
**Reform by Subtraction: The Path of Denunciation of International Drug Treaties and Reaccession with Reservations**

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Abstract

Almost all countries are parties to the international drug conventions of 1961, 1971 and 1988. These strongly bind parties with respect to their domestic regulation of controlled substances, including requirements that possession, growing or use be a criminal offense and that any regulated market in the substances be limited to use only for medical or scientific purposes. Even where countries have argued they have "wiggle room", reform within the bounds of the conventions has often resulted in "net-widening" which nullifies the intent of the reform. Among the options for effective reform, probably the most immediately viable is the route of denunciation and reaccession with reservations -- the route which Bolivia has now taken in order to legalise a regulated domestic market in coca leaves for chewing. The paper considers the existing record of reservations (by more than 30 parties to each of the conventions). Also discussed are the options for response to the reservations by other parties, which vary between the treaties, and how pursuing the option of denunciation and reaccession with reservation might potentially play out.
Almost all countries are parties to the international drug control conventions of 1961 (as amended in 1972), 1971 and 1988. These strongly bind parties with respect to their domestic regulation of controlled substances, including requirements that possession, purchase or cultivation be a criminal offense, and that legal regulated markets in the substances be limited to use only for medical or scientific purposes.

These treaty provisions are quite extraordinary international interventions in national domestic affairs. With the growth of recreational use of controlled substances in affluent countries in the late 1960s and afterwards, the treaty provisions required the criminalization of behaviour that was widespread among young adults. Many governments came to see this situation as undesirable and untenable, in earlier years particularly concerning cannabis, and more recently concerning other drugs as well. There have therefore been repeated and diverse efforts at “decriminalization” or “depenalisation”, as well as a smaller number of efforts to set up quasi-legal regulated markets in the substances (Room et al., 2010). With respect to drug use and possession, that there is some latitude within the treaties is indeed generally accepted (Bewley-Taylor & Jelsma, 2012).

Governments have generally tried to make these reforms within the limits of the language of the international treaties, as they have interpreted that language.1 A common experience, however, in the wake of efforts to reduce penalties or move away from criminalisation of drug possession, has been that the reforms result in “net-widening” (Room et al., 2010, p. 115). The reforms have generally retained some penalties for possession of small quantities, even if they are not defined as criminal offences, to stay in conformity with the international treaties. Often these penalties have been easier for police to invoke than the former criminal offences were, and so have been applied more widely. Then a penalty of a fine, for instance, escalates if it is not paid, and the result is more young people with a police record than previously (e.g., Christie & Ali, 2000). For this and other reasons, arrests for cannabis possession have risen in many places in recent years, even where the official policy appears to have become more tolerant (Room et al., 2010, p. 63).

With respect to efforts to provide for a legal regulated market, to be able to argue that they are within the limits of the international conventions, the provisions have generally been pragmatic arrangements -- that in specified circumstances the criminal law which remains on the books to satisfy the international treaties will not be applied. The Dutch “coffee shop” system is the most widely-known example of such pragmatic arrangements, and it also exemplifies the difficulties of such an arrangement, in that there is no provision of legal supply of the retail outlets (known in the Netherlands as the “back door” problem; Korf, 2008).

To solve such problems, there is thus a need to go outside the language of the international treaties. There are, of course, provisions in each of the treaties for amending them. Another strategy would be for a group of likeminded states to negotiate new treaties which, as the “last in

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1 The interpretations have often differed from those of the International Narcotics Control Board (INCB), but governments can argue that no particular interpretation is authoritative, so long as it does not negate the language’s plain meaning.
time”, could be argued to supersede the existing treaties with respect to the kinds of change we are discussing (Room et al., 2010, pp. 136-138). Bewley-Taylor (2012) has recently suggested some potential bases of common interest on which groupings of states could make such moves. But these and other possible strategies at the collective international level are presently far from fruition.

There are also paths which an individual state which is party to the treaties can take. The country can simply withdraw from one or more of the treaties, a process known as “denunciation”. Denunciations of other treaties are not rare (Helfer, 2005), but denunciation of a drug treaty without any intention to reaccede would draw extraordinary opprobrium. In an alternative which is open to a few nations, the constitutional position is that international treaties to which the nation is party do not necessarily take precedence over national legislation. The best-documented example of this is the United States, in which national legislation and treaty commitments are constitutionally in equal status (Ku, 2005). This means that a new national law which conflicts with existing treaty commitments takes precedence as the “last in time”. However, this path is only available to a few countries.

The alternative path, discussed here, is more widely available and more viable as an option. It is to make reservations to one or more of the treaties. In normal international practice, reservations are made at the time of the nation’s accession to the treaty. Although post-ratification reservations have become increasingly common, their status in international law is still uncertain. A nation can avoid this uncertainty by first denouncing (announcing withdrawal from) the treaty, and reacceding with reservations. This is the path discussed here, as an option in reforming drug laws.

One country has already started down this path. In an action without precedent in international drug law, Bolivia denounced the 1961 Convention on 29 June, 2011, acting then so that the denunciation would take effect at the beginning of 2012. Bolivia took this action after it had become clear that its effort to change the 1961 treaty’s provisions on coca leaves by consensus would not succeed. In early 2012, Bolivia moved to carry out its commitment to reaccede, with the reacceision conditioned on acceptance of a reservation allowing the traditional use of coca leaves.

**Denunciation of one or more of the treaties**

After a period of notice, a country can denounce (withdraw from) any of the conventions. For the 1961 and 1971 treaties, the withdrawal takes effect on the next January 1 which is at least 6

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2 It appears that the United Kingdom made a post-ratification reservation to the 1988 drug treaty, which has been accepted without apparent objection. In a series of notifications to the UN Secretary-General between December 1993 and 2002, the UK made particular reservations to the treaty for the Isle of Man, six Caribbean territories, and Jersey and Guernsey. These notifications were all well after the UK had ratified the treaty on 28 June, 1991. See footnote 9 on p. 25 of http://treaties.un.org/pages/ViewDetails.aspx?src=TREATY&mtdsg_no=VI-19&chapter=6&lang=en The official Commentary (1998) on the 1988 Convention notes some of these notifications, and that “none of these declarations gave rise to any observations by other parties to the Convention” (p. 442), and thus regards them as allowed by “general international law and depository practice”.

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months after the denunciation is received by the UN Secretary-General (Arts. 46 and 19, respectively).³ For the 1988 treaty, it takes effect one year after the Secretary-General receives the denunciation (Art. 30).

As we have noted, Bolivia’s action in denouncing as a single party one of the three current drug treaties is unprecedented. However, there is precedent for what amounts to collective denunciation of earlier drug treaties: the 1961 treaty includes an article (Article 44) by which that treaty, when it came into force, “terminated” nine previous conventions, agreements and protocols.

**Reservations to the drug control treaties**

We have noted that reservations to a treaty were traditionally to be made only at the point of accession to a treaty. However, Helfer (2006) notes that “late reservations have become a regular, if infrequent, component of modern treaty practice”. The International Law Commission has recommended allowing such late reservations, but only if no other Party objects within 12 months. But this remains a recommendation rather than a settled matter in international law. In any case, an action which can be nullified by any other party does not seem a promising path in the context of the drug treaties.

The alternative is for a Party to denounce a treaty and then reaccede with reservations. This is a settled procedure which has been used in recent years concerning other treaties (Room et al., 2010, p. 133). It thus avoids procedural objections, although not, as we shall discuss, the possibility of objections to the reservation itself. It is the path Bolivia is taking with respect to coca leaves in the 1961 treaty.

The 1961 treaty, the 1972 Protocol amending it, and the 1971 treaty all have provisions concerning reservations (Arts. 49-50, 21 and 32, respectively). Reservations to the 1988 treaty, which has no such Article, are governed by the 1969 Vienna Convention on the Law of Treaties, which entered into force in 1980 (UN, 1985). For the 1988 treaty, therefore, the only limit on a reservation filed at the time of accession is that the reservation may not be “incompatible with the object and purpose of the treaty” (Art. 19(c) of the 1969 Vienna Convention). There is no provision by which other parties’ objections to the reservation could lead to rejection of the reservation. The 1988 treaty also contains a specific provision, Art. 32 §4, which allows Parties

³ It is not clear what the effect of a denunciation of the 1961 treaty would have on status as a Party to the 1972 Protocol. In other such situations, it appears to be assumed that denouncing the treaty also denounces the protocol [e.g., Official Commentary on Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of Non-International Armed Conflicts (Protocol II), 8 June 1977, p. 1110, ¶ 3846—“A State Party to the Conventions and to the Protocol may denounce the Protocol without denouncing the Conventions; the converse is not possible”]. But if there is a reaccession, the Protocol provides (Art. 19 §a) that any state acceding to the 1961 treaty after August 1975, when the Protocol entered in force, will “be considered as a Party to the Single Convention as amended”. In this case, presumably the 1961 treaty’s provisions on reservations would apply also to the amendments resulting from the 1972 Protocol, so that reservations could be made on any part of the treaty (but with scope for objections to the reservation for specified articles). Concerning reservations, see below.
to declare at the time of accession that they do not accept the other provisions of that Article, which subjects disputes to the jurisdiction of the International Court of Justice.

For the 1961 and 1971 treaties, the provisions concerning reservation specify some articles and sections for which reservations are permitted without being subject to veto by objections. The 1972 Protocol reverses the specification, listing articles and sections for which no objection can prevail. The 1961 and 1971 treaties (but not the Protocol) provide for other reservations to be made, using almost the same language (Art. 50, §3 and Art. 32, §3 respectively). A reservation is accepted unless objection is made by one-third of the Parties “that have signed without reservation of ratification” (1961) or “that have ratified or acceded to this Convention” (1971). No reservation to the drug control treaties has ever been turned back under these provisions.

The reservations concerning the treaties which are currently in effect are summarized in Tables 1-3, in terms of the treaty article affected and its main topic. Although the tables somewhat undercount the reservations by combining articles, they give a picture of the extensive scope and range of reservations to the treaties – 45 current reservations to the 1961 treaty or its 1972 protocol, 44 to the 1971 treaty, and 73 to the 1988 treaty. The greater number of reservations to the 1988 treaty probably reflects an increasing tendency to express dissension in reservations; reservations to the 1988 treaty, for instance, include eloquent disagreement from Bolivia and Colombia with how coca leaf is dealt with in the treaties, while such reservations were not made to the 1961 treaty. The increasing rate of reservations may also have reflected that the 1988 treaty represented a further extension of international jurisdiction over affairs normally decided at a national or subnational level.

Most of the reservations which have been made to the 1961 and 1971 treaties are within the bounds spelled out in the previous paragraph and hence do not raise the possibility of objection. However, there are clearly some reservations which could have been objected to. Concerning the 1971 treaty, Germany made a reservation concerning Art. 11 §§2 & 4 on the details of record-keeping requirements for pharmaceutical manufacturers; Papua New Guinea made a reservation to Art. 10 §1 about warnings on medication packages; and Canada made a reservation to Art. 32 §4 about substances used in “magical or religious rites” that goes beyond the permitted scope of reservations, which specified “except for the provisions relating to international trade”. The UN database does not record any objection to these reservations. For the 1971 treaty, but not for the other treaties, the database does record, in a footnote to most of the reservations which could have been objected to, that the reservation was “deemed to have been permitted” in the absence of objections within one year from other parties.

Reservations about traditional use of plant products in the 1961 and 1971 treaties were made by a number of countries upon acceding. The 1961 treaty only allowed such reservations to be “transitional”, for a period of 15 years (for quasi-medical use of opium) and 25 years (for cannabis and coca leaf chewing) from the treaty’s entry into force on 13 December, 1964. Nepal, however, made a reservation upon acceding in 1987 to the 1961 Convention (as amended) 4

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4 The detailed accounting of reservations to each of the treaties can be found at: [http://treaties.un.org/pages/ViewDetails.aspx?src=TREATY&mtdsg_no=VI-15&chapter=6&lang=en](http://treaties.un.org/pages/ViewDetails.aspx?src=TREATY&mtdsg_no=VI-15&chapter=6&lang=en) and four other sites differing only in substituting 16, 17, 18 and 19 for the “15” in this web address.

5 Canada’s reservation notes that “said substances occur in plants which grow in North America but not in Canada”, implying they are a matter of international trade.
which included a “right to permit temporarily” the production and use of opium and cannabis without any end-date specified. This reservation did not attract any objections, in spite of being made after the expiration of the transitional period for opium.

Many of the other reservations made to the 1961 and 1971 treaties and the 1972 Protocol (within the limits allowed without scope for objection) concerned general matters of disagreement in international law. These included: the extradition of nationals; the jurisdiction of the International Court of Justice; what entities qualified as states to be signatories; and the powers of the International Narcotics Control Board. There are thus quite substantial exceptions to the general provisions of the treaties which have been made as reservations by one or more Parties.

In acceding in 1997 to the 1961 treaty as amended by the 1972 Protocol, Vietnam made a reservation concerning Art. 36 §2(b), concerning extradition. This is a provision on which objections are permitted, and is the single instance in which objections to a 1961 treaty reservation were filed, by Austria, Sweden and the U.K. Austria raised the stakes by expressing “doubts as to [the reservation’s] compatibility with the object and purpose of the Convention”, invoking language used in the Vienna Convention on the Law of Treaties as the condition under which a reservation would be impermissible. But the objections were from a small proportion of the Parties, and no further action is recorded.

Reservations to the 1988 treaty, for which there is no provision for blocking objections, are numerous. A total of 23 parties, including the U.S.A., made statements or reservations renouncing or limiting the jurisdiction of the International Court of Justice over disputes about the treaty. Colombia, Iran, Lithuania, Myanmar, Singapore, the U.S.A., Venezuela and Vietnam made reservations concerning extradition (Art. 6), and Sweden made a reservation concerning Art. 3 §10 with respect to extradition. Austria, Colombia, Panama and San Marino made reservations concerning confiscation and seizure (Art. 5), with Colombia and San Marino also reserving on other forms of cooperation (Art. 9), and Austria, Colombia, San Marino and Venezuela on cooperating on controlled delivery (Art. 11). The U.K. made a reservation on immunity from arrest of witnesses or experts at a legal proceeding requested by another Party (Art. 7 §18).

Various reservations were made about Article 3, the article on offenses and sanctions. Bolivia made an eloquent reservation with respect to coca leaf on the section requiring possession or purchase for personal consumption to be a criminal offence (§2), and Colombia also made specific comment on the “discriminatory, inequitable and restrictive” treatment of coca leaf in the treaty in the course of a series of Declarations about how it would interpret various treaty provisions. Peru’s reservation focused on the prohibition of cultivation and definition of “illicit traffic” in Article 1. Switzerland made a reservation concerning criminalizing possession or purchase for personal consumption (§2), as well as on provisions urging that offenses under the article be regarded as serious, and be treated with limits on discretion and with long statutes of limitations (§§6,7,8). The Netherlands also reserved concerning §§6, 7 and 8, and declared a number of “understandings” upon signing the treaty concerning Article 3 and the definition of “illicit traffic” in Article 1.

Yemen’s reservation is open-ended, reserving its “right to enter reservations in respect to such articles as it may see fit at a time subsequent to this signature”.

Seventeen parties, including European Union members, Mexico, Turkey and the United States, filed objections to the reservations to the 1988 treaty. The objections concerned matters of
extradition, confiscation, mutual assistance, and the law of the sea. Only the U.S. objection to Colombia’s reservations and declarations makes reference to a reservation concerning Article 3. The objections do not block any of the reservations, since the 1988 treaty has no specific provision which allows that. However, several of the objections considered the reservation in question “to be contrary to the object and purpose of the Convention” – as France stated, for instance, concerning Lebanon’s reservations concerning banking secrecy, and Vietnam’s concerning extradition.

As noted, France’s language here points to possible challenges of future reservations under the 1969 Vienna Convention on the Law of Treaties. But what is meant by the “object and purpose” of a treaty, as a leading treatise on international law notes drily, “is not free from uncertainty” (Shaw, 2008:921). A footnote to this statement quotes two guidelines to practice, in draft then but now adopted by the International Law Commission (2011), which do not do much to give a more specific meaning:

3.1.5 **Incompatibility of a reservation with the object and purpose of the treaty**
A reservation is incompatible with the object and purpose of the treaty if it affects an essential element of the treaty that is necessary to its general tenour, in such a way that the reservation impairs the **raison d’être** of the treaty.

3.1.5.1 **Determination of the object and purpose of the treaty**
The object and purpose of the treaty is to be determined in good faith, taking account of the terms of the treaty in their context, in particular the title and the preamble of the treaty. Recourse may also be had to the preparatory work of the treaty and the circumstances of its conclusion and, where appropriate, the subsequent practice of the parties. (International Law Commission, 2011)

As Swaine (2006) notes, “the Vienna Convention [on the Law of Treaties] sheds no light on how a treaty’s ‘object and purpose’ is to be reckoned, nor does practice”. Though some objections to reservations to the drug treaties have used the “object and purpose” formulation, no further argument is made indicating views on what the phrase might more specifically mean in a drug treaty context.

The precedents in the drug treaties, in summary, are that there are multiple reservations by many parties to the treaties, and that no reservation has ever been disallowed because of objections. Parties making reservations include the U.S., the Russian Federation, and other countries viewed as strong supporters of the drug prohibition system.

**Denunciation followed by reaccession with reservations**
As already noted, withdrawing from a treaty and then immediately rejoining with specified reservations is a strategy with a number of modern precedents from other treaties (Helfer, 2006). Despite the seemingly dramatic legal language for it, it is a path which is less problematic under international law than the apparently simpler path of a late (retrospective) reservation.

The essential nature of a reservation is that it subtracts from the treaty or specifies it, but does not add new provisions or language. Thus it inherently has a more limited scope than amending the treaties, since amendments potentially involve adding new language to the treaties. It should be noted that, in most national circumstances, there will also be a need to change the domestic legislation, with effect from a date after when the reaccession with reservations takes effect.
A country could thus implement a new reservation or set of reservations in conformity with international law by denouncing the treaties and reaccessing with the reservations. Reservations filed on reaccession to the 1988 treaty would have to be accepted, despite any objections which might be filed. Reservations to the 1961 (as amended) and 1971 treaties could be rejected by objections from a blocking one-third of Parties.

Helfer (2006) notes that objections to reservations are actually relatively rare in international law. But given the active opposition with which the U.S. and other Parties responded to the earlier Bolivian attempt to amend the 1961 treaty, a country taking this path would have to be prepared for the possible rejection of its reservations to the 1961 and 1971 treaties.

What happens if the number of objections were to be sufficient to block a reservation is in dispute. Goodman lays out three alternative dispositions which have been argued for: the reserving state may then be bound except for the positions which it reserved against (in which case the objections would have had no practical effect); the state may just not be a party to the treaty; or the state may be considered a party without being able to apply the reservation (Goodman, 2002). Since accessions to treaties commonly take effect after 30 days, while objections to reservations may commonly be made for up to 12 months (Pellet, 2009, pp. 25-28), the situation might well become not only ambiguous but also quite confused. To avoid such ambiguity, Bolivia has made its reaccession contingent on acceptance of its reservation. So if the reservation is not accepted, it means simply that Bolivia remains outside the 1961 treaty.

**The Bolivian case**

As noted above, Bolivia has taken the course of denouncing and reaccessing with a reservation, and at this writing the scenario is still unfolding. The initiative to reaccess with a reservation, with the reaccession “subject to the authorization” of the reservation, was sent by letter on 29 December, 2011 (Calazadilla Sarmiento, 2012), and other parties have 12 months after that to object. Unless there are objections from one-third or more of the parties that joined without reservation, Bolivia’s reaccession will then take effect.

Meanwhile, the International Narcotics Control Board (INCB), which regards itself as the “guardian of the Conventions” (Bewley-Taylor & Trace, 2006), has expressed vociferous displeasure at Bolivia’s action. When Bolivia announced its intended path, the INCB issued a press release stating that it “regrets” the Bolivian decision. While acknowledging that the decision “may be in line with the letter of the Convention”, the Board stated that it “is of the opinion [that] such action is contrary to the Convention’s spirit” (INCB, 2011). The statement also put forward an all-or-nothing defense of the treaties, implying that any such action constituted a “threat to the international drug control system”:

> The international community should not accept any approach whereby Governments use the mechanism of denunciation and re-accession with reservation, in order to free themselves from the obligation to implement certain treaty provisions. Such an approach would undermine the integrity of the global drug control system, undoing the good work of Governments over many years….

In its annual report for 2011, the INCB returned to this theme, repeating much of the same language (INCB, 2012:37), while adding that “the Board feels obliged to make Governments of States parties aware of that danger”, that is, the danger of undermining the integrity of the
system. Much the same language was repeated in the INCB President’s Foreword to the Report (p. v), adding the warning that “the achievements of the past 100 years in drug control would be compromised”.

The Bolivian government has strongly disputed the INCB’s position, for instance in a statement of the Bolivian Ambassador to The Netherlands at a side event at the March 2012 Vienna meetings of the Commission on Narcotic Drugs.

We categorically reject the claims and erroneous opinions expressed by the INCB that the Plurinational State of Bolivia has the intention of undermining the integrity of the international drug control system and that we are against the spirit of the Convention. We feel obliged to recall that, contrary to this inference, my country has been acting with the utmost degree of respect, attention and compliance with the Conventions. Many states parties have established reservations of different kinds to the three Conventions at the moment of ratification or accession. The circumstances of a totalitarian military dictatorship were the political conditions when Bolivia ratified the Single Convention in 1976. At that time, the same reservation would have been accepted without problem as was the case later with our reservation to the 1988 Convention. The INCB and its Secretariat are limited in their mandate to suggesting consultation, establishing a dialogue and requesting explanations from states and not to judge. (Calzadilla Sarmiento, 2012)

In the meantime, Bolivia’s action has set in train potential retaliatory actions outside the drug policy frame. On 19 March, 2012, the European Commission decided to “initiate an investigation in order to establish whether the denunciation of the UN Single Convention on Narcotic Drugs justifies a temporary withdrawal of the special incentive arrangement for sustainable development and good governance for products originating in Bolivia” (European Commission, 2012).

The normality and banality of treaty reservations

As can be seen from the record summarized in Tables 1-3, reservations to the international drug control treaties are quite numerous and varied, and have been made by many countries. Bolivia has a strong case that its reservation is within the range of other reservations which already exist on the treaties. It is thus disingenuous of the INCB to argue that actions such as Bolivia’s “would undermine the integrity of the global drug control system”. Given the record of reservations to the treaties, it would be an extraordinary act for a third or more of the parties to the 1961 treaty to object to the reservation, thus disallowing Bolivia from reaccessing with the reservation.

Such a result would be contrary to a main goal of the international drug control system, the one goal on which it can be seen by all unambiguously to have succeeded. The system has prided itself on attaining near-universality in accession to the treaties; the INCB annual reports each include a section on the current status in this regard (e.g., INCB, 2012:8). Though those staffing and committed to the system in its present form are no doubt extremely unhappy about a country implementing a change in their situation in this manner, to deny reaccession would be a dramatic retreat from the goal of universality that it is doubtful the international system would want to take.
The main disincentive to a country taking this path arises less from a threat of exclusion than from pressures and countermeasures outside the drug control system, such as economic sanctions, that could be threatened by the U.S. and other main supporters of the system. There would be more safety in numbers against these pressures and threatened countermeasures, which makes a coordinated series of denunciations and reaccessions a path worth considering for like-minded countries wishing to move in the directions we have outlined.

Conclusion: Reform by subtraction

The world today is governed by an international drug control system which is not fit for purpose. It is a system which does not ensure that medications it controls get to those in need of them, and which has largely failed in its strenuous efforts to reduce the illicit markets in drugs (Babor et al., 2010). Through its near-universal application and its extraordinary intrusion into domestic laws and affairs, it has greatly limited experimentation in the global community in alternative ways of limiting the harms from psychoactive substance use (Room & Reuter, 2012).

This paper lays out a path by which countries can open for themselves a path for experimentation, potentially reaching beyond what can be done within the limited “wiggle-room” within the treaties (Jelsma & Bewley-Taylor, 2012). In principle, there are better ways to write or adapt international treaties than by subtraction. In the current international political climate, however, such ways seem unlikely to be implemented. Moving forward by subtraction may, therefore, be the most feasible way to advance – whereby national parties, acting individually or in parallel, specify reservations to the treaties.

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Table 1. Summary of reservations to the 1961 Treaty and its 1972 Protocol
(Excluding reservations which were later withdrawn, and statements such as those concerning the legal status of other parties or territories)

### Summary of reservations to the 1961 Treaty

Transitional concerning traditional usage – Art. 49; expired except for claimed status of Nepal Bangladesh; India, Myanmar; Pakistan; Nepal

INCB authority over estimates and compliance -- 12(2, 3); 13(2); 14 (1,2); 31(1b)
   Belarus, Bulgaria, Hungary, Poland, Romania, Russia, Ukraine

Jurisdiction of International Court of Justice over disputes under the treaty – 48
   Algeria, Andorra, Argentina, Bahrain, China, Indonesia, Papua New Guinea, Saudi Arabia, South Africa, Vietnam

Penal provisions interpreted as satisfied by administrative regulations – 36
   Austria

Existing wholesale administration kept rather than set up a new one – 17
   Sri Lanka

### Summary of reservations to the 1972 Protocol to the 1961 Treaty

INCB powers: estimate system – 5 amending 12(5)
   Belgium, India, Mexico, Peru

Tighter provisions on estimates – 9 amending 29(1, 2, 5)
   Belgium, India, Montenegro, Serbia

INCB powers: referral to ECOSOC -- 6 amending 14(1, 2)
   India, Mexico, Myanmar, Romania

INCB powers on opium limits – 11 adding 21bis
   India, Mexico, Montenegro, Serbia

Extradition – 14 amending 36
   Brazil, Canada, Cuba, India, Myanmar, Panama, Vietnam

Stiffer control of Schedule III preparations – 1 amending 2(4)
   Brazil, Greece

Table 2. Summary of reservations to the 1971 Treaty
(Excluding reservations which were later withdrawn, and statements such as those concerning
the legal status of other parties or territories)

Reservation for plants traditionally used in “magical or religious rites” – 32(4); 7
Canada, Mexico, Peru, USA

INCB powers – 19
Belarus, Brazil, Egypt, Hungary, Iraq, Myanmar, Peru, Poland, Russian Federation, South
Africa, Ukraine

Jurisdiction of the International Court of Justice – 31
Afghanistan, Andorra, Bahrain, Belarus, Brazil, China, Cuba, Egypt, France, Hungary, India,
Indonesia, Iran, Iraq, Libya, Myanmar, Papua New Guinea, Russian Federation, South Africa,
Tunisia, Turkey, Ukraine, Vietnam

Keep existing invoice system -- 11(2, 4)
Germany

Extradition – 22(2b)
Myanmar, Vietnam

Warnings on packages and control of advertisements – 10(1)
Papua New Guinea

Penal provisions interpreted as satisfied by administrative regulations – 22
Austria

Will “abide by its provisions albeit having permissible reservations” under the treaty
Bangladesh

Table 3. Summary of reservations to the 1988 Treaty

(Excluding reservations which were later withdrawn, and statements such as those concerning the legal status of other parties or territories)

<table>
<thead>
<tr>
<th>Reservation Type</th>
<th>Countries/Remarks</th>
</tr>
</thead>
<tbody>
<tr>
<td>Criminalisation of possession, purchase, cultivation</td>
<td>Austria, Bolivia, Colombia, Germany, Netherlands, Switzerland (varied statements and reservations, Bolivia and Colombia concerning coca leaf)</td>
</tr>
<tr>
<td>Criminalisation of production and means of production</td>
<td>Austria, Colombia, Peru</td>
</tr>
<tr>
<td>Definition of illicit traffic</td>
<td>Netherlands, Peru</td>
</tr>
<tr>
<td>Serious crimes and long statute of limitations</td>
<td>Colombia, Netherlands, Switzerland</td>
</tr>
<tr>
<td>Confiscation</td>
<td>Austria, Colombia, Panama, San Marino</td>
</tr>
<tr>
<td>Bank secrecy</td>
<td>Lebanon</td>
</tr>
<tr>
<td>Jurisdiction of International Court of Justice</td>
<td>Algeria, Andorra, Bahrain, Brunei, China, Cuba, France, Indonesia, Iran, Israel, Kuwait, Lao PDR, Lebanon, Lithuania, Malaysia, Myanmar, Peru, Saudi Arabia, Singapore, South Africa, Thailand, Turkey, U.S.A., Vietnam</td>
</tr>
<tr>
<td>Extradition</td>
<td>Colombia, Iran, Lithuania, Myanmar, Singapore, U.S.A, Venezuela, Vietnam</td>
</tr>
<tr>
<td>Extradition – definition of a political offense</td>
<td>Sweden</td>
</tr>
<tr>
<td>Mutual legal assistance</td>
<td>Austria, Colombia, U.K., U.S.A.</td>
</tr>
<tr>
<td>Extraterritorial jurisdiction</td>
<td>Belize, Colombia</td>
</tr>
<tr>
<td>Cooperation across judicial systems</td>
<td>Colombia, San Marino</td>
</tr>
<tr>
<td>Domestic legal system subject to change</td>
<td>Austria</td>
</tr>
<tr>
<td>Burden of proof</td>
<td>Colombia</td>
</tr>
<tr>
<td>Controlled delivery</td>
<td>Austria, Colombia, San Marino, Venezuela,</td>
</tr>
<tr>
<td>Intercepting sea traffic</td>
<td>Brazil, Colombia, Denmark, Netherlands, Tanzania</td>
</tr>
<tr>
<td>“Reserves the right to enter reservations in respect to such articles as it may see fit at a time subsequent to this signature”</td>
<td>Yemen</td>
</tr>
<tr>
<td>Reservation for any required “legislation or other action by the U.S.A. prohibited by the Constitution of the U.S.”</td>
<td>U.S.A.</td>
</tr>
</tbody>
</table>