the conventions and has the mandate to propose amendments, new treaties or declarations. Any member state can bring draft resolutions to the table for discussion, negotiation and approval. No votes are taken – all disputes are settled by consensus. “This means that every decision usually comes down to the lowest common denominator – the one that is least offensive to the largest number,” notes one analyst. One member of the commission can block a resolution and “face-saving” solutions are sought, often leading to vague wording in the resolutions.⁴

INCB: convention watchdogs

The International Narcotics Control Board (INCB or Board), established in 1968, is the independent and quasi-judicial control organ for the implementation of the UN drug conventions. The Board consists of thirteen members – three elected from a list of candidates nominated by the WHO and ten from a list nominated by governments. Nominations are presented to the ECOSOC and voted on by the fifty-four member states. The main function of the INCB is to control the licit medical and scientific drug supply, ensuring that “leakages from licit sources to illicit traffic do not occur” through, for example, a licensing system for the licit cultivation of poppy and production of morphine and heroin for medical purposes.⁵

The INCB publishes an annual report that signals new tendencies and developments in illicit drug control, and also contains direct warnings to those countries that the Board considers to have been lenient in their efforts. Besides threatening to revoke licenses

“This means that every decision usually comes down to the lowest common denominator – the one that is least offensive to the largest number...”

International Drug Control Conventions

The legal backbone of the worldwide drug control system consists of three drug control conventions, negotiated under the auspices of the United Nations:*

- ▶ The *Single Convention on Narcotic Drugs*, 1961, as amended in 1972 by the *Protocol Amending the Single Convention on Narcotic Drugs*;
- ▶ The *Convention on Psychotropic Substances*, 1971; and
- ▶ The *Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances*, 1988.

Replacing the various treaties signed until then, the Single Convention of 1961 was set up as a universal system to control the cultivation, production, manufacture, export, import, distribution of, trade in, use and possession of illicit substances, with special attention to those that are plant-based: opium/heroin, coca/cocaine and cannabis. More than a hundred substances are listed in the four schedules of the convention, placing them under varying degrees of control. Among the most controversial scheduling decisions are the placement of the coca leaf under Schedule I and cannabis under both Schedules I and IV.**

The 1971 Convention on Psychotropic Substances, developed in response to the diversification of drugs of abuse, introduced controls over the licit use of more than one hundred – largely synthetic – psychotropic drugs, like amphetamines, LSD, ecstasy, valium, etc., again distributed among four schedules. Compared to the tight controls over plant-based drugs, the 1971 treaty imposes a weaker control structure because of the overwhelming influence of European and North American pharmaceutical interests throughout the negotiations. An important purpose of the first two treaties is to codify internationally applicable control measures in order to ensure the availability of drugs for medical and scientific purposes, while preventing their diversion into illicit channels.

In response to the increasing problem of drug abuse and trafficking during the 1970s and 1980s, the Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances of 1988 provides for comprehensive measures against drug trafficking. These include provisions against money laundering and the diversion of precursor chemicals as well as agreements on mutual legal assistance. The convention also tightens the obligation of countries to apply criminal law sanctions to combat all aspects of global drug production, possession and trafficking.

* For a comprehensive overview see Jay Sinha, "The History And Development of the Leading International Drug Control Conventions," prepared for the Canadian Senate Special Committee on Illegal Drugs, 21 February 2001.

** "The single Convention distinguished four groups of substances for which it provides four general regimes of differing strictness." E/CN.7/590. *Commentary on the United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, Done at Vienna on 20 December 1988*, New York: United Nations, 1998, ISBN 92-1-148106-6. For a general description of these four regimes, see article 2, paragraph 1-5.

for the production of opiates, the INCB has no sanctions it can apply – instead, it attempts to shame governments into fulfilling their treaty obligations. Member states do not take such criticism lightly, as it implies that the country in question is failing to live up to its international responsibilities, is flouting international treaties adopted across the globe and is a weak link in efforts to combat drug trafficking and crime. For poorer countries, such criticism can also have practical implications such as reductions in foreign aid or other forms of international cooperation if countries that maintain a drug control-linked sanction regime, such as the United States, consider violations grave enough to warrant taking action.

The INCB tends to interpret the conventions very strictly and regularly oversteps its mandate by condemning a given country's national policy decisions based on alternative interpretations of those conventions, often leading to tensions. The Board's strong wording about the United Kingdom's recent decision to change its cannabis policy triggered an angry response. The UK Home Office sent a letter to the INCB "to record its dismay at comments made in the [INCB] annual report about the Government's decision to reclassify cannabis." The British government objected, in particular, to the "alarmist language used, the absence of any reference to the scientific evidence on which that decision was based, and the misleading way in which the decision was presented by the INCB to the media."⁶

In an expression of many member states' unhappiness with the U.S. government's behavior within the multilateral system, the U.S. nominee was voted off the INCB in 2001 at the same time as the United States temporarily lost its seat in the UN Commission on Human Rights. After heavy lobbying, the United States rejoined the Board on October 31, 2003, when thirty-five countries in ECOSOC supported the candidacy of Melvyn Levitsky. In the early nineties, Levitsky served as the State Department's most senior official dealing with international drug control issues. He is currently a professor at Syracuse University and a board member of the Drug Free America Foundation.⁷ INCB members do not formally represent their countries, nor can they hold governmental positions while serving on the INCB.

UNDCP: the crisis years

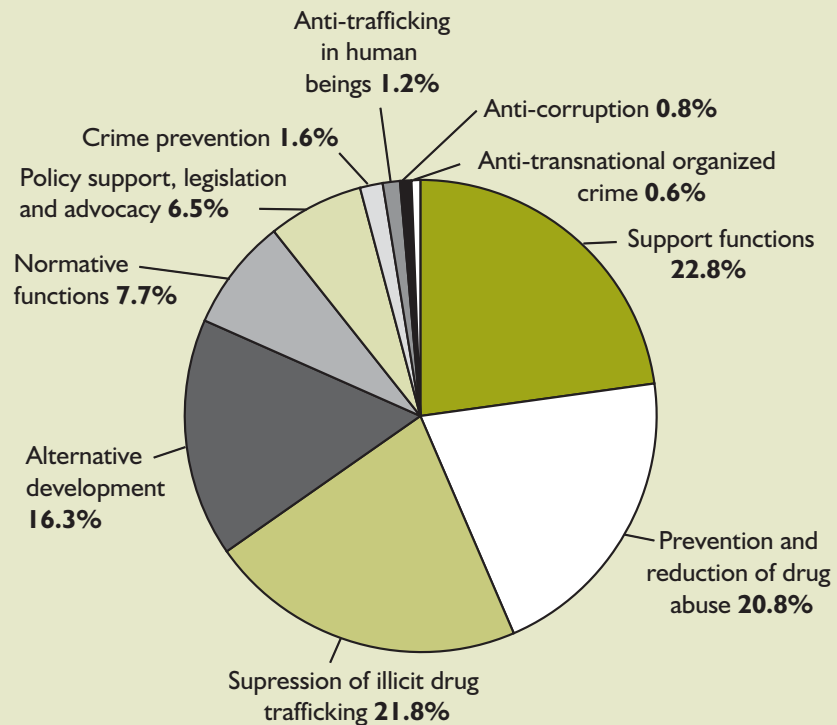
The UNDCP, established in 1991, is the UN agency responsible for coordinating international drug control activities. Compared to other UN programs or specialized agencies, UNDCP is a relatively small organization, with some two-hundred staff at headquarters in Vienna and twenty-one field offices running many programs in the areas of demand reduction, alternative development and law enforcement. Reflecting the diverse approaches of the member states, it has sought a balance among these demand- and supply-oriented programs. The UNDCP also hosts the INCB secretariat and serves as the secretariat of the CND.

The UNDCP's annual budget is around (U.S.) \$100 million, ninety percent of which comes from voluntary contributions administered through the Major Donors Fund. In theory, policy guidance comes from the CND, but in practice, much is defined by the group of major donors. For many years, Italy was the largest funder – explaining why the agency has thus far been directed by an Italian – with the United States as the second largest. In 2003, however, the U.S. government announced it would double its contribution to about \$25 million, making it the leading donor country, which immediately translates into increased political influence over the organization. Other major donors include Japan, Sweden, the European Commission, Germany, France, Denmark, the Netherlands, Switzerland, Norway, Spain, Australia, Austria, Belgium, Finland and Canada.⁸

UNDCP regards itself "as the ultimate depository of policy consensus among Member States on drug control issues and as a leading provider of technical assistance for the implementation of such consensus."⁹ It has facilitated the harmonization of drug control legislation that has taken place at the global level. Its April 2003 report to the CND highlights the provision of training to judges, prosecutors and other law enforcement officials, as well as the provision of legal assistance in drafting legislation for drug control, including laws regulating precursor chemicals and money-laundering. New model legislation was also developed for use in countries that follow the Islamic legal tradition.¹⁰

Criticism of poorer countries' drug control strategies can have practical implications such as reductions in foreign aid or other forms of international cooperation, if countries such as the United States consider violations grave enough to warrant taking action.

UNODC Operational Priorities 2002–2003



TOTAL FUNDS: US \$198.9 MILLION

Source of data: UNODC, Operational priorities: guidelines for the medium term, 20 January 2003. Available on www.unodc.org.

As the leading multilateral agency for drug issues, the UNDCP's ability to function is crucial. However, the agency recently went through a deep crisis, and the UN Office of Internal Oversight Services (OIOS) was called in to investigate mismanagement, donors lost confidence, and Executive Director Pino Arlacchi was forced to step down in December 2001. One of the OIOS reports concluded that its role:

...as a center of expertise cannot be fulfilled without a free exchange of views, discussions and the involvement of staff in decision-making. However, at the time of the inspection, corporate mechanisms of collective advice and guidance and of program and policy coordination were not functioning. Also lacking was a consistent system for program oversight in the form of monitoring implementation and assessing results. [...] Thematic evaluations were few and had not led to much-needed substantive discussions or changes in practice. There was no mechanism to formulate lessons learned and to feed them back into program formulation and delivery.¹¹

Moreover, the OIOS concluded that the agency claimed successes on the drugs front "beyond the limits of credibility."¹² Doubts arose not only about management style and the lack of transparency around projects, but also regarding the policy direction being taken by the agency. Under Arlacchi, the UNDCP embarked upon highly questionable undertakings like negotiations with the Taliban regime to put a ban on opium

production in place and the development of mycoherbicide (fungus) crop eradication projects for Colombia and Uzbekistan. Those projects caused considerable damage to the political credibility of the organization, as did exaggerated claims about its ability to eliminate completely the world's illicit drug-linked crops. The motto for the 1998 UNGASS, "A Drug-Free World – We can do it!" and the much-criticized *World Drug Report 2000* were cases in point, demonstrating just how out of touch the agency was with shifting opinions on international drug control.¹³ All of this contributed to the erosion of confidence that took place among some donor countries and, even more, among the NGO and academic communities working on drug issues.

The OIOS recommendations triggered a reform process in mid-2001 at UNDCP's Vienna headquarters, and several organizational improvements are now well underway under the current executive director, Antonio Maria Costa. The question remains, however, as to whether the office will be able to move away from its politicized zero-tolerance position towards becoming a more neutral center of expertise able to moderate between the different views on drug policy and its present-day application.

UNODC: Merging drugs, crime and terrorism

In his first address to the staff, Mr. Costa emphasized the connections between "drugs, crime and terrorism, the evils of our time." By 1998, steps were already being taken to bring the UNDCP and the Center for International Crime Prevention (CICP) together under a single umbrella. Mr. Costa simplified the name of the merged agencies into what is currently known as the UN Office on Drugs and Crime (UNODC). He is now taking this process further by dissolving the still-separate entities of UNDCP and CICP and reorganizing them into a single, unified UNODC structure. A consolidated 2004–2005 budget has been presented integrating drugs, crime and terrorism into a single operational unit. This step has significant implications because the current dual UNODC structure is governed by two separate ECOSOC commissions: UNDCP by the CND, and the CICP by the Commission on Crime Prevention and Criminal Justice. Ultimately, the structure foreseen would imply a merger between the two commissions and the conversion of the Major Donors Fund for UNDCP into a fund for UNODC.

CICP's main activities include global programs against corruption, trafficking of human beings and organized crime. Two important new UN treaty instruments were recently put in place. On September 29, 2003, the Convention against Transnational Organized Crime entered into force, and in October, negotiations on a UN Convention against Corruption were successfully concluded. The Terrorism Prevention Branch within CICP started on a small scale in 1999, basically as a one-man show collecting data and preparing manuals on preventive measures. The branch gained momentum after the September 11 attacks, growing rapidly to a staff of twelve. According to UNODC director Costa, collaboration between UNODC and the Security Council Counter-Terrorism Committee continues to grow.¹⁴

The international harmonization of drug control legislation based on UNDCP model laws is being expanded into the field of terrorism: "The legal tools have broad applicability beyond purely drug-related organized crime and assist States in their efforts to combat transnational organized crime and terrorism. [...] Terrorist organizations and drug trafficking and other organized criminal groups use the same techniques to launder funds used to finance their activities."¹⁵

For example, two initial model laws were drafted during 2003 in reference to the International Convention for the Suppression of the Financing of Terrorism adopted by the General Assembly in 1999. According to James Callahan, Director of Treaty Affairs

No one will deny the intimate relationship between the drug and crime issues. But the addition of terrorism to the mix, a response to the international community's changed priorities, risks over-emphasizing the drugs-crime connection.

The drug issue cuts across many policy areas, and is as closely related to health or development as it is to crime. At the same time, tensions between the drug control and health-oriented bodies within the UN are on the rise.

at UNODC, these models “will provide governments with the tools they need to bring their legislation into compliance with the Convention and with UN Security Council Resolutions aimed at ending terrorism.”¹⁶

The structure of UNODC as proposed will have four divisions: Operations, Treaty Affairs, Research and Public Affairs, and Management. The Treaty Affairs division, in close collaboration with the INCB Secretariat, would provide legal advice on the implementation of the combined drugs, crime and corruption conventions and would include the terrorism branch. The running of operations would be subdivided into three areas:

- ▶ *human security*, which includes HIV/AIDS prevention, treatment and rehabilitation (demand reduction), and sustainable livelihoods (alternative development);
- ▶ *anti-trafficking*, with units focusing on counternarcotics, organized crime and human trafficking; and
- ▶ *justice reform*, with units on corruption, money-laundering and criminal justice reform.¹⁷

This restructuring of UNODC still requires formal approval by the UN General Assembly and Secretary General Kofi Annan.

UN system-wide consistency at risk

No one will deny the intimate relationship between the drug and crime issues. The addition of terrorism to the mix within the UNODC can be interpreted as a response to the international community’s changed priorities. It also, no doubt, played a role in convincing the United States to double its contribution. However, this trend risks over-emphasizing the drugs-crime connection. There is a price to pay, as other factors are given lower priority in the process and the cracks in the international consensus on drug control issues grow wider.

The drug issue cuts across many policy areas, and is as closely related to health or development as it is to crime. The priority given within the UN community to the relationship between drugs and crime appears to be pushing UNODC drug control policy to focus more on a law enforcement approach than one geared toward health or development. While most countries have established drug policy coordinating structures that carefully balance responsibilities between the health, justice, internal and foreign affairs departments, attention to drug-related issues within the UN system threatens to become more unbalanced.

At the same time, tensions between the drug control and health-oriented bodies within the UN are on the rise. The WHO’s Department of Substance Abuse, the section specializing in drug issues, has been nearly disbanded. It was merged in 2000 with the Department of Mental Health, “reflecting the many common approaches of management of mental health disorders and substance dependence.”¹⁸ Closer to the truth would be to say that rigorous evidence-based approaches to substance abuse research led to a conflict of interests with the dominant drug control ideology, and the WHO specialists “lost the battle.” During the 1990s, the WHO program attempted to “bring back common sense to the drug issue,” using its research to challenge certain dogmas, but since the merger and the staff reductions, those attempts have been largely neutralized.¹⁹

The WHO has a specific role in the formulation of UN drug policy, relatively separate from the core triangle CND-UNDCP-INCB. As noted previously, it is restricted to making recommendations to the CND, on the basis of health

considerations, as to how a given substance should be categorized under the schedules of the 1961 and 1971 conventions. To accomplish this task, the WHO convenes an Expert Committee on Drug Dependence every two years. The WHO has been at odds with the established drug control system and the illicit-licit distinction from the beginning – its mandate to look at impacts on public health has led it to give more weight to alcohol and tobacco abuse. It therefore consistently uses language such as “psychoactive substances, including alcohol and tobacco,” or “psychoactive substances, regardless of their legal status.”

Reports from the Expert Committee and the outcomes of special WHO research projects on cocaine, cannabis and heroin prescription have led to significant tensions within the triangle.²⁰ After a WHO report concluded that the “use of coca leaves appears to have no negative health effects and has positive, therapeutic, sacred and social functions for indigenous Andean populations,”²¹ the U.S. government accused the WHO of “undermin[ing] the efforts of the international community to stamp out the illegal cultivation and production of coca.” The U.S. government also threatened, “If WHO activities relating to drugs fail to reinforce proven drug-control approaches, funds for the relevant programs should be curtailed.”²²

Conflicting views and policies are also evident in the area of harm reduction. The General Assembly Special Session in 2001 on HIV/AIDS adopted a declaration that “harm reduction efforts related to drug use,” and “expanded access to essential commodities, including [...] sterile injecting equipment” should be ensured by 2005.²³ Both WHO and UNAIDS use the term “harm reduction” as a matter of course. “The United Nations fully endorses the fundamental principles of harm reduction,” according to Catherine Hankins, associate director of UNAIDS.²⁴ The UN Development Program (UNDP), in its latest *Human Development Report* on Colombia, makes an urgent plea for the harm reduction philosophy to be applied to the production side as well, in order to allow conflict resolution efforts to move forward.²⁵

Meanwhile, UNODC’s executive director, Antonio Costa, calls harm reduction “a battleground of recrimination, perpetuating an increasingly unhelpful debate.”²⁶ INCB president Philip Emafo considers needle exchange to be contrary to the conventions²⁷ and condemns the harm reduction policy trend as a “crusade” to undermine them.²⁸

UNDCP legal experts argued, in a recent confidential memorandum to the INCB, that most harm reduction measures are indeed acceptable under the conventions. However, in reference to those articles in the conventions that the experts interpreted as being on tense legal footing with harm reduction, the document states: “It could even be argued that the drug control treaties, as they stand, have been rendered out of synch with reality.”²⁹

The UN and alternative development

Alternative development is considered to be one of the fundamental instruments for controlling the world’s illicit drug supply, and the UN has played an important role in these efforts over the past decades. No UN agency has ever been directly involved in forced eradication efforts. Three decades of experimenting with development strategies to shift farmers away from illicit crops have brought many improvements to the underlying concept. The narrow approach in the 1970s of simple crop substitution – the eternal search for more profitable licit crops – was broadened in the 1980s to that of integrated rural development, focusing on finding alternative sources of income and

“It could even be argued that the drug control treaties, as they stand, have been rendered out of synch with reality.”

Room for maneuver: consumption

“Reductions in illicit crop cultivation were invariably short-lived. One key flaw was that local communities participated little, if at all, in the actual design of the programs themselves.”

The implementation of the UN drug conventions is left to the parties themselves. This leaves room for interpretation, allowing countries to develop a differentiated national drug policy. However, this latitude is not unlimited. In general, the Conventions require loyal enforcement by the parties, while the possibilities for formal revision of the treaties to expand the space for policy diversity are extremely limited.

One thing is clear: there is no obligation to criminalize the personal use of drugs within any of the UN conventions. The *Commentary* on the 1988 convention leaves no room for doubt on the issue: “It will be noted that, as with the 1961 and 1971 conventions, paragraph 2 does not require drug consumption as such to be established as a punishable offense.”* However, for all acts preceding the consumption of illicit drugs, that is, their purchase or possession, the treaties – especially the 1988 convention – are much stricter. Articles 2 and 4 of the 1961 Single Convention could be interpreted as requiring the prohibition of the production, trade, possession and even use of drugs, but this requirement is not spelled out. It does limit the use of drugs strictly to medical and scientific purposes, leaving little room for the possibility of legal recreational use. “Free and unrestricted availability of narcotic drugs to people for non-medical purposes is prohibited,” according to the CND. However, according to Article 2 (paragraph 5b), the prohibition is only required from a signatory state “if in its opinion the prevailing conditions in its country render it the most appropriate means of protecting the public health and welfare.” States are thus not obliged to establish sanctions or punishments, criminal or otherwise, under the 1961 convention.

The 1988 convention tightens the control regime significantly, although one loophole remains on the consumption side. Article 3 clearly distinguishes between the “production, manufacture, extraction, preparation, offering, offering for sale, distribution, sale, delivery on any terms whatsoever, brokerage, dispatch, dispatch in transit, transport, importation or exportation” in paragraph 1; and “the possession, purchase or cultivation of narcotic drugs or psychotropic substances for personal consumption” in paragraph 2. Paragraph 1 has an absolute mandatory character, since it states that a signatory party shall “establish as criminal offences under its domestic law” the acts mentioned in that paragraph. However, the requirement for a party to criminalize the acts under paragraph 2 is “[s]ubject to its constitutional principles and the basic concepts of its legal system.” This loophole leaves countries a range of legal options with regard to how they treat preparatory acts for personal consumption.

* E/CN.7/590. *Commentary*, par. 3.95, p. 82.

improving the quality of life by incorporating infrastructure improvements, better access to markets and to health and education facilities.

But, as the 2000 *UN World Drug Report* states:

[I]ntegrated rural development projects, as they were designed, still failed to meet expectations. They were costly and administratively complex. Reductions in illicit crop cultivation were invariably short lived. One key flaw was that local communities participated little, if at all, in the actual design of the programs themselves. This drawback led, predictably, to inappropriate – or at the very least, sub-optimal – project design.³⁰

In response to these shortcomings, a new framework was developed in the 1990s under the banner of “alternative development” that included using a participatory approach, giving more attention to household decision-making processes, taking into account overall conditions for development, and linking the objective of reducing illicit

Room for maneuver: production

Since the 1988 convention took effect, there has been no room for maneuver on the production side. The 1961 convention's "special provision applicable to cultivation" (Article 22) still left the decision whether or not to criminalize cultivation in the hands of each individual country, and several conditions were specified under which a country might permit the cultivation of opium poppy, coca leaf and cannabis. Even so, a special government agency would have to be established to control production and prevent diversion to illicit channels; any cultivation outside of such a regulated system would not be permitted and would have to be destroyed. Peru made use of this option when it established its National Coca Company (ENACO).

These possibilities ended with the adoption of the 1988 convention. The 1961 convention was tied to an agreement to phase out opium consumption within fifteen years' time and coca within twenty-five years. That period was over by the time the 1988 convention entered into force; outside of the provision in Article 3, paragraph 2 permitting a country to make its own decisions on the legality of cultivation for personal use, all cultivation must be treated as a criminal offense. In an attempt to avert the direct consequences such prohibition would have for its coca policy, Bolivia, together with Peru, successfully lobbied for the inclusion of a reference in the 1988 convention to the fundamental right of indigenous people to traditional consumption. It is doubtful, however, whether the ambiguously defined exception offers any production-side room for maneuver beyond cultivation for personal traditional use. Laos seems to have used this option by allowing elderly opium consumers to legally grow their own poppies.

The absence of latitude under the conventions for the production side is a major obstacle to the introduction of pragmatic policies for the sector of small farmers who cultivate illicit crops. The proposal debated in the Colombian congress to decriminalize small-scale illicit cultivation, or the Jamaican proposal to decriminalize cannabis, including its cultivation, are examples of policy proposals that are difficult to realize without running into conflict with the conventions. In the context of alternative development programs, it also hinders attempts to find a legal rationale for allowing more realistic gradual reduction schemes on a longer-term basis, in accordance with the slow pace of securing alternative livelihoods, without resorting to forced eradication.

An additional problem is posed by the fact that the three crops – opium poppy, coca and cannabis – are mentioned specifically by name in several articles of the 1961 convention. A reassignment to one of the lighter control schedules would allow for more flexibility on the consumption side, but not for cultivation. There have been proposals for rescheduling as an option to allow for greater policy diversity, and such steps would be scientifically backed by many studies, including some undertaken by the WHO. Still, to create latitude for the cultivation side, amendments of the articles in which they are mentioned would be necessary.

cultivation to broader sustainable development goals. In the most advanced policy documents, the word "eradication" is used more often in relation to poverty than in relation to drugs.

These conceptual improvements in the alternative development field were accompanied by trends in the global drug policy debate. The discourse within the CND began to incorporate the idea of "shared responsibility" between the North and the South in addressing the global drug issue. It was recognized that the agricultural crisis in developing countries contributed to the expansion of the illegal economy and, therefore, development assistance was needed to provide viable alternatives to small farmers. Acknowledging the greater focus on supply-side elements in the three conventions and the frustration this created in Southern countries, the global discourse recognized Northern responsibilities, including the issues of demand reduction, chemical precursors, money laundering, synthetic drug production and funding for alternative development efforts.

The agricultural crisis in developing countries contributed to the expansion of the illegal economy and, therefore, development assistance was needed to provide viable alternatives to small farmers.

Several delegations argued that the old dichotomy between producer and consumer countries should give way to the principle of “shared responsibility” as the cornerstone of international drug control, and that the agenda should reflect a “balanced approach” that included all aspects of the drug problem.

The North/South divide was an important driving force behind the call for the UNGASS on drug policy that took place in June 1998, ten years after the adoption of the Trafficking Convention. Originally, the Group of 77, brought together as a bloc of developing countries to counteract the weight of the developed G7 countries, hoped to get agreement on a fourth convention wholly focused on demand reduction. The Group – at the time led by Mexico – did not quite manage this, but instead reached compromise in the form of a commitment to convene a UN General Assembly Special Session (UNGASS) on the drug policy issue.

When preparations for the UNGASS began, several delegations stressed that the global event should mark the end of the “era of finger-pointing” in drug policy controversies. They argued that the old dichotomy between producer and consumer countries should give way to the principle of “shared responsibility” as the cornerstone of international drug control, and that the agenda should reflect a “balanced approach” that included all aspects of the drug problem, focusing on those points that are largely ignored in the existing conventions.

The 2008 deadline

The 1998 UNGASS agenda emphasized the issues of demand reduction, chemical precursors, amphetamines, money laundering, and “eradication and alternative development.” The marriage of the concepts of eradication and alternative development was maintained throughout the preparations and the final documents. Two parallel tracks were set in motion that defined the outcomes and consequences of the UNGASS for the alternative development field: the *Strategy for Coca and Opium Poppy Elimination (SCOPE)*, and the *Action Plan on International Cooperation on Eradication of Illicit Drug Crops and on Alternative Development*, where several provisions were included to limit the application of forced eradication.

Although SCOPE ultimately failed to be adopted, its general sense permeated the United Nations drug control establishment. SCOPE’s primary objective was the worldwide elimination of illicit cultivation of the coca bush and opium poppy by the year 2008, calling for “a balanced approach between law enforcement, alternative development and demand reduction, to finally rid the world of the scourge of heroin and cocaine.” SCOPE focused on eight key countries in three regions: Bolivia, Colombia and Peru in Latin America; the Lao People’s Democratic Republic, Myanmar (Burma) and Vietnam in southeast Asia; and Afghanistan and Pakistan in southwest Asia. The strategy argued that a massive final offensive could eliminate the problem once and for all:

After three decades of experience, the international community is now equipped with tested methodologies and the know-how to tackle the problem in the producing areas. The strengthening of the drug control mechanisms in the regions concerned has paved the way for full-scale interventions and most producing countries have adopted well-defined national strategies and action plans that are ready for implementation. At the same time, it is possible to monitor the areas at risk in order to prevent the “balloon effect” from nullifying the overall impact of elimination programs.³¹

SCOPE was tied to a huge budget of \$4 billion, which may have been the plan’s only positive aspect in that it recognized for the first time the magnitude of the sums required to take a development-oriented approach to the drug cultivation issue seriously. For example, the fact that the European Union spends more every single year in subsidies to European tobacco farmers – around \$1 billion – than the combined sum the whole world has allocated to alternative development efforts for coca and opium poppy farmers all through the past decades, remains a sorry example of policy priorities that are out of balance. But the reluctance of potential SCOPE donor countries to provide the

required funds was also based on solid arguments against its deadline mentality and its underlying strategy that combined mutually-exclusive developmental and repressive measures. These doubts prevented the SCOPE plan from becoming part of the official UNGASS agenda, and the UNDCP never mentioned SCOPE again.³²

Nevertheless, over the many objections of diverse participants in the meeting, a 2008 deadline for the elimination of drug crops was included in the UNGASS Political Declaration. It calls on member states to “strongly support” the work of the UNDCP in the field of alternative development, and to “emphasize the need for eradication programs and law enforcement measures to counter illicit cultivation.” Moreover, the Declaration welcomes the agency’s approach to the elimination of illicit crops and commits member states to work closely with the UNDCP “to develop strategies with a view to eliminate or significantly reduce the illicit cultivation of the coca bush, the cannabis plant and the opium poppy by 2008.”³³ This was a softened version of the U.S. government’s proposed phrasing: “States should commit to ending all illicit cultivation of opium poppy and coca bush by the year 2008, using all available means, including alternative development, eradication and law enforcement.”³⁴

The criticism that this put the blame back on drug-linked crops in the South led to the incorporation of a statement calling for a “balanced approach addressing simultaneously the supply of and the demand for illicit drugs.” For the demand side, a commitment was agreed upon “to achieve significant and measurable results” by the year 2008.³⁵ No targets or indicators were specified for measuring progress.

Action plan: eradication and alternative development

The *Action Plan on International Cooperation on Eradication of Illicit Drug Crops and on Alternative Development*, approved in the 1998 UNGASS, is a typical CND consensus document, based on drafts from Colombia, the United States and the European Union. Throughout the Action Plan, reference is made to the need to respect human rights and cultural diversity, promote democratic values, safeguard the environment, respect national sovereignty and encourage the participation of drug crop producers in the design and implementation of alternative development projects. The Action Plan described alternative development as the promotion of “lawful and sustainable socio-economic options for these communities and population groups that have resorted to illicit cultivation as their only viable means of obtaining a livelihood, contributing in an integrated way to the eradication of poverty.”³⁶

However, it equally stressed that alternative development alone is not enough, calling as well for continued eradication and law enforcement efforts. In the belief that “even when alternative development projects are successful, some growers and processors are not likely to abandon production voluntarily simply because other opportunities already exist; they must see that there is a risk associated with staying in the illicit cultivation of drug crops,” the Action Plan devoted a special section to “the need for law enforcement in controlling illicit crops.” Several suggestions were made in the section to tackle the contradictions associated with finding a balance between development and repression.

The text included specific criteria under which alternative development should be complemented by eradication: “When there is organized criminal involvement in illicit drug crop cultivation and drug production, the measures, such as eradication, destruction of illicit drug crops and arrests, called for in the 1961 Convention and the 1988 Convention, are particularly appropriate.” Likewise, “In areas where viable alternative sources of income already exist, law enforcement measures are required against persistent illicit cultivation of narcotic crops.”

In “cases of low-income production structures among peasants, alternative development is more sustainable and socially and economically more appropriate than forced eradication.”

The assumption of compatibility between development and forced eradication is rarely questioned ... but the contradictions manifest themselves clearly in UNDCP policy documents for the Andean region.

Yet at the same time, it included specific warnings about possible incompatibility. “In areas where alternative development programs have not yet created viable alternative income opportunities, the application of forced eradication might endanger the success of alternative development programs.” The document also affirmed that in “cases of low-income production structures among peasants, alternative development is more sustainable and socially and economically more appropriate than forced eradication.” Eradication efforts should “ensure that environmentally safe methods are employed,” the Action Plan added. It thus posed clearly defined limits to the use of forced eradication methods – limits that have been violated in several cases since.

An unhappy marriage

Since 1998, inconsistencies within UNGASS have been perpetuated in policy documents filled with phrases describing alternative development as “one of the components within the comprehensive framework of the global drug control strategy,” that needs to be accompanied by “consistently applied disincentives through law enforcement and eradication.” The assumption of compatibility between a development approach and forced eradication is rarely questioned. The contradictions manifest themselves clearly in UNDCP policy documents for the Andean region. UNDCP warns that:

[the] relationship of trust that must exist in any development process between the stimulating agents and the beneficiaries [...] requires that, in the field, AD [alternative development] and prohibition are separate although the general link between them is recognized. [...] AD provides a kind of positive counterweight to pure prohibition activities. Such activities not accompanied by development have, in all cases, provoked very fierce resistance from farmers and their organizations and have frequently resulted in the diversion of illicit crops to new areas. Furthermore, prohibition without AD seems to provide a very favorable medium for farmers’ organizations to become more radical and for encouraging the development of subversive options and violent situations in general.³⁷

The UNDCP approach of the “simultaneous application of prohibition policies and alternative development policies in the areas in which it is acting, but also the advisability of strictly separating the instruments, criteria and institutions relating to each one of these policies,” proved to be a complete illusion for the Andean region. The forced eradication measures applied in the region, under pressure from the United States, are in clear breach of the precautions spelled out in the UNGASS Action Plan. UNDCP had anticipated contradictions but “resolved” them with the argument that:

[in] situations where cultivation of the coca plant itself is considered to be illegal and there is a policy of compulsory eradication by the State, the application of conditionality is simplified enormously. In such cases, conditionality must be total and absolute; the contradictions involving the dependence of small farmers on the coca economy is resolved within the State’s strategic framework, but outside specific AD projects.³⁸

Such inconsistencies, exemplified by cases where UN- and European-funded alternative development projects were destroyed by U.S.-backed aerial fumigation in Colombia, or overrun by U.S.-funded military eradication operations in Bolivia, threatened to erode the political support for the concept of alternative development.

These policy dilemmas were discussed at the January 2002 Feldafing Conference, which was hosted by the German Ministry of Economic Cooperation and

“We Believe the Global War on Drugs is Now Causing More Harm than Drug Abuse Itself.”

A coalition of organizations and individuals led by the Lindesmith Center (now the Drug Policy Alliance) collected signatures for an open letter to UN Secretary General Kofi Annan in anticipation of the 1998 United Nations General Assembly Special Session (UNGASS) on the World Drug Problem. Signed by over 500 individuals from 39 countries around the world, the letter was published in *The New York Times* on June 8, the first day of the special session.

WOLA coordinated the collection of signatures from 78 prominent Latin Americans, including former UN chief Javier Pérez de Cuellar of Peru; Mariclaire Acosta, then-president of the Mexican Commission for the Defense and Promotion of Human Rights; renowned writers Isabel Allende and Ariel Dorfman (Chile), and Mario Benedetti (Uruguay); former presidents Lidya Gueiler Tejada (Bolivia), Belisario Betancur (Colombia), Oscar Arias (Costa Rica; also Nobel Laureate, Peace, 1987), Ramiro De Leon Carpio (Guatemala), Violeta Barrios de Chamorro (Nicaragua), and then-candidate and current president of Brazil, Luiz Inacio Lula Da Silva. To see the complete list, please visit www.drugpolicy.org/global/ungass/.

Mr. Kofi Annan
Secretary General
United Nations



Dear Mr. Secretary General,

On the occasion of the United Nations General Assembly Special Session on Drugs in New York on June 8-10, 1998, we seek your leadership in stimulating a frank and honest evaluation of global drug control efforts.

We are all deeply concerned about the threat that drugs pose to our children, our fellow citizens and our societies. There is no choice but to work together, both within our countries and across borders, to reduce the harms associated with drugs. The United Nations has a legitimate and important role to play in this regard – but only if it is willing to ask and address tough questions about the success or failure of its efforts.

We believe that the global war on drugs is now causing more harm than drug abuse itself.

Every decade the United Nations adopts new international conventions, focused largely on criminalization and punishment, that restrict the ability of individual nations to devise effective solutions to local drug problems. Every year governments enact more punitive and costly drug control measures. Every day politicians endorse harsher new drug war strategies.

What is the result? U.N. agencies estimate the annual revenue generated by the illegal drug industry at \$400 billion, or the equivalent of roughly eight percent of total international trade. This industry has empowered organized criminals, corrupted governments at all levels, eroded internal security, stimulated violence, and distorted both economic markets and moral values. These are the consequences not of drug use per se, but of decades of failed and futile drug war policies.

In many parts of the world, drug war politics impede public health efforts to stem the spread of HIV, hepatitis and other infectious diseases. Human rights are violated, environmental assaults perpetrated and prisons inundated with hundreds of thousands of drug law violators. Scarce resources better expended on health, education and economic development are squandered on ever more expensive interdiction efforts. Realistic proposals to reduce drug-related crime, disease and death are abandoned in favor of rhetorical proposals to create drug-free societies.

Persisting in our current policies will only result in more drug abuse, more empowerment of drug markets and criminals, and more disease and suffering. Too often those who call for open debate, rigorous analysis of current policies, and serious consideration of alternatives are accused of “surrendering.” But the true surrender is when fear and inertia combine to shut off debate, suppress critical analysis, and dismiss all alternatives to current policies. 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.

Sincerely,

(over 500 signatures from the countries listed at right)

Argentina
Australia
Austria
Belgium
Brussels
Bolivia
Brazil
Canada
Chile
China
Colombia
Costa Rica
Denmark
Ecuador
Finland
France
Germany
Greece
Guatemala
Hungary
India
Ireland
Israel
Italy
Jamaica
Luxembourg
Malaysia
Mexico
Netherlands
Nicaragua
Norway
Peru
Poland
Portugal
South Africa
Spain
United States
Uruguay
Venezuela

“Alternative Development should foster processes to reduce or eliminate illicit cultivation in a concerted, voluntary and sustainable way. Forced eradication should be avoided whenever possible until licit components of livelihood strategies have been sufficiently strengthened.”

Development in cooperation with the UNDCP and German Technical Cooperation (GTZ), the aid agency of Germany’s Ministry of Economic Cooperation and Development. A group of officials and experts were brought together to discuss experience gained to date and to identify the determining factors for success or failure of alternative development. At the end of their deliberations, the participants agreed on a set of policy recommendations. One of these stated that: “Alternative Development should foster processes to reduce or eliminate illicit cultivation in a concerted, voluntary and sustainable way. Forced eradication should be avoided whenever possible until licit components of livelihood strategies have been sufficiently strengthened.”³⁹ The Feldafing recommendations led to a CND resolution calling for an in-depth thematic evaluation of alternative development practices which, as of this writing, is in process.

Drugs and development

Important contributions to this debate continue to be made by GTZ.⁴⁰ In a combined study of their drugs and poverty reduction programs, an interesting reversal of ends and means emerges: Instead of having drug control as the main goal, they are assessing how drug control could contribute to poverty reduction. Since the issues are so closely linked, the question makes for a challenging debate and could expand the breadth of the strategies involved.

The study clearly rejects making participation in alternative development programs conditional on eradication compliance, stating: “Emphasis should be given to a more subtle approach, based on substituting the safety net that drug crop cultivation has given resource-poor households.” GTZ’s experiences in the field have shown that eradication efforts are counterproductive and fail to achieve their desired aim “unless viable and secure alternative sources of income exist which can replace the multifunctional role of opium or coca in the respective economies.”⁴¹

GTZ is undertaking similar work on the linkages between illicit drug production and conflict prevention, considering it necessary to take an interdisciplinary approach to the two issues in order to contribute to peace-building in regions suffering from both. The use of force in the elimination of drug crops frequently adds fuel to the conflict, inflicting harm on people and their environment, caused by “the international (mostly U.S.) approach of measuring progress in hectares eradicated. Alternative Development should be free of deadlines of eradication of drug crops prior to the availability of viable alternatives, which have resulted in aggravated poverty and migration.”⁴² As in the recent UNDP *Human Development Report* on Colombia, a harm reduction approach is being promoted for the production side, providing rational and realistic options to counter the vicious circle of drugs, conflict and human suffering.

The UNGASS mid-term review

Hopes for a serious and thorough policy review were focused on the April 2003 mid-term UNGASS in Vienna. A two-day ministerial segment was added to the 46th CND session to evaluate progress made on the goals and targets set out in the resolutions of the 1998 UNGASS. This mid-term review was the first opportunity since the 1998 meeting for all member states to reassess and make modifications to the current international drug policy framework. It could have allowed for a genuine evaluation of current international drug control policies and, at the same time, served to resolve growing tensions. The opposite occurred. With the slogan, “encouraging progress towards still distant goals,” UNODC director Antonio Maria Costa set the tone for

reaffirming the current policy by renewing the members states' commitment to the Political Declaration adopted in 1998.

The Andean region was highly prolific during the summit in Vienna: No fewer than eight draft resolutions elaborated by GRULAC (the Group of Latin American and Caribbean States) countries were presented to the plenary meeting for approval. Many of these stayed well within the context of the balanced approach and shared responsibility discourse, aiming at reinforcing current drug policies and including the usual strong plea for additional funds from the donor countries to implement them. Most of the resolutions were approved without further substantial changes.

Only two resolutions, both proposed by the Andean countries, were subject to interesting debate, which took place mostly outside the plenary in ancillary meetings and ad-hoc working groups:

- ▶ In one resolution, the U.S. proposal to add “forced eradication” anywhere alternative development was mentioned as part of the “approved language,” was based on the idea that “alternative development and forced eradication are two sides of the same coin and thus inseparable.” This effort was opposed by Peru, which maintained that the resolution was concerned solely with alternative development and market access and had no direct relation to eradication.
- ▶ Specific paragraphs in the same resolution, on the elimination of trade barriers, were opposed by the U.S. delegation, which proposed their complete removal. This was supported by the European Union delegation, which stated that any disposition regarding market access had to be “WTO-compatible.” Behind closed doors, the resolution was later renegotiated and merged with another proposed resolution, this one on the relationship between illicit crop issues and socio-environmental conservation. The original intention of this second proposal's drafters was to have it serve as a mandate, when exploring ways to reduce or eliminate illicit crops, to work through participatory structures and with sensitivity to social and cultural issues. The final, combined resolution was significantly watered down to the simple sharing of experiences among members and merely encouraging participation by local inhabitants.

The Andean group also initiated a resolution asking the CND to “analyze new tendencies in relation with cannabis and other drugs,” in short, questioning the harm reduction and cannabis decriminalization trend. At the same time, they called for additional resources for the eradication of cannabis and coca crops. This strong anti-lenient position taken by the Andean countries can be interpreted as a move to please the United States. Andean countries depend on U.S. aid and trade benefits and strive to avoid “decertification,” where the United States evaluates a given country as not having made sufficient effort to comply with drug control objectives and, as a result, cuts it off from some of these benefits. It came as an unpleasant surprise to countries like Canada and several European countries that the Andean region joined the already strong anti-lenient chorus of UNODC, the INCB, the United States, Sweden, and many African and Arab nations.

Conclusions

Unfortunately, the mid-term review did not move international drug control away from unrealistic zero tolerance thinking or deadlines. The lack of significant progress toward the 2008 targets over the past five years did not lead to a clear-eyed evaluation of

The use of force in the elimination of drug crops frequently adds fuel to the conflict, inflicting harm on people and their environment.

After decades of the existing policies' failures and enormous collateral damages, the debate is about dogma versus pragma, about repression versus protection and about balancing Northern and Southern concerns.

current drug policies – most countries concentrated on simply taking stock of the measures implemented without an honest analysis of the impact these measures have had. The result was a distorted portrayal of supposed advances that would serve to justify remaining on the same course.

More promising, however, was the quality of civil society interaction with the UN debate. The articulation of voices on the NGO side has clearly improved over the years. In the words of Anthony White, former chief of the UNDCP supply reduction and law enforcement section:

For me, as someone who considers himself to be neither a prohibitionist nor a liberalizer, perhaps the most significant shift since 1998 has been in the balance of reasoned argument between the two lobbies. My impression at the time of the UNGASS was that the arguments of the prohibitionists were the more soundly reasoned and researched. Today, the opposite seems to be true and the mildest forms of liberalization or dissent evoke overreaction verging upon hysteria. To me, this is the most troubling aspect, suggesting that we need to get back to some serious thinking, rather than hanging on until 2008 in the hope that reality will somehow fall into line with wishful thinking.⁴³

Growing tensions and inconsistencies on the key issues of harm reduction, cannabis decriminalization and alternative development have led to a paralysis within the UN. In the CND, the more liberal-minded countries are keeping a low profile. Careful not to fuel tensions that might endanger ground conquered for experimentation or donor support, they opt to keep the debate as general and diplomatic as possible, avoiding open controversy over their policy directions.

Within the UNODC, the higher echelons of its bureaucracy appear to be more concerned about safeguarding the doubled U.S. donation than seriously fulfilling the agency's key role in moderating growing tensions among the member states. Executive Director Antonio Costa reduces the whole complex debate down to a conflict with what he calls an "aggressive pro-drug lobby" that has – in his view – "become part of the drug problem."⁴⁴ But this debate cannot be simplified in terms of prohibition-versus-legalization, or between those supposedly protecting mankind and the advocates of "*laissez-faire* in self-destruction," another characterization used by Mr. Costa.⁴⁵ After decades of the existing policies' failures and enormous collateral damages, this debate is about dogma versus pragma, about repression versus protection and about balancing Northern and Southern concerns. It represents a sincere search for more effective drug control options for "the health and welfare of mankind."

As preconditions for any breakthrough, those countries pursuing the pragmatic approach must both demonstrate their political will and make a concerted effort to gain more space for national policy differentiation within the arena of the UN. They might find inspiration in the recent strength showed by the group of nations opposing the Iraq war within the UN Security Council, or the Group of 22 during the WTO negotiations in Cancun. These examples demonstrate that on highly controversial issues, taking a coordinated position within multilateral fora can produce results, even if its proponents are in direct opposition to the prevailing powers-that-be. On the drug issue, there exists a potential "coalition of the willing" capable of promoting change in the course of the war on drugs, among them European countries, including the Netherlands, Switzerland, Portugal, Germany, Belgium, Greece, the United Kingdom, Hungary and Slovenia, and like-minded countries such as Canada, New Zealand, Australia and others. And if these countries would show more understanding for drug-related concerns in the South, they

would be more likely to find support among countries such as Mexico, Brazil, Jamaica, Uruguay, Peru, and many others.

Differences aside, policy developments in these countries demonstrate a common interest in lifting international drug control out of its present stalemate towards the development of policies which offer more room for maneuver – and potential effectiveness – on both the consumption and production sides. The aim is not to negotiate a new, liberal, straightjacket; the challenge for such a coalition, instead, would be to ensure that the UNODC and the INCB begin to encompass the existing range of policy diversity and show the flexibility necessary to allow countries to implement their domestically-designed drug policies without being demonized or sanctioned, and to bring more rationality and open-mindedness into the UN drug debate.

In addition to the annual CND meetings, the next opportunity for significant debate and policy reform will come at the 2008 deadline for the achievement of demonstrable progress in curbing both the demand for and supply of illicit drugs. The lack of significant advancement in achieving the goals set out in 1998, compared with the successes achieved through harm reduction approaches, may well lead more countries to embrace the need for greater flexibility and pragmatism. Now is the time for like-minded countries to come together to begin building an alternative coalition – one that is willing to take a stand in support of more effective and humane international drug control policies.

Martin Jelsma is a Dutch political scientist and TNI fellow who has coordinated TNI's Drugs & Democracy Program since its beginning in 1996. Pien Metaal is a Dutch political scientist, currently based in Amsterdam, who works with the TNI Drugs & Democracy program. Please see the Transnational Institute's website for additional information on UN-related drug control issues and on TNI's work, www.tni.org/drugs/ungass/index.htm.

The aim is not to negotiate a new, liberal, straightjacket; the challenge for any coalition would be to ensure that the UNODC and the INCB begin to encompass the existing range of policy diversity, and to bring more rationality and open-mindedness into the UN drug policy debate.

Notes

- ¹ *World Drug Report*, United Nations International Drug Control Programme, Oxford University Press 1997, ISBN 0-19-829320-8, p. 199.
- ² ECOSOC coordinates the work of the fourteen UN specialized agencies, the ten functional commissions (one of which is the CND) and five regional commissions. See www.un.org/esa/coordination/ecosoc/.
- ³ More information on the CND and an online collection of CND documents is available at www.unodc.org/unodc/en/cnd.html.
- ⁴ Cindy 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*, Vol. 14, Issue 2, April 2003, p. 159.
- ⁵ More information on the INCB and an online collection of its Annual Reports is available on www.incb.org.
- ⁶ Letter by Bob Ainsworth (UK Home Office) to the INCB Secretariat, 3 March 2003.
- ⁷ U.S. State Department, Office of the Spokesman, *Special UN Economic and Social Council Election International Narcotics Control Board: Selection of U.S. Candidate Ambassador Mel Levitsky*, media note, Washington DC, 3 November 2003.
- ⁸ For more details about the Major Donors Fund, see F. Thoumi and E. Jensema, *Drug policies and the funding of the UNODC*, paper given at the Lisbon International Symposium on Global Drug Policy, The Senlis Council, 23-25 October 2003, Lisbon, www.senlisCouncil.net/documents/Thoumi_Jensema_paper.
- ⁹ E/CN.7/2003/13, *Activities of the United Nations International Drug Control Programme*, Report of the Executive Director, Commission on Narcotic Drugs, Forty-sixth session Vienna, 8-17 April 2003.
- ¹⁰ *Ibid.*
- ¹¹ UNODC, Office of Internal Oversight Services, *Report on the inspection of programme management and administrative practices in the Office for Drug Control and Crime Prevention*, General Assembly, A/56/83, 1 June 2001, www.un.org/Depts/oios/reports/a56_83.htm.
- ¹² ECOSOC, *Report of the Office of Internal Oversight Services on the triennial review of the implementation of the recommendations made by the Committee for Programme and Coordination at its thirty-eighth session on the in-depth evaluation of the United Nations International Drug Control Programme*, E/AC.51/2001/4, 4 May 2001, www.un.org/Depts/oios/reports/eac51_2001_4.pdf.

- ¹³ For more background on the *World Drug Report 2000*, see the account of the coordinator who resigned over the process: F. E. Thoumi, "Can the United Nations support 'objective' and unhampered illicit drug policy research?" In *Crime, Law and Social Change*, September 2002, vol. 38, no. 2, pp. 161-183 (23).
- ¹⁴ Antonio Maria Costa, Executive Director UNODC, Opening Statement to the Third Committee, 58th Session of the General Assembly, 9 October 2003.
- ¹⁵ E/CN.7/2003/13, op. cit.
- ¹⁶ UN Information Service, UNIS/CP/440, *United Nations Office On Drugs And Crime Develops Model Laws To Help Combat Terrorism*, press release, Vienna, 8 July 2003.
- ¹⁷ *Integrated operations in drugs, crime and terrorism*, commentary on UNODC's new organizational structure, UNODC, Vienna, June 2003.
- ¹⁸ See www.who.int/substance_abuse/.
- ¹⁹ For additional information see box, "WHO: six horsemen ride out," in TNI, *An Agenda for Vienna, Change of Course*, Drugs & Conflict No 6, March 2003, pp. 12-13.
- ²⁰ Ibid.
- ²¹ WHO/UNICRI *Cocaine Project*, 5 March 1995 (unpublished briefing kit).
- ²² WHA48/1995/REC/3. Forty-Eighth World Health Assembly, *Summary Records and Reports of Committees*, Geneva, 1-12 May 1995.
- ²³ A/RES/S-26/2. *Declaration of Commitment on HIV/AIDS*, General Assembly, 26th Special Session on HIV/AIDS, June 2001; article 52.
- ²⁴ *UNAIDS Address*, Opening Ceremony, 13th International Conference on Drug Related Harm, March 3, 2002, Ljubljana, Slovenia, by Catherine Hankins, Associate Director (designate), Strategic Information, UNAIDS, www.ahrn.net/pdf/CatherineHankins.pdf.
- ²⁵ Programa de Desarrollo de Naciones Unidas, PNUD (UNDP), *El Conflicto: Callejón con Salida: Informe de Desarrollo Humano para Colombia-2003*, Bogotá, September 2003, Chapter 13: "Desnarcotizar el conflicto: la lucha contra la droga," pp. 303-319.
- ²⁶ UNODC/ED/2. *Encouraging progress towards still distant goals*, progress report by the Executive Director as a contribution to the Mid-term (2003) Review of UNGASS, UNODC, 8 April 2003.
- ²⁷ "[T]o promote drug use illicitly through the giving out of needles [...] would, to me, amount to inciting people to abuse drugs, which would be contrary to the provisions of the conventions." Interview with Dr. Philip O. Emafo, president of the International Narcotics Control Board (INCB), In: *Update*, UNODC Newsletter, Vienna December 2002, pp. 6-7, www.unodc.org/unodc/en/newsletter_2002-12-31_1.html.
- ²⁸ E/INCB/2002/1. Philip O. Emafo, "Foreword," in *Report of the International Narcotics Control Board for 2002*, New York: United Nations, 2003.
- ²⁹ E/INCB/2002/W.13/SS.5. *Flexibility of Treaty Provisions as Regards Harm Reduction Approaches*, prepared by the Legal Affairs Section, UNDCP, 30 September 2002.
- ³⁰ United Nations Office for Drug Control and Crime Prevention, *World Drug Report 2000*, Oxford University Press, United Nations, ISBN 92-1-101027-6, p. 150.
- ³¹ E/CN.7/1998/PC/CRP4, *An international strategy to eliminate the illicit cultivation of coca bush and opium poppy: progress report*, Commission on Narcotics Drugs PrepCom document, Vienna, 3 March 1998.
- ³² For more on SCOPE, see CIIR/TNI, *Caught in the crossfire: Developing countries, the UNDCP, and the war on drugs*, June 1998, available at <http://www.tni.org/drugs/ungass/index.htm>.
- ³³ A/RES/S-20/2. *Political Declaration*, General Assembly 20th Special Session, 9th Plenary Meeting, 10 June 1998, par. 19.
- ³⁴ E/CN.7/1997/PC/CRP9. *Eradication of illicit narcotic crops and promotion of alternative development programmes*, proposal by the United States, Commission on Narcotics Drugs PrepCom document, Vienna, 27 November 1997, point 3.
- ³⁵ Ibid., par. 14.
- ³⁶ A/RES/S-20/4, *Action Plan on International Cooperation on the Eradication of Illicit Drug Crops and on Alternative Development*, General Assembly Special Session on Drugs, New York, 10 June 1998.
- ³⁷ *Alternative Development in the Andean area, The UNDCP experience*, Revised edition, United Nations, New York, 2001.
- ³⁸ Ibid.
- ³⁹ *Conclusions and Recommendations*, International Conference on the Role of Alternative Development in Drug Control and Development Cooperation, 7-12 January 2002, Feldafing/Munich, Germany, www.alternative-development.net.
- ⁴⁰ More information about the GTZ Drugs and Development Programme and its publications can be found at www.gtz.de/drogen.
- ⁴¹ Birgit Gerhardus, *Drugs and Poverty: the Contribution of Development-oriented Drug Control to Poverty Reduction*, GTZ, Germany, June 2003.
- ⁴² Jenny Ikelberg, *Drugs and Conflict: discussion paper*, GTZ Drugs and Development Programme, Germany, September 2003.
- ⁴³ Presentation by Tony White at the Austria Center, Vienna, during the Ministerial Segment of the 2003 session of the Commission on Narcotic Drugs, 15 April 2003.
- ⁴⁴ *Drug Control Policy in Europe, Innovative Responses to New Challenges*, Statement by Mr. Antonio Maria Costa, UNODC Executive Director, Pompidou Group Ministerial Conference, Dublin, 16 October 2003.
- ⁴⁵ Statement by the Executive Director Mr. Antonio Maria Costa, Commission on Narcotic Drugs 46th Session, Ministerial-level Segment, Vienna, 16 April 2003.

WOLA's "Drugs, Democracy and Human Rights" project

WOLA's "Drugs, Democracy and Human Rights" project, which began in 2001, examines the impact of the drug trade and U.S. international drug control policy on human rights and the consolidation of democracy throughout Latin America and the Caribbean. Looking at both producer and transit countries, researchers from Argentina, Bolivia, Colombia, Ecuador, Mexico, Peru, Puerto Rico and Central America are documenting and analyzing a number of themes, including:

- ▶ whether security forces receiving U.S. funding and/or training for drug control activities are committing human rights abuses, and if so, how the perpetrators are called to account;
- ▶ whether the judiciary is effectively pursuing such cases, or if they are handled by military courts;
- ▶ the definition of the military's mandate, the relationship between military and police forces, and whether antidrug funding is empowering the military to expand into activities normally reserved for the police;
- ▶ the functioning of civilian institutions, including mechanisms for oversight of drug control activities through legislation and congressional committees.

A book drawing together the country and regional studies, with overview and conclusions provided by WOLA, will be published in 2004. Country or thematic briefs and timely updates provide on-the-ground monitoring and research which can be accessed at www.wola.org/ddhr_documents.htm.

Joy Olson
Executive Director

Kimberly Stanton
Deputy Director and Director of Studies

Gastón Chillier
Senior Associate, Human Rights and Public Security

Vicki Gass
Senior Associate for Economic Issues and Brazil

Geoff Thale
Senior Associate for El Salvador, Cuba and Nicaragua

John Walsh
Senior Associate for the Andes and Drug Policy

Laurie Freeman
Associate for Mexico and Drug Policy

Coletta Youngers
Director, Drug Policy Project

Eileen Rosin
Manager, Drug Policy Project

Adriana Beltrán
Program Officer for Guatemala and Media Coordinator

Rachel Farley
Program Officer for Cuba

Gabi Kruks-Wisner
Program Assistant for Central America, Cuba and Economic Issues

Katie Malouf
Program Assistant for Mexico, the Andes, and Public Security

Rachel Neild
Senior Fellow

Nadia Malley
Finance Manager

Lori Piccolo
Associate for Financial Development

Elsa Falkenburger
Development Coordinator

Tanya Aguilar
Director of Operations



We need your support!

Yes, I want to contribute to WOLA's work to advance human rights, democracy, and social justice in Latin America. Enclosed is my tax-deductible donation of:

\$200 \$100 \$75 \$50 \$35 \$ Other

Name

Address

City

State

Zip

Phone

Fax

E-mail

WOLA is a 501(c)3 charitable organization. Please make checks payable to **WOLA** and send to: 1630 Connecticut Avenue, NW, Suite 200, Washington, DC 20009. You may also contribute through our website, www.wola.org. Thank you!

About WOLA

The Washington Office on Latin America (WOLA) is a nonprofit policy, research and advocacy organization working to advance democracy, human rights and social justice in Latin America and the Caribbean. Founded in 1974, WOLA plays a leading role in Washington policy debates about Latin America. WOLA facilitates dialogue between governmental and non-governmental actors, monitors the impact of policies and programs of governments and international organizations, and promotes alternatives through reporting, education, training and advocacy.

To Order More WOLA Publications

WOLA has a wide range of publications available on human rights in Latin America and U.S. policy. WOLA also publishes a quarterly newsletter, "Cross Currents" in English and "Enlace" in Spanish. See our website for a complete list of publications and contact our office to order.

To Contact Us

Washington Office on Latin America
1630 Connecticut Avenue, NW, Washington, D.C. 20009
Telephone: 202.797.2171 • Facsimile: 202.797.2172
Email: wola@wola.org • Web: www.wola.org

Volume 3, Number 1 ISBN: 09295-1355X

This WOLA briefing series is supported in part by grants from the Open Society Institute, the Ford Foundation, the John Merck Fund, and the General Service Foundation.

WOLA 2004 30 Years!



Washington Office on Latin America

1630 Connecticut Avenue, NW, Washington, D.C. 20009