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Views and priorities of the International Narcotics Control Board (INCB) in the lead-up to UNGASS 2016

Briefing to Permanent Missions to the United Nations (Vienna)

Werner Sipp, President of the Board
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Excellencies, ladies and gentlemen,

I am pleased to welcome you all here today for this briefing to share with you the main priorities of the International Narcotics Control Board in the context of the preparations for UNGASS 2016.

Our briefings for Permanent Missions in the past have been called in the context of bringing your attention to our Annual Reports, as we will continue to do next February. Today, we avail ourselves of this opportunity, at the margins of the Board's 114th session, to address some areas that should – in our view – be in the main focus of the global debate over the coming months.

What is the role of the Board in the UNGASS process?

As you all know, the General Assembly has decided that the goal of UNGASS 2016 is to:

- review progress in the implementation of the 2009 *Political Declaration and Plan of Action*; and
- assess the achievements and challenges in countering the world drug problem, within the framework of the three international drug control conventions and other relevant United Nations instruments.

Member States' Governments and civil society are taking the opportunity of UNGASS 2016 to discuss possible '**new approaches**' to the world drug problem. The Secretary General of the United Nations Ban Ki-moon encouraged Member States to use UNGASS 2016 "*to conduct a wide-ranging and open debate that considers all options*".

Currently, some options are being proposed and discussed which would be clearly outside of the three drug control conventions. Of course, States Parties are the "owners" of the treaties, they have the freedom to question the international drug control conventions, and to amend and change them if they feel a need.

But in this context it is worth recalling that every major declaration and resolution on drug control adopted by the Member States since the Political Declaration of 1998, including

the most recent resolutions of the CND¹, emphasize States' commitment to work within the framework of the three international drug control conventions and other relevant United Nations instruments.

The role of the Board, as a 'treaty-monitoring body', is not to propose 'new approaches' but to contribute to the assessment of the drug control system in light of its mandate and its experience. Its role is:

- to clarify and highlight the 'approaches' and principles of the Conventions and the Political Declarations;
- to identify shortcomings in the drug control system; and
- to make concrete recommendations based upon the Conventions.

I will come back to some of the suggested "new approaches" later.

Annual Reports

The primary means by which the Board communicates its findings and recommendations is via its Annual Reports.

The Annual Reports present an analysis of the global drug control situation. They aim at promoting the implementation of the Conventions and, when necessary, drawing the attention of Governments to situations which may endanger the objectives of the Conventions. In doing so, the Board highlights international trends, emerging threats, and weaknesses in national control and treaty compliance which threaten public health and wellbeing.

Every year, the Annual Reports present one thematic chapter. Each of these "chapters I" are focussing on issues of particular interest within the policy debate on national and international drug policy.

Let me quote just a few topics covered by a chapter I of our Annual Reports and which are of particular relevance in the context of UNGASS preparations:

- 1992: Legalization of the non-medical use of drugs
- 1993: The importance of demand reduction
- 1999: Freedom from pain and suffering
- 2001: Globalization and new technologies:
- 2003: Drugs, crime and violence:
- 2005: Alternative development and legitimate livelihoods
- 2007: The principle of proportionality
- 2009: Primary prevention of drug abuse
- 2010: Drugs and corruption
- 2012: Shared responsibility in international drug control
- 2013: Economic consequences of drug abuse
- 2014: Implementation of a comprehensive integrated and balanced approach.

¹ [E/2015/28, Report of the Commission on Narcotic Drugs on the fifty-eighth session](#), see, inter alia, Chapter I, A, Draft resolution for adoption by the General Assembly, pp. 1-4,

These chapters canvass a range of topics highly pertinent to drug control – regarding the supply and demand sides, as well as transversal issues.

I think that all important aspects of the global drug problem and most of the critical points in the ongoing debate on the ‘right way in drug policy’ have been addressed by INCB in its thematic chapters. So, each of these chapters can be considered as a contribution of INCB to UNGASS 2016.

We have just put a summary of the last Chapters I on the [website of UNGASS 2016](#).

I will draw from three of our numerous thematic chapters which I believe to have particular relevance in our preparations for the UNGASS process. These are:

- Implementation of a comprehensive, integrated and balanced approach to addressing the world drug problem (2014).
- The principle of proportionality and drug-related offences (2007).
- Shared responsibility in international drug control (2012).

1. Implementation of a Comprehensive, Integrated and Balanced Approach

In our Annual Report for 2014, we explicitly underlined that this chapter I is meant as a substantive contribution to the preparation of UNGASS 2016.

We recalled that the **ultimate goal** of the three Conventions is to ensure the "health and welfare of humankind". In pursuit of this goal, the Conventions contain a range of obligations for Member States, namely:

- to ensure the adequate availability of scheduled substances for medical and scientific purposes;
- to regulate and control the use of internationally scheduled substances;
- to disrupt illicit cultivation, manufacture and trafficking; and
- to take measures to prevent drug abuse and addiction

Now, the principle of a balanced approach is not an end in itself, but the central strategy through which to pursue the ultimate goal of health and welfare and comply with these different obligations.

Working towards the goal of health and welfare is difficult because the drug problem is complex and multifaceted: the drug problem affects public health, security, political stability, environment, economic livelihood and numerous other areas of society.

Drugs are the cause of many social problems and at the same time the result of social problems.

Therefore, the world drug problem cannot be tackled by isolated measures, but by strategies which must be comprehensive, integrated and balanced.

- ‘comprehensive’, meaning that all the above-mentioned aspects are accounted for;
- ‘integrated’, in that the measures in different fields have to be interlinked and coordinated, and;

- 'balanced', meaning that they should have the same political weight, or at least the appropriate weight considering the needs and specific drug control situation of each country or region.

The principle of the 'balanced approach' is set out in the terms of the conventions and has since been strengthened and broadened in a number of Political Declarations (1998, 2009 and 2014). The origins and roots of the principle are further discussed in our 2014 Annual Report.

What does this principle mean in practical terms?

In implementing a comprehensive, integrated and balanced approach to elaborating drug policy, Governments must:

- Give commensurate attention to all the different aspects of the drug problem.
- Ensure that narcotic drugs and psychotropic substances are available for medical and scientific purposes in adequate amounts.
- Take all possible measures to reduce the illicit supply of and the demand for drugs.
- Not rely solely on control and law enforcement, but give the highest priority to demand reduction measures – namely to prevention, treatment, rehabilitation, aftercare, measures aimed at the reduction of the negative consequences of drug abuse, and social reintegration.

Furthermore, the 'balanced approach' means that drug policy must:

- Take into account the socio-economic and socio-cultural conditions and consequences of drug abuse in communities.
- Undertake not only crop eradication in addressing illicit cultivation, but to combine efforts in promoting alternative development strategies.
- Facilitate greater participation and cooperation between all relevant stakeholders, including civil society groups, in the implementation, delivery and monitoring of drug control policies.
- Adhere to international human rights standards in all fields of drug control activities and respect human rights when implementing drug control measures.

In light of the Board's long-standing experience, we note that these commitments are very often not met in many regions of the world.

2. Principle of Proportionality

Let me now turn to another important priority issue which the Board addressed in its 2007 Annual Report: the principle of proportionality.

Transposing the international Conventions into domestic law is subject to the internationally recognized principle of proportionality. This principle requires that a State's response to any harmful behaviour has to be proportionate. In terms of criminal justice, this principle permits punishment in response to criminal offences, provided that it is not disproportionate to the seriousness of the crime.

In its Annual Report 2007, the Board holds that the treaties both encourage and facilitate proportionate responses by States to drug-related offences and offenders. By

monitoring and promoting compliance with the international treaties, we have clearly stated that disproportionate responses undermine both the aims of the conventions and the rule of law internationally.

Accordingly, the Conventions request 'adequate' punishment. And the 1988 Convention differentiates sharply between:

- offences relating to drug trafficking, on the one hand and offences related to possession of drugs for personal use on the other hand; and
- offences committed by drug users and those committed by others.

The Conventions have sometimes been criticised as overly punitive instruments, an argument which does not withstand critical review. While it is true that some States have made extensive use of incarceration of low level drug offenders, this approach is not mandated by the drug control Conventions. Here, it is essential to distinguish between the normative content of the Conventions and criminal justice policy measures which have been taken by some Governments.

The Board has repeatedly reminded States that, according to the Conventions, drug-related criminal offences, including those involving the possession, purchase or cultivation of illicit drugs when committed by drug users, (to quote the treaties directly) do not automatically require the imposition of conviction and punishment. Rather, the Conventions provide discretion for Parties to provide, either as an alternative to conviction and punishment or in addition to conviction and punishment, that these individuals undergo measures of treatment, education, after-care, rehabilitation and social reintegration. Accordingly, there is no obligation stemming from the conventions to incarcerate drug users having committed minor offences.

The Board in its Annual Report criticizes the practice of many States of imposing unconditional imprisonment on drug users for such offences. The Board notes that, in some countries, such offenders often account for a significant proportion of the prison population and that young and first offenders are incarcerated not as a last resort but as a first resort. The Board underlined that this practice is contrary to the United Nations standards in crime prevention and criminal justice.

The Board concludes that in several countries, there is a need to balance law enforcement efforts, so that lower level offenders do not bear the brunt of justice while higher-level offenders are not brought to trial.

The Board recommends that Governments should consider widening the range of custodial and, importantly, non-custodial options for drug-related offences (namely treatment, education, after-care, rehabilitation and social reintegration), in order that authorities respond proportionately to the circumstances of each individual case.

In addition, Governments should widen the availability of healthcare programmes and drug abuse treatment programmes in prisons.

In this context, it is worth recalling that last year the Board made a statement concerning its positions regarding the death penalty, in which we declared that, "*Taking into account the relevant international conventions and resolutions pertaining to the death penalty, the Board encourages the State Parties that still provide for the death penalty for drug-related offences in their national legislation and practice it, to consider the abolition of the death penalty for drug related offences*".

3. Shared Responsibility in International Drug Control

The third priority I would like to present today is the principle of common and shared responsibility, which was addressed in the Board's 2012 Annual Report.

Common and shared responsibility is a general principle of international law that is not specific to drug control but which is applied in many fields of cooperation.

It provides the framework for a cooperative partnership among a community of parties, based on a common understanding of a shared problem, a common goal, and the necessity of reaching that goal through common and coordinated action. It is the basis of fruitful international co-operation in drug policy and of international solidarity.

The principle of common and shared responsibility commits parties to strengthening their cooperation not only to pursue their own interests but also to take into account the interests of others and to assist those parties that need help.

In this context, the Board made a number of recommendations. I want to mention just three of them:

- Governments, the United Nations system, regional organizations, civil society and the private sector should develop a renewed sense of shared responsibility in drug control – based on the fundamental values of inclusiveness, a clear definition of purpose and roles, and an integrated, balanced and multi-sectoral approach aimed at achieving sustainable results and promoting accountability among all actors.
- Governments and public institutions should seek greater common purpose among the policies and strategies for drug control and those promoting social justice, economic development and human rights and addressing corruption and organized crime.
- Governments should promote greater involvement of their citizens, non-governmental organizations and other members of civil society, as well as the private sector, to develop new avenues for strengthening shared responsibility in drug control efforts.

All these recommendations regarding the implementation of the principles and approaches of the existing drug control system which I just mentioned can be found in the Annual Reports of INCB.

Evolving challenges in the lead-up to UNGASS 2016

Besides these basic principles enshrined in the Conventions and the Political Declarations and highlighted in our Annual Reports, the Board is looking to challenges that the international community is facing. Just three examples:

- New Psychoactive Substances (NPS).
- Drugs and the Internet.
- Ensuring adequate availability for medical purposes.

1. New Psychoactive Substances (NPS)

The Board has developed a pragmatic response to this challenge: We established an international operational initiative on NPS, known as "Project ION" (=International Operations on NPS), which provides infrastructure for real-time intelligence sharing and follow-up

between the authorities of concerned countries. It aims at assisting investigations and devising practical solutions in order to prevent NPS from reaching consumer markets.

Currently, 118 Governments, regional and international agencies have joined the initiative and over 170 government users in more than 60 countries are using the "Project ION Incident Communication System" (IONICS). I would like to recognize the speed with which Governments have become involved in the initiative.

INCB appreciates the ongoing support of Governments in funding the initiative. We encourage those countries that have not yet taken action to do so – the INCB secretariat stands ready to assist you to this end.

2. Drugs and the Internet

The Internet is increasingly being misused for illegal activities. Among the many well-known criminal activities involving the Internet, drug trafficking has reached major dimensions. Internet-based drug trafficking includes the sale of illicit drugs and, increasingly, the illegal sale of pharmaceuticals containing narcotic drugs and psychotropic substances.

In recent years, the volume of illicit sales of narcotic drugs and psychotropic substances through websites has risen, making the Internet a major source of drugs of abuse.

The Board has produced guidelines² to assist Governments in formulating national legislation and policies for prescribers, pharmacists, law enforcement and regulatory authorities and the public with regard to the use of the Internet. The guidelines include recommendations for action to be taken at the national and international levels.

3. Availability of narcotic drugs and psychotropic substances for medical and scientific purposes

The availability of narcotic drugs and psychotropic substances for medical and scientific purposes is one of the core obligations for Governments to comply with the international drug control conventions. This topic constitutes also the core of the mandate of the Board.

Around 5.5 billion people – that is three quarters of the world population – still have limited or no access to medicines containing narcotic drugs, that means little or no access to adequate pain relief medications. On the other hand, 92 per cent of morphine used worldwide is consumed by only 17 per cent of the world's population, primarily those living in the United States, Canada, Western Europe, Australia and New Zealand.

This discrepancy is one of the central concerns of the Board. In 2010 INCB published a report entitled: "*Availability of Internationally Controlled Drugs: Ensuring Adequate Access for Medical and Scientific Purposes*"³. The follow-up report will be published at the beginning of next year as a supplement to our Annual Report for 2015.

Before coming to the conclusions, I would like to briefly turn to our daily work, taking the opportunity to recall that INCB is committed to assisting Governments to build national capacity to improve drug control. To this end, INCB has initiated a project entitled "*Improving the implementation of the international drug control conventions through strengthening capacity for the control of licit activities related to narcotic drugs, psychotropic substances and*

²[Guidelines for Governments on Preventing the Illegal Sale of Internationally Controlled Substances through the Internet.](#)

³[Special Report: Availability of Internationally Controlled Drugs: Ensuring Adequate Access for Medical and Scientific Purpose](#)

precursor chemicals". The main purpose of the project is to improve the regulatory control of the licit trade in narcotic drugs, psychotropic substances and precursor chemicals, by training the responsible persons from the competent national authorities and thus increasing the capacity of governments to comply with the provisions of the international drug control conventions.

This project needs your support through the participation of your competent authorities in the activities of the project and, where possible, by contributing financially to the project, which will be funded solely by extra-budgetary contributions.

At this juncture I would also like to thank the Governments for their support in the development of the recently-launched I2ES, the international electronic platform monitoring imports and export of narcotic drugs and psychotropic substances. I strongly encourage all Member States who have not yet done so to register and participate in I2ES, to maximize the mutual benefit of this new international electronic platform, which is provided free of cost.

Conclusions for UNGASS 2016

What are the impacts of the views of the Board, its position and priorities on the UNGASS 2016 process? I'd like to propose the following conclusions:

1. The current system of drug control designed by the three conventions and further developed in the Political Declarations of 1998, 2009 and 2014 is not – as critics pretend – a prohibitionist system relying on interdiction and law enforcement alone.

Firstly, it is a balanced system, driving toward improving public health and welfare, based on the underlying principles of proportionality, collective responsibility and compliance with international human rights standards. The Conventions also provide for a certain degree of flexibility. However, drug policies in many countries do not comply with these principles, often leading to deficiencies in the drug control system.

Secondly, it is not a "prohibitionist" system, but a system based on regulatory controls, much like systems that regulate and control other complex and potentially dangerous activity.

2. Contrary to criticism, the current drug control system based on the Conventions and the Political Declarations is not synonymous with a '**war on drugs**'. Although there are policies in some regions of the world which indeed could be characterized as such – namely:

- Policies that overemphasize "prohibition" and law enforcement without giving due balance to preventative, rehabilitative and alternative measures.
- Policies which disregard drug prevention and treatment, and do not provide for rehabilitation, resocialisation and the reduction of the adverse consequences of drug abuse.
- Policies which do not ensure the availability of adequate medication for the treatment of medical conditions, including for palliative care, pain treatment and mental health.
- Policies that deploy armed forces to counter the drug problem.
- Policies that impose disproportionate sanctions for drug-related criminal offences.

These "war on drugs"-policies are in contradiction to the principles of a "comprehensive, integrated and balanced approach", "proportionality" and "shared responsibility". A "war on drugs" has been a metaphor, like the world has undertaken "wars"

on polio, and other communicable and non-communicable diseases. In some parts of the world there has been a militarization of the world drug problem, which has multiple causes. However, this “war on drugs” will not to be stopped by changing the existing drug control system as such, but rather by fully implementing the underlying principles of this system.

3. The global drug problem is not likely to be solved by a fundamental change of the international system. As we prepare for UNGASS 2016, the Board encourages Governments to fully implement the current Conventions and Political Declarations taking into account the priorities I have just outlined, namely:

- putting "health and welfare of mankind" at the core of their drug policies;
- implementing comprehensive, integrated and balanced approaches to elaborating drug control policy;
- promoting human rights standards, in the cases of all individuals affected by drug use;
- giving higher priority to prevention, treatment, rehabilitation and the reduction of the negative consequences of drug abuse; and
- strengthening international cooperation based on shared responsibility.

These are not "new" approaches – what many voices pretend – but approaches which are enshrined in the three conventions and in the Political Declarations of 1998, 2009 and 2014. They all have been highlighted in our Annual Reports.

Governments have a unique opportunity with UNGASS 2016 to absorb these values into policymaking, and to turn policy into effective action at the national and international levels. The role of the Board consists of assisting Governments in the implementation of this comprehensive system in all its aspects.

I thank you for your attention, and I welcome your questions.
