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UPDATE OF THE 1996 ANTI-DRUG STRATEGY IN THE HEMISPHERE - THEMATIC REVIEW

Update of the 1996 Anti-Drug Strategy in the Hemisphere -
Thematic review

Paragraph # 3:

Defeating trends accepting drug use: How best to state the position of CICAD?

Present Paragraph

"3. The countries of the hemisphere express their concern over trends that promote the acceptance of drug abuse and its associated problems. Controlling illicit drugs must be part of a comprehensive anti-drug policy, which along with preventing drug abuse and helping to rehabilitate those affected, must ensure through appropriate laws and policies that illicit drugs and drugs diverted to the illegal market are not available and that drug traffickers receive proper sanctions."

Paragraph # 3 reflects countries' concerns over trends promoting acceptance of drug abuse and speaks to a need for comprehensive policies to control these trends through prevention and rehabilitation policies on the one hand and sanctions for trafficking on the other.

The reason for entertaining a review of paragraph #3 is to consider whether, in the current social and legal environment six years down the road from the time the Strategy came into effect, paragraph #3 is still apt. Paraphrasing, I hope correctly, what the delegate from Argentina stated this morning, there is a need for the Strategy to link cogently the legal and medical aspects of the drug issue and to enunciate the Commission's position in a clear and unified manner.

Situation

In recent years, many countries in Western Europe and the Americas have undertaken or are considering entertaining measures in an attempt to improve their approach to addressing the drug problem. All too often those changes are perceived in extreme terms. Sometimes as being evidence of a permissive attitude on the part of government or society or in others as panaceas that are little more than the promotion of legalization, often under the guise of market economics or novel medical innovation.

Terminology about what these changes mean or imply may often be inaccurate and, like beauty, be often in the eye of the beholder. Nevertheless, while the Secretariat would not hazard to make a complete categorical distinction, nor that one could easily be arrived at, it believes that there are meaningful differences between concepts of de-penalization, de-criminalization and legalization, and that these can be and are reflected in national approaches to the treatment of drugs.

In summary form, de-penalization can be viewed as the preserving of legal measures prohibiting the use of illicit drugs, but prescribing as consequences for drug-taking, judicial discretion to impose treatment and education. Primarily, the emphasis in a de-penalization approach focuses on quantities of the substance found in possession of the accused and possibly the type of substance involved. Use of particularly dangerous substances might not be de-criminalized under this model, even though treatment and rehabilitation would be likely to accompany a sentence. Also, under this approach, possession of amounts considered large enough for trafficking, or actual trafficking, would still be accompanied by penal consequences.

Decriminalization, on the other hand, might be taken to mean that use of or possession of small amount of a particular drug or of all drugs, would not be illegal. Options to treat distribution/trafficking could include maintaining such acts as criminal offences or dealing with them by means of regulatory controls.

Legalization would involve no law prohibiting of drug use and either de-regulated or loose regulatory controls over distribution, such as, for example, age restrictions.

In reality, many current attempts to make changes in the law can be seen as de-penalization as they are created within the scope of strict anti-abuse and anti-trafficking policies. As most national drug laws are prescriptive for enforcement and judicial authorities, only such legal changes will permit a change in accompanying judicial and administrative practices. Thus, for example, the law must first authorize whether to treat or incarcerate for use and/or possession offences for practice to change.

Despite these efforts, such changes are often publicly misinterpreted by the media, as evidence of a relaxation or weakening in drug control policy when they are in fact intended to attempt to improve both health and law enforcement outcomes.

Use of imprecise terminology and the interest of some institutions and organizations to take advantage of such popular imprecision can result in an atmosphere in which the principal victim is informed discourse. Among other things, this can result in public misinformation about adverse health consequences arising from the misuse of drugs, especially among highly impressionable youth.

While legislation on penalties for various types and levels of use of drugs is under revision in many countries, not all proposals for change are approved; to the contrary. Regrettably, however, a stream of news, not to mention "information" on major search engines on the INTERNET about proposals to "liberalize" the use of drugs helps to create the very impression of imminent liberalization that Paragraph #3 of the Strategy was intended to prevent.

At the present time several countries and jurisdictions are considering or have taken action to change their laws. These include, among others, the United Kingdom,

Portugal, Holland, and in the United States, the states of Arizona, California and New Mexico in the United States, as well as Canada, Jamaica and Colombia.

Conclusion

Clearly, there is ample evidence of countries faced with new drugs and new drug usages giving consideration as how best to arrive at meaningful and useful national laws. A number of countries of this hemisphere have made changes to their national laws since the Hemispheric Strategy was approved in 1996, and further changes will be made for reasons which, in a field as changing as is that of drugs, will only be known in the future. We can expect to see many reactions to countries' individual prescriptions, but this is part of the normal law-making process.

What CICAD may wish to state with more conviction and clarity than is presently contained in the Strategy's paragraph #3 is a projection of its policy which goes beyond being merely "concerned over trends that promote the acceptance of drug abuse" at a time when challenges to the basic social logic of an anti-drug position are many. In the current climate in which the number and tone of public messages attack this posture, CICAD's advocacy in the Strategy should be as clear and strong as would be expected to be the case for the hemispheric standard.

Thus, considering what has taken place in the years since the Strategy was first conceived, member states need to consider whether Paragraph #3 as drafted best puts forward the public policy position of CICAD and, if not, what needs to be stated so that the Commission's position is clear and forceful against those who would, through misunderstanding, ignorance or venality, encourage measures whose result would be to increase the damage to individuals and to communities that drug use engenders.