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AND
SOCIAL COUNCIL



GENERAL

E/CN.7/233
3 March 1952

ORIGINAL: ENGLISH
FRENCH

COMMISSION ON NARCOTIC DRUGS
Seventh session
Item 11 (b) of the provisional agenda

ILLICIT TRAFFICKING BY THE CREWS OF MERCHANT SHIPS

Draft Resolution Proposed by the
Representative of the United States of America
at the fifth session of the
Commission on Narcotic Drugs

52-3014

/1. Note by the
E/CN.7/233

1. Note by the Secretary-General: The Commission will recall that at its fifth session it decided to request the Secretary-General to transmit to Governments for their observations the draft Resolution on illicit trafficking by the crews of merchant ships introduced by the Representative of the United States of America (see E/1889/Rev.1, E/CN.7/216/Rev.1, paragraph no. 55).

2. The Secretary-General duly communicated the text of the draft Resolution to Governments on 29 March 1951 and now has the honour to communicate herewith the comments thereon received by 29 February 1952. These comments are reproduced below under the following classifications:

1. Unreserved support for or approval of the draft resolution:

China

Costa Rica

Cuba

El Salvador

Ethiopia

Iran

Iraq

Israel*

Lebanon

Philippines

United States of America

Yugoslavia

* In its reply the Government of Israel made a suggestion which is reproduced under section 8.

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| 2. Acceptance or willingness to co-operate within the limits of national legislation or subject to some reservations: | Canada |
| | Denmark |
| | Finland* |
| | Indonesia |
| | Ireland |
| | Italy |
| | Norway |
| | Union of South Africa |
| 3. Proposing amendments:** | Greece |
| | India |
| | New Zealand |
| 4. Comments without explicit acceptance or rejection: | Colombia* |
| | Sweden |
| 5. Expressing willingness to co-operate but doubts as regards the possibility of implementing the resolution if adopted: | Switzerland |
| 6. Expressing inability to accept the draft resolution as a whole or some of its provisions on account of national legislation: | Australia |
| | Netherlands |
| | United Kingdom |

* In their replies the Governments of Finland and Colombia made suggestions which are reproduced under section 8.

** See also section 8.

7. No comments:

Afghanistan

Bolivia

Czechoslovakia

The Hashemite Kingdom
of Jordan

Luxembourg

Yemen

8. Texts of the amendments
proposed by:

Greece

India

New Zealand

1. Unreserved support for or approval of the draft resolution

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| China | 27 November 1951 |
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" ... It is the aim of the Chinese Government to suppress the evil of narcotic drugs to the point of thorough extermination. Any offence in violation of the National Legislation relating to suppression of opium and narcotics will be dealt with in strict accordance with the law. If the crews of merchant ships are found to engage in smuggling narcotic drugs, the Government will not only observe all the measures provided in the draft resolution introduced by the United States Representative on the Commission on Narcotic Drugs, but will also impose punishment on them accordingly."

In this connexion, the Chinese

Delegation wishes also to draw the Secretary-General's attention to letter No. 01466 of

/December 28,

Country Date of Communication

December 28, 1950 in which Dr. P.C. Chang, Chinese Representative on the Economic and Social Council, transmitted "Provisions concerning the Crime of Opium included in the Criminal Law of the Republic of China" and "Regulations on Penal Offences relating to Suppression of Opium and Narcotics".*

Costa Rica 4 June 1951

"... the Narcotic Drugs Department of Costa Rica fully supports the decisions taken on illicit trafficking by crews of merchant ships; it is to be hoped that in practice the above measures will produce the best possible results."

Cuba 4 October 1951

"... the Government of Cuba considers that the adoption of the above resolution would produce effective results."

El Salvador 13 June 1951

"The Chairman of the Board of Chemistry and Pharmacy informed the Ministry of the Interior that he had carefully studied the draft resolution ... and added that the Board was in full agreement with the contents of the above draft as its execution would be a beneficial step which would reduce the illicit traffic in narcotics in our country."

... the Ministry of the Interior concurs in the opinion of the Board of Chemistry and Pharmacy."

* Kept in the archives of the Secretariat.

| <u>Country</u> | <u>Date of Communication</u> | |
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| Ethiopia | 28 September 1951 | " ... the Imperial Ethiopian Government supports the above-mentioned resolution." |
| Iran | 30 October 1951 | " ... the Government of Iran considers that the draft resolution is of a nature to prevent effectively the illicit traffic by crews of merchant vessels." |
| Iraq | 22 August 1951 | " ... the Iraqi Government approves the draft resolution ..." |
| Israel | 23 August 1951 | " ... the Government of Israel fully supports the adoption of measures as proposed in the Draft Resolution." |
| Lebanon | 26 September 1951 | " ... the competent Lebanese authorities approve the draft resolution ..." |
| Philippines | 26 June 1951 | " ... the Philippine Government endorses the resolution and pledges full cooperation in regard to its enforcement." |
| United States of America | 16 July 1951 | " ... Since 1936 the Government of the United States of America has had authority under United States shipping laws to revoke or suspend licenses of officers and certificates of able seamen for smuggling narcotics (46 U.S.C. § 226, 228, 229, 239 (g), 672 (g), (h)). As a matter of administrative practice, both officers and seamen have been put on notice for many years that the smuggling of narcotics would result in the exercise of the administrative authority of the Commandant to revoke seamen's papers." |

Country Date of Communication

United States
of America (cont'd)

There is no provision of law or administrative regulation which would prevent the United States Government from requesting maritime unions in its territory to take steps to bar officers and seamen, convicted of smuggling narcotics, permanently from the unions, nor is there any provision of law or administrative practice forbidding the United States Government from urging all steamship companies in its territory engaged in international commerce not to employ officers and seamen convicted of smuggling narcotics."

Yugoslavia 16 November 1951

" ... the proposed resolution is acceptable without any reservation."

2. Acceptance or willingness to co-operate within the limits of national legislation or subject to some reservations

Country Date of Communication

Canada 8 August 1951

" ... The Canadian Government would be prepared to give effect to the United States draft resolution within the limits of the relevant Canadian legislation. The provisions of the Opium and Narcotic Drugs Act and of the Canada Shipping Act, both of which relate to the subject matter of the proposed resolution, are such as to enable substantial compliance to be given to the terms of the United States proposal. The Opium and Narcotic Drugs Act makes provision for the punishment of all persons convicted of

/trafficking in

| <u>Country</u> | <u>Date of Communication</u> |
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| Canada (cont'd) | |

trafficking in narcotics. Section 572 (5) (a) of the Canada Shipping Act gives the Minister of Transport authority to suspend or cancel a Master's, Mate's or Engineer's Certificate for incompetence, misconduct, drunkenness, or tyranny. It should, therefore, be possible to examine any reports of misconduct in the drug trafficking sense and, if it is considered advisable, to take appropriate action to penalize a certificated master or officer of the Canadian Merchant Marine. The provisions of the Canada Shipping Act also apply to radio operators.

In the event of uncertificated personnel being involved in illicit trafficking in narcotics, the appropriate Canadian authorities would be prepared to bring such matters to the attention of Canadian shipowners' organizations. By so doing, it might be possible to control the employment of these seamen in the Canadian Merchant Marine. The question of approaching maritime unions, along the lines indicated in the draft resolution, is still under consideration, and to that extent Canada wishes to reserve its position.

In general, Canada is willing to co-operate fully in any measures designed to prevent illicit trafficking in narcotics by crews of merchant ships.

/At the same

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Country Date of Communication

Canada (cont'd)

At the same time, it expects other maritime countries to take similar action so as to ensure co-operation on the international level in this important work."

Denmark 22 October 1951

" ... According to Danish law it is not possible to accomplish, administratively, the measures contained in the draft resolution in question.

However, in accordance with paragraph 79 of the Penal Code, as amended by Act of June 18, 1951, the sentence for smuggling can include deprivation of officers' licenses or seamen's certificates if future misconduct is highly suspected."

Finland 20 October 1951

" ... No cases involving smuggling of narcotic drugs on Finnish ships or in Finnish ports during the years 1946-50 are known to the Finnish authorities. They are, however, prepared to take part in international arrangements having the object to combat illicit traffic in narcotics.

Within the framework of the regulations presently in force the Authorities concerned, however, cannot take measures to revoke officers' licenses and seamen's certificates held by persons convicted of crimes involving the smuggling of narcotics, or to withhold the issue to such persons of new licenses and certificates. The adopting of the

/Draft

Country Date of Communication

Finland (cont'd)

Draft Resolution thus requires an amendment of the relevant legislation. It should, however, be noted that, in accordance with a principle observed in Finland as well as in many other countries, no penalty can be retroactively inflicted by a law for an offence committed before the entry into force of the law in question. On the other hand, there is no hindrance to pass legislative amendments to the effect of prescribing such measures against those who make themselves guilty of the crimes in question after the entry into force of the amendments referred to.

Owing to the special Finnish conditions, the Draft Resolution, if adopted, might lead to exorbitance, as it does not make any difference between crimes committed in aggravating and extenuating circumstances, but would deprive even a seaman guilty of a minor offence of any opportunity to work in the profession he has chosen and qualified for. The Finnish Authorities consider that an effect sufficiently rectifying could be achieved by temporary removal of the guilty from the profession.

In the circumstances prevailing in Finland the maritime unions and steamship companies cannot be compelled to take the measures referred to in the Draft Resolution, the carrying into effect of

/the scheme

| <u>Country</u> | <u>Date of Communication</u> |
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| Finland (cont'd) | |

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| Indonesia | 17 October 1951 |
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the scheme depending on their voluntary consent. As far as known, they are, however, prepared to co-operate in order to combat illicit traffic in narcotics." "... the Government of the Republic of Indonesia has sent a circular letter to the major shipping companies and to the trade unions of maritime workers in Indonesia, regarding said draft resolution.

Until this date the Government of the Republic of Indonesia has not yet received answers from all companies and unions; however, from the letters that already came in, it appears that there is a general willingness to co-operate with a view to combating the smuggling of narcotics.

There are, however, various difficulties which the Government of the Republic of Indonesia wishes to explain:

1. On the part of large shipping companies arrangements can be made easily; however, there are a large number of small vessels operated by the owner himself. Even if the Government should succeed in locating and registering all vessels, continued and effective control will be difficult to enforce in view of the facts set out in the following paragraph.

/2. Indonesia is

| <u>Country</u> | <u>Date of Communication</u> |
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| Indonesia (cont'd) | |

2. Indonesia is composed of many islands with a long coastline, where smuggling with small vessels or proas under the present circumstances is rather easy, and difficult to be checked by the authorities.

3. Recommendation (a) of the draft resolution to revoke officers licenses is contrary to existing legislation in Indonesia. However, in practice it will not matter whether the recommendation (a) is accepted or not, because according to recommendation (c) steamship companies are not to employ officers whose names are on the black list.

4. For the time being it will be quite impossible for Indonesia to apply the measures recommended in sub (a), (b) and (c) to the lower crew. As long as the Government's Dactyloscopic Service is not working perfectly all over the country, smugglers will continue to carry on a brisk traffic in paper, which makes it impossible to identify the lower crew. It will be too easy for members of the lower crew, placed on the black list after withdrawal of their papers, to change their names and to obtain other papers."

/Ireland

Country Date of Communication

Ireland 6 October 1951

" ... the Irish Authorities being wholly in favour of the principle of the suggested resolution, would be desirous of giving whatever cooperation they can to carry out its stated objects. For this purpose the Irish Authorities will be prepared to take such measures as are open to them under the law in force in Ireland to suppress illicit trafficking in narcotic drugs by Irish seamen."

Italy 24 July 1951

" ... the Italian Government in principle favors the draft resolution ... However, the adherence of the Italian Government to the draft would depend on the adherence by other Mediterranean countries."

Norway 24 October 1951

" ... The text of the draft resolution has been brought to the notice of various Norwegian Government departments and seamen's organizations, and the substance of their comments can be summarized as follows:

Norwegian law does not permit the revocation of merchant officers' and seamen's licences by administrative action, nor are the Authorities inclined to change the law in that respect.

The question of exclusion from unions has evoked a favourable response from the officers' organizations. The latter would not, however, accept the automatic exclusion of every officer figuring on the list to be issued by the Secretary-General, but these

/organizations

Country Date of Communication

Norway (cont'd)

organizations seem prepared, at any rate in the event of recidivism, to bring the matter before their appropriate disciplinary organs for decision with due regard to the particular circumstances of each case. The Norwegian Seamen's Federation doubts that its rules admit the exclusion of members on the grounds proposed, and is strongly against the action envisaged under paragraph (c) of the draft resolution.

The representatives of the shipping companies, in their turn, are not in principle unwilling to take action under paragraph (c), but point out that this would involve difficulties of execution, because the companies do not in the majority of cases themselves undertake the hiring of the seamen, but leave this matter to the labour exchanges for seamen. Officers are, on the contrary, in most cases hired directly by the companies.

The Norwegian authorities are of opinion that really effective action along the lines envisaged in the draft resolution could only be taken under an Act of 27th June 1947 relating to promotion of employment. Under section 21 of this Act a seaman (not an officer) may be denied employment in the merchant marine if he has shown himself unfit to be a seaman, or grossly

/and repeatedly

Country Date of Communication

Norway (cont'd).

and repeatedly has failed in his duties as a seaman, or in other ways has proved himself unworthy of service at sea. Decisions in regard to these matters are made by the so-called supervisory committees attached to each labour exchange for seamen, and there are provisions for appeal to a central committee.

This central committee, having been apprised of the text of the draft resolution, holds that the offences therein mentioned are sufficiently grave, viewed in relation to the provisions of the above-mentioned section 21, to be judged with severity. The smuggling committed may, however, have been insignificant, or the act may have been attended by extenuating circumstances such as would make it unreasonable to disqualify completely the person concerned from further service at sea. In such cases it might be advisable to grant a qualified licence (e.g. for coastwise trade) or merely to warn the offender that he risks in the event of recidivism to be denied employment altogether. Every sentence passed for smuggling of narcotics would be taken into account, by the committee if the question of exclusion should be subsequently raised in connexion with other offences committed by the person concerned. The

/committee

Country Date of Communication

Norway (cont'd)

committee stresses the fact that cases involving the denial of employment must be considered individually upon their merits, and that there is no legal authority for it to make a general decision to the effect that all seamen entered on the proposed list of smugglers of narcotics shall be excluded from service in the Norwegian merchant marine."

Union of South
Africa 13 November 1951

"... the Merchant Shipping Acts administered in the Union of South Africa by the Department of Customs and Excise do not contain any provisions which would prevent the application of recommendations (a) and (c) of the draft resolution, and that the Department of Customs and Excise would, in appropriate circumstances, be prepared to give effect to those recommendations.

As regards recommendation (b) of the draft resolution, there is no objection to bringing the request contained therein to the attention of the Maritime Unions. It appears, however, that the South African Caterers, Seamen and Whalers' Union, whose membership is limited to vessels flying the flag of the Union of South Africa, is the only union to which the request would apply. It is learned that this union has ceased to exist, and has not functioned in terms of its constitution since December, 1949."

3. Proposing Amendments

| <u>Country</u> | <u>Date of Communication</u> |
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| Greece | 19 June 1951 |

" ... Under Articles 8 and 9 of the Penal Code, Greek laws apply to both Greek nationals and aliens convicted of illicit traffic in narcotic drugs, even when such traffic took place abroad.

As regards seamen in particular, the following regulations are in force:

(a) It shall not be lawful for any person to exercise the trade of seamen unless he has had his name entered on the rolls of the Maritime Registry and holds a seaman's booklet. Persons sentenced for illicit traffic in narcotic drugs cannot be admitted to the Maritime Register or have a seaman's booklet issued to them.

(b) Persons convicted of this traffic and sentenced in accordance with the law cannot obtain an officer's certificate or a certificate of competency as a seaman.

(c) A seaman sentenced for illicit traffic in narcotic drugs by a Greek or foreign tribunal may, in conformity with the provisions of the Penal and Disciplinary Code of the Merchant Marine, be deprived of the right of exercising his trade. This measure shall be either final or temporary according to the gravity of the offence. However, if the
/penalty

Country Date of Communication
Greece (cont'd)

penalty inflicted is one year's imprisonment or more, the cancellation of the officer's certificate or the seaman's certificate of competency shall be final.

With a view to the application of the foregoing provisions the judicial authorities are required to communicate to the Ministry of Merchant Marine the relevant extracts of their judgments in the case of crimes or offences committed by seamen.

However, in order to permit of disciplinary action against seamen sentenced by a foreign tribunal for illicit traffic in narcotic drugs it is indispensable that a full copy of the judicial sentence should be transmitted to the Greek Ministry of the Merchant Marine.

In the light of these considerations, the Greek Government's observations on the draft resolution submitted by the United States delegation may be summarized as follows:

The Greek Government is in agreement with the provisions of paragraph 1 of the resolution concerning the preparation of a list of members of crews of merchant ships who were sentenced for smuggling narcotic drugs from 1946 to 1950 inclusive.

It is also in agreement with the initial sentence of paragraph 2 proposing that the Secretary-General should be asked to transmit this list to all governments.

/The Greek

Country Date of Communication

Greece (cont'd)

The Greek Government regards as undesirable the insertion of sub-paragraphs (b) and (c) of paragraph 2.

It believes on the contrary that measures should be taken to communicate to the governments concerned the judicial sentences pronounced against seamen convicted of illicit traffic in narcotic drugs."

India

5 November 1951

"... the Government of India support the U.S. draft resolution regarding Illicit Trafficking by the Crews of Merchant Ships but would suggest that the following clause should be inserted after sub-para (a) thereof.

'Such revocation may be for a specified period or permanent according to the circumstances of each case.'

2. As regards the possibility of giving effect to the resolution, the Government of India are, in the case of non-officer seamen, already preventing their employment for specified periods with the consent of Shipping Companies and propose to examine in due course, in consultation with the interests concerned as to what modifications, if any, should be made in the law for implementing any recommendation that may eventually be made."

New Zealand 12 July 1951

"... This draft resolution has been examined by the appropriate authorities in New Zealand and would appear to meet the New Zealand position except insofar as paragraph 4 (b) is concerned. It is

/suggested

Country Date of Communication

New Zealand (cont'd)

suggested that this sub-paragraph might be brought into conformity with the hortatory sense of sub-paragraph 4 (c) of the draft. The sub-paragraph might be amended to read as follows:

'(b) That they recommend the Maritime Unions in their territories to consider taking steps to bar such officers and seamen permanently from the Union: and'.

Subject to this reservation, the proposed draft would appear to be satisfactory so far as the New Zealand Government is concerned."

4. Comments without explicit acceptance or rejection

Country Date of Communication

Colombia 28 April 1951

" ... Since 1 January 1940, the date on which Act 36 of 1939 came into force, only the national Government, through ... [the Ministry of Health and Hygiene], has imported narcotic drugs into Colombia. In view of the frequent thefts of these drugs on ships, as mentioned in the annual reports submitted by our country for the years 1938, 1939, 1942 and 1944, we adopted the rule of having all these medicaments transported by air. The result of this step is that since the beginning of 1945 there has not been a single theft of narcotic drugs arriving in Colombia. The result of this action is so obviously satisfactory that the Narcotics Section of this Ministry proposes that the United Nations Economic and Social Council consider the possibility of prohibiting /the transport

| <u>Country</u> | <u>Date of Communication</u> |
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| Colombia (cont'd) | |

the transport of narcotic drugs in merchant ships and allowing such transport only by air.

Illicit trafficking in narcotic drugs discovered on vessels flying the Colombian flag is an offence for which Act 45 of 1946 imposes a penalty of six months' to five years' imprisonment and a fine of 50 to 1,000 pesos."

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| Sweden | 29 September 1951 |
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" ... There is practically no traffic in illicit drugs in Sweden. Thus during the last five years a total of only five lots of narcotic drugs were seized as a result of illicit ownership or export. One of these lots, representing 4,750 grammes of opium, was discovered on board a Turkish ship; another lot of 4,370 grammes of opium was seized on board a Panamanian ship. The remaining lots represented a very small quantity of drugs. Two of these cases may be described as smuggling by crews of merchant ships. The competent authorities know of no other similar case of smuggling. Consequently it would not appear necessary for Sweden at this juncture to take special measures to prevent illicit traffic in narcotic drugs by crews of merchant ships. It should also be observed that all the cases of illicit traffic in narcotic drugs known to the competent authorities have been duly reported to the United Nations and

/the names of

Country Date of Communication

Sweden (cont'd)

the names of the accused have been communicated in all cases where such offences resulted in legal proceedings.

The competent authorities are fully aware of the importance of the question because of the conditions prevailing in certain countries; they believe, however, that measures by Sweden are not necessary at this moment. If present circumstances were to change so as to require special measures against illicit traffic in narcotic drugs in our country, the measures proposed in the resolution would again be examined by Sweden. It is doubtful, however, whether it would be in conformity with the Swedish conception of law that a conviction for smuggling narcotic drugs should debar the offender from enrolment on board merchant ships."

5. Expressing willingness to co-operate but doubts as regards the possibility of implementing the resolution if adopted

Country Date of Communication

Switzerland 2 November 1951

" ... The competent Swiss authorities have examined the draft resolution with great interest; like the sponsors of the resolution they too are desirous of combating the illicit traffic in narcotics on ships, in so far as the problem arises for Switzerland.

In view of the fact that the list suggested in the draft resolution would be confined to convictions during the years 1946-1950, however, the Swiss authorities

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| <u>Country</u> | <u>Date of Communication</u> |
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| Switzerland (cont'd) | |

wish to state that to the best of their knowledge no seaman employed on a vessel flying the Federal flag was sentenced for traffic in narcotics during that period. It is unlikely, therefore, that the Confederation would be in a position to make any positive contribution to the drafting of this document.

The sole question which arises, therefore, is what use the Swiss authorities could make of such a document were it to be compiled and distributed by the United Nations Secretariat. There appears to be no reason why the suggested list should not be transmitted to Swiss shipowners, with the recommendation not to employ seamen whose names were on the list. A similar communication might be addressed to maritime trade unions, should such organizations ever be formed in Switzerland. As the law at present stands, however, it would probably not be possible to compel shipowners and trade unions to exclude or bar such persons.

Moreover, the cancellation or withholding of licences and certificates, as provided under paragraph 2 (a) of the draft resolution, would, if applied to seamen convicted during the years 1946 to 1950, be retroactive measures. This fact would in itself preclude their application in Switzerland, since the Penal Code of 21 December 1937 lays down the principle that penalties may not be imposed retroactively. Moreover, even if such a

/measure were

Country Date of Communication

Switzerland (cont'd)

measure were applied by a court as a subsidiary penalty against a seaman guilty of traffic in narcotics, after the offence was committed, it could only be enforced for a limited time, since under existing provisions official authorization for the exercise of a profession, where such authorization is required, may not be withdrawn in Switzerland for a period longer than five years.

For all these various legal reasons, it is doubtful whether the Swiss authorities, despite their desire to combat the traffic in and smuggling of narcotics, would be in a position to take early action on the resolution, if it should be adopted by the United Nations and if Switzerland were asked to apply it and decided to do so."

6. Expressing inability to accept the draft resolution as a whole or some of its provisions on account of national legislation

Country Date of Communication

Australia 29 October 1951

" ... Draft Resolution

Paragraph (a): ... under the present laws of the Commonwealth it would not be possible to prevent the engagement of a seaman (rating) who had been convicted of smuggling narcotics. A Master or certificated officer of a British ship might be charged with "misconduct" before a Court of Marine Inquiry, and thus render his Certificate of Competency liable to be

/cancelled,

Country Date of Communication

Australia (cont'd)

cancelled, but it would be preferred before adopting a general practice of making charges, in case of convictions, that there should be a uniform policy in the matter. A cancellation of an officer's certificate, for example, if it has been issued abroad, would only be effective in Australia. No action could be taken, under present law, against an officer holding a foreign certificate.

Paragraph (b): There are no Australian registered vessels trading overseas, but there are several ships managed in and controlled from Australia which have Asiatic crews and Australian officers. Control of the crews, in regard to this traffic, would have to be made effective in Asiatic ports, but the officers could be dealt with in Australia to the limited extent mentioned above.

Paragraph (c): The Australian Government reports to the Permanent Central Opium Board the names of persons prosecuted for crimes involving the smuggling of narcotics."

Netherlands 11 September 1951

" ... While it is generally agreed in the Netherlands that the illicit trafficking of narcotic drugs by merchant seamen should be combatted with every means, it is felt, however, that the existing Opium Law already provides adequate machinery to do so.

/Moreover,

| <u>Country</u> | <u>Date of Communication</u> |
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| Netherlands (cont'd) | |

Moreover, it will not be possible to enforce the draft resolution dealing with seamen's licenses, as such licenses are issued on the merits of professional capability and can only be revoked on the grounds of unsuitability or guilt established by the Inspectorate of Shipping (Scheepvaart-inspectie) or the Maritime Court (Raad voor de Scheepvaart) investigating a shipping accident.

The punishment of persons found guilty of illicit trafficking of narcotic drugs is considered in the Netherlands to belong exclusively to the jurisdiction of criminal courts.

Recommendation b) calling for ejection of guilty seamen from maritime unions can also not be carried out effectively since the Netherlands Government cannot direct these unions to suspend the membership of seamen found to be guilty of illicit trafficking of narcotic drugs.

With regard to Recommendation c), however, shipowners affiliated with the Netherlands Maritime Board (Raad van Bestuur voor de Zeevaart) have promised full cooperation. The Maritime Board has agreed to send the Secretary-General's list, mentioned in Recommendation c), to all mustering offices for seamen for the purpose of keeping undesirable persons from obtaining employment on sea-going vessels. The names of seamen found guilty after 1950 of engaging in illicit trafficking of narcotic drugs could be added to said list."

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| Kingdom | 8 October 1951 |
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" ... Whilst His Majesty's Government are in full sympathy with the general intention of the draft Resolution in calling for exemplary penalties on seafarers guilty of participation in the illicit drug traffic, they could not subscribe to the terms of the draft Resolution.

In the United Kingdom the Minister of Transport has power, under section 469 of the Merchant Shipping Act, 1894, to suspend or cancel the certificate of any master, mate or engineer if it is shown that he has been convicted of any offence. Under section 474 of that Act, the Minister has power, if he thinks that the justice of the case requires it, to reissue or return such a cancelled or suspended certificate, or to shorten the period of suspension, or to grant in place of it a certificate of the same or any lower grade.

These statutory provisions have been framed primarily in the interests of the safety of life at sea, and in exercising his power to cancel, suspend and reissue certificates the Minister must be guided by the purposes for which the certificate is issued. Action by the Minister in cancelling or suspending a certificate depends on his conclusion as to the possession by the officer of the necessary qualities required in a certificated officer of sobriety, experience, ability and general good conduct on board ship, and the

Country Date of Communication
United
Kingdom (cont'd)

automatic suspension or cancellation of a certificate on conviction of an offence of smuggling narcotic drugs would be contrary to the general principle underlying the existing law that the question whether a certificate should be suspended or cancelled must in each case be decided by the Minister of Transport in the light of all the circumstances.

The employment of officers and ratings in United Kingdom merchant ships is the responsibility of the industry. His Majesty's Government are informed that the Merchant Navy Establishment Administration, which under an industrial agreement, must approve the engagement of officers and ratings in foreign-going ships, and in home-trade ships of 200 gross tons and over, take an extremely serious view of convictions for offences of this kind, and a similar view is taken by the representatives of the seafarers' organisations, who are associated with the Establishment Administration in the consideration of disciplinary cases. All such cases are, however, considered on their merits with a view to decision on suitability for further employment at sea.

His Majesty's Government fully recognise the importance of taking all possible measures to combat the illicit traffic in narcotic drugs but in their view it is for the courts to determine, within the limits allowed by the penal law, what penalty in any particular case is requisite to achieve

/the aim of

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United

Kingdom (cont'd)

the aim of deterrence of the particular offender and of other offenders. The maximum penalty for offences against the Dangerous Drugs Act, 1920, which prohibits the importation of dangerous drugs except under a licence granted by the Secretary of State, is a fine of £1,000 or imprisonment for 10 years, or both. His Majesty's Government have no reason to think that the existing powers of the courts in this country are inadequate or that they require to be supplemented by the automatic prohibition from seafaring of a seafarer convicted of such an offence. In their view the question whether a seafarer convicted of an offence of the kind should, in addition to undergoing any penalty imposed by the court, be debarred from further sea-faring employment ought to be left to the discretion of the appropriate authorities, and, as stated above, both the Minister of Transport and the Merchant Navy Administration would in the exercise of their discretion, take a very grave view of offences of illicit traffic in narcotics."

7. No comments

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Afghanistan 5 September 1951

"... Afghanistan does not have a port and for that reason the Government of Afghanistan cannot give any constructive views on the above subject."

Country Date of Communication

Bolivia 24 April 1951

" ... when the draft resolution ... was communicated to the Ministry for Public Health and Hygiene, it replied that it would refrain from expressing an opinion on the matter as Bolivia has no ships on which it could control illicit trafficking in narcotic drugs since it has no sea coast."

Czechoslovakia 28 December 1951

" ... the Government of Czechoslovakia has no comments to the draft resolution on illicit trafficking by the crews of merchant ships" ...

Hashemite
Kingdom of the
Jordan 23 April 1951

" ... the Jordan competent authorities have no comments to transmit to the Commission on Narcotic Drugs concerning the Draft resolution on illicit trafficking by the crews of merchant ships because the Hashemite Kingdom does not possess but the Akaba Port and boat sailors only."

Luxembourg 5 April 1951

" ... This question does not arise for the Grand-Duchy of Luxembourg which has no sea frontiers."

Yemen 22 April 1951

" ... The production of narcotic drugs is completely prohibited in Yemen except for medical purposes. At the present there is no production of that kind, but the narcotics used in our country are those imported by the Government only and sold in drug stores under its control by a medical prescription. The traffic in narcotics is considered a crime in Yemen and is punished severely."

8. Texts of the amendments proposed

Text of the draft resolution
proposed by the Representative of
the United States of America:

Amendments proposed by Governments

The Economic and Social Council

Having been informed by the
Commission on Narcotic Drugs that
there has been an increase in the
illicit traffic in narcotics on
ships during the past five years
and that this increase is
principally owing to smuggling
by merchant vessel personnel;

Desiring to take all
measures possible to combat such
illegal activities;

Requests the Secretary-
General to compile a list of
merchant vessel personnel who
have been convicted, during the
years 1946 to 1950 inclusive, of
crimes involving the smuggling
of narcotics;

Instructs the Secretary-
General to transmit the list to
the Governments of all States
with the recommendation

(a) that they take
appropriate measures (i) to
revoke officers' licences
and seamen's certificates
currently held by such
persons and (ii) to withhold
the issue to such persons of
officers' licences and
seamen's certificates;

(a) The Government of
India proposed to insert
after sub-paragraph (a)
the following clause:
"Such revocation may be
for a specified period or
permanent according to
the circumstances of each
case."

/(b) that they

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(b) that they request the maritime unions in their territories to take steps to bar such officers and seamen permanently from the unions; and

(c) that they urge all steamship companies in their territories engaged in international commerce not to employ officers and seamen whose names are on the list.

(b) The Government of New Zealand proposed to amend sub-paragraph (b) to read as follows: "that they recommend the Maritime Unions in their territories to consider taking steps to bar such officers and seamen permanently from the unions; and"

(b) and (c) The Greek Government proposed the suppression of sub-paragraphs (b) and (c) and suggested that measures should be taken to communicate to the Governments concerned the judicial sentences pronounced against seamen convicted of illicit traffic in narcotic drugs.

Note: The following suggestions were also made in the replies shown:

Colombia: The Economic and Social Council should "consider the possibility of prohibiting the transport of narcotic drugs in merchant ships and allowing it only by air".

Finland: "The Finnish authorities consider that an effect sufficiently rectifying could be achieved by temporary removal of the guilty from the profession."

Israel: "Similar measures should be adopted with a view to combating illicit trafficking in narcotic drugs by the crews of commercial airlines."