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COMMISSION ON NARCOTIC DRUGS

Sixth Session

SUMMARY RECORD OF THE HUNDRED AND FORTY-FIRST MEETING

Held at Headquarters, New York,
on Tuesday, 8 May 1951, at 10 a.m.

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Proposed interim agreement to limit the production of opium to medical and scientific needs (E/CN.7/220, E/CN.7/221, E/CN.7/L.6, E/CN.7/L.6/Add.1, E/CN.7/L.6/Add.2 and E/CN.7/L.6/Add.3: Conference Room Papers Nos. 8 and 9) (continued)

Chairman:

Mr. SATTANATHAN

India

Members:

Colonel SHARMAN

Canada

Mr. KAMEL FAHMY

Egypt

Mr. BOURGOIS)

France

Mr. VAILLE)

Mr. AMINI

Iran

Mr. CABADA

Peru

Mr. OR

Turkey

Mr. ZAKUSOV

Union of Soviet Socialist
Republics

Members: (continued)

Mr. HOARE	United Kingdom of Great Britain and Northern Ireland
Mr. ANSLINGER	United States of America
Mr. NIKOLIC	Yugoslavia

Also present:

Mr. MAY	Chairman of the Permanent Central Opium Board
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Observer:

Mr. SCHNEIDER	Switzerland
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Secretariat:

Mr. STEINIG	Director of the Division of Narcotic Drugs
Mr. BOLTON	Secretary of the Commission

PROPOSED INTERIM AGREEMENT TO LIMIT THE PRODUCTION OF OPIUM TO MEDICAL AND SCIENTIFIC NEEDS (E/CN.7/220, E/CN.7/221, E/CN.7/L.6, E/CN.7/L.6/Add.1, E/CN.7/L.6/Add.2 and E/CN.7/L.6/Add.3; Conference Room Papers Nos. 8 and 9)
(continued)

Report of the Committee appointed to consider the Draft Protocol to adapt the provisions of the 1931 Convention for the Limitation of the Manufacture of Narcotic Drugs to Opium

The CHAIRMAN invited the Commission to resume consideration of the Committee's report, beginning with chapter IV, relating to national control (paragraph 14).

Mr. HOARE (United Kingdom) noted that the Committee's first recommendation was intended to achieve more precise terminology and to bring the first paragraph into line with the corresponding provision in the single convention. The second paragraph was a recommendation for drafting changes to provide for an initial report and subsequent reports on any important change.

The Commission accepted the recommendations on chapter IV, relating to national control.

The CHAIRMAN called for discussion of the recommendation on chapter V, for international control, as set forth in paragraph 15.

/Mr. HOARE

Mr. HOARE (United Kingdom) pointed out that the Committee had been of the opinion that a check should be made to ensure that this provision agreed with article 22 of the 1925 Convention.

The Committee had also strongly felt that, since the cornerstone of the system of control was stocks, the Permanent Central Opium Board should receive a complete record of all stocks, including stocks held by Governments, although such stocks were excluded under the terms of the 1925 Convention.

Mr. AMINI (Iran) stressed the fact that excessive paperwork should be avoided and that it had been agreed with the Board that only essential information should be requested from Governments.

Mr. VAILLE (France) concurred, but considered it important not to limit the powers and functions of the Board.

Mr. NIKOLIC (Yugoslavia) thought that an important matter of principle was involved. He endorsed the view that all stocks, without exception, should be reported to the Board.

Mr. VAILLE (France) explained that the Committee had thought it unwise to establish a distinction between government stocks and other stocks.

The Commission accepted the first of the recommendations on statistics contained in paragraph 15.

Mr. HOARE (United Kingdom) noted that the Committee had been of the opinion that it would be desirable that the period for the submission of statistical information should be identical with the requirement of article 22 of the 1925 Convention. Uniform procedures on the submission of statistics would be a distinct advantage for the Board and should not create undue difficulty for governments.

Mr. AMINI (Iran) said that the Drafting Committee should be allowed to use its discretion in deciding about the period for the submission of statistical information.

/The CHAIRMAN

The CHAIRMAN felt that the Commission must give the Drafting Committee precise instructions.

Colonel SHARMAN (Canada) concurred in ^{the} United Kingdom representative's view that the provisions of Article 22 should be maintained for the submission of statistics.

Mr. VAILLE (France) could not agree with the Iranian representative that the matter should be left to the Drafting Committee. As far as possible, the provisions of the 1925 and 1931 Conventions should be maintained.

Mr. MAY (Permanent Central Opium Board) observed that the recommendation in question was practically identical with the requirements of the 1925 Convention. It should not be difficult for all parties to adhere to the dates set in that Convention and to submit all statistics by 1 May. The Board had found that its statistics were often incomplete as late as October. It therefore felt that control should be tightened, and that sanctions should be imposed if the reports were not submitted within a reasonable period of time.

Mr. AMINI (Iran) commented that the many difficulties encountered by governments in assembling statistics must be given consideration, and that sanctions should not be imposed lightly. He reserved the right to submit proposals on statistics to the Drafting Committee.

Mr. MAY (Permanent Central Opium Board) replied that the Board was reasonable and would not impose sanctions arbitrarily. If, however, important statistics were lacking when the Board had to make decisions, there should be some provision compelling states to submit the required information or for the Board to take reasonable action.

The second recommendation on statistics was accepted.

The third recommendation on statistics was accepted.

/The CHAIRMAN

The CHAIRMAN invited consideration of the following section, relating to control by the Permanent Central Opium Board.

Sub-paragraph (i)(a) was accepted without comment.

Sub-paragraph (b) was accepted with the insertion of the word "systematically" before "fails".

Mr. NIKOLIC (Yugoslavia) observed that sub-paragraph (c), which made the Board the judge of the effectiveness of the control set up by governments, would permit interference in the domestic affairs of states.

Mr. AMINI (Iran) supported by Mr. OR (Turkey) noted that producing countries had been requested to take legislative and other action to ensure effective control within their territories. Sub-paragraph (c) would authorize the Board to interfere in the internal affairs of states and to infringe their national sovereignty.

Mr. VAILLE (France) agreed that sub-paragraph (c, as drafted was too broad and suggested the following compromise formula: "If the Board considers that the control set up by a government is not in accordance with the provision of the protocol."

Mr. MAY (Permanent Central Opium Board) agreed to some extent with the representatives of Yugoslavia, Iran and Turkey. It would be difficult for the Board to determine whether effective control was being exercised. The Commission on Narcotic Drugs might be in a better position to judge on the basis of information submitted to it. Sub-paragraph (c) might be amended to provide for study by the Board of information at the disposal of the Commission and of reports submitted to that body.

Mr. ANSLINGER (United States of America) expressed surprise at the objection raised by producing countries to the provision that, if in its judgment the control set up was not effective, the Board might request an explanation from the government concerned. He recalled that a large diversion of heroin in Italy had been detected and that the Italian Government had been requested to

/tighten

tighten its control. Similarly there was evidence that farmers in producing countries were delivering opium directly to smugglers. In cases where the monopoly controlled by the government was ineffective, some prompt action by the Board was essential.

Mr. NIKOLIC (Yugoslavia) agreed that there should be severe sanctions imposed on states which failed to fulfil undertakings under international conventions. No government, however, would agree to allow the Permanent Central Opium Board or any other body to interfere in its internal affairs.

Mr. AMINI (Iran) proposed the deletion of sub-paragraph (c), since the point was adequately covered by sub-paragraph (s). He emphasized that he did not reject the idea of sanctions for non-compliance with convention provisions, but he could not agree to interference in the domestic affairs of states.

Mr. VAILLE (France) accepted the deletion of sub-paragraph (c) in the light of the Iranian representative's explanation. He could not agree with Mr. May's statement in connexion with the role of the Commission on Narcotic Drugs vis-a-vis the Permanent Central Opium Board, although he concurred in his statement about the difficulty which the Board would face in judging the effectiveness of national control.

Mr. ANSLINGER (United States of America) stated that it was useless to discuss inspection at all if a simple request for information was to be interpreted as interference in the internal affairs of states.

Mr. CABADA (Peru) concurred in the views of the representatives of Iran, Turkey and Yugoslavia. While the Board should be given powers, it could not be allowed to conduct investigations of the effectiveness of national control.

Sub-paragraph (c) was not in conformity with the other sub-paragraphs in the series, since they related to facts which could be ascertained and verified. Sub-paragraph (c), however, was not subject to verification because the Board had no means of determining whether effective control was being exercised unless it undertook illegal investigations.

/He supported

He supported the proposal for the deletion of sub-paragraph (c) and indicated that sub-paragraph (e) might be amended to broaden the Board's powers by providing for a request for information if the Board considered that by reason of a country violating any provision of the Protocol it "had become or might become" a centre of illicit traffic.

Mr. ANSLINGER (United States of America) expressed appreciation of the Peruvian representative's remarks and noted that the government of Peru had requested a mission from the United Nations to review its national control and had also requested a commission of enquiry. Information had been found regarding the operation of seventeen illicit narcotics factories in Peru, and the Peruvian Government had taken prompt and effective action in the matter. There was no assurance, however, that all governments would be as co-operative as the Peruvian Government. All contingencies must therefore be contemplated.

Mr. AMINI (Iran) said that the Permanent Central Opium Board had the right to ask governments for explanations, but not within the framework of sub-paragraph (c), which should be deleted.

Mr. MAY (Permanent Central Opium Board) said that the Commission had not yet studied the nature of the sanctions to be imposed. If no recommendation was made for an embargo, the producing countries might not object.

Some of the information Governments submitted to the Commission on Narcotic Drugs was not sent to the Board. All information submitted to the Commission on the effectiveness of control such as laws and regulations and annual reports, should be put at the disposal of the Board, which could then make its findings.

Mr. OR (Turkey) replied that governments might be requested to submit to the Board copies of all reports sent to the Commission.

Mr. NIKOLIC (Yugoslavia) agreed with the Iranian representative. There was no doubt that the Board could seek explanations and make recommendations. Sub-paragraph (c), however, would place the Board in a very difficult position.
/At the

At the same time it was undesirable because governments were unlikely to agree to it. Moreover, the provision was unnecessary since the ground was adequately covered by sub-paragraph (e).

Mr. VAILLE (France) supported the Peruvian amendment and stated that in that case sub-paragraph (c) should be deleted. He also favoured the suggestion that the Board should receive full information from the Commission on Narcotic Drugs.

Mr. ANSLINGER (United States of America) noted that sub-paragraph (c) would be applicable to manufacturing countries as well as producing countries and that the manufacturing countries had raised no objection.

The CHAIRMAN proposed that the Commission should proceed with its discussion of sub-paragraphs (d) and (e), and then go back to sub-paragraph (c) if that was deemed essential.

Logically, the sub-paragraphs should be enumerated in the order of seriousness of the offence, and on that basis sub-paragraph (c) would be discussed last.

Mr. KAMEL FAHMY (Egypt) suggested that sub-paragraph (c) might be modified to read "If the Board, after drawing the attention of a government which was not carrying out the provisions of this protocol...".

Mr. AMINI (Iran) thought that sub-paragraph (c) was illogical and unnecessary. If a government had ineffective administration, other violations would undoubtedly occur and sanctions could be applied without authorizing illegal interference in the internal affairs of states.

Mr. MAX (Permanent Central Opium Board) observed that it might be possible to combine sub-paragraph (c) and (e) and arrive at a compromise formula as follows: "If the Board considers that by reason of ineffective or violation of any provision...".

/Mr. HOARE

Mr. HOARE (United Kingdom) and Mr. NIKOLIC (Yugoslavia) supported the Chairman's proposal that sub-paragraphs (d) and (e) should be discussed before a decision was reached on (c).

It was so decided.

Mr. MAY (Permanent Central Opium Board) suggested that in sub-paragraph (d) the words "production or" should be added before the word "stocks" in order to cover the possibility of over-production not reflected in stocks.

Mr. AMINI (Iran) considered that the sole danger was to allow stocks in excess of the maximum. He did not see how the possibility described by Mr. May could occur in practice.

Mr. NIKOLIC (Yugoslavia) agreed with the Iranian representative and stated that, if a national monopoly existed, all stocks were under its jurisdiction. In that case, over-production was impossible.

As the Commission had decided to control production indirectly through stocks, the suggestion to insert a reference to production would destroy that concept.

Mr. VAILLE (France) said that the reference to production was unnecessary. Sub-paragraph (e) covered illicit traffic.

Colonel SHARMAN (Canada) said he could see no reason for objections to those provisions, as only an explanation could be requested.

Mr. OR (Turkey) agreed with the representatives of France, Iran and Yugoslavia.

Sub-paragraph (d) was accepted without change.

The CHAIRMAN invited observations on sub-section (e) and the amendment previously submitted by the Peruvian representative.

The Peruvian amendment was accepted.

/Mr. MAY

Mr. MAY (Permanent Central Opium Board) pointed out that a country might not itself become a centre of illicit traffic and yet, by being the source of supply, might endanger the situation in another country. Some provision should be made to meet such a contingency.

Mr. NIKOLIC (Yugoslavia) suggested that the words "... or source ..." might be inserted.

Mr. MAY (Permanent Central Opium Board) agreed that that would meet his point.

Mr. VAILLE (France) observed that the practical effect of the Yugoslav amendment would be that all countries would be liable to be regarded as a source of illicit traffic, since no country was in a position to affirm that its control was such as to preclude all possibility of supplies emanating from its territories. The term "centre of illicit traffic" needed to be defined. Moreover, for the amendment to be acceptable, the "source" would have to be qualified as "important".

Mr. ANSLINGER (United States of America) supported the Yugoslav amendment. His Government was in possession of information at the moment which indicated that traffickers were preparing to start operations in a certain country where the national control was not adequate. In similar circumstances in the past, the Board had drawn the attention of the country concerned to the facts with the satisfactory result that control had been tightened.

The CHAIRMAN thought that determining the scope of the word "important" might prove difficult for the Board, and wondered whether the provision as a whole might not throw a tremendous burden upon it. He also pointed out that it would be possible for a country to become a centre of illicit traffic without violating the provisions of the protocol.

Colonel SHARMAN (Canada) again observed that the Board would be extremely unlikely to exercise its right to ask for explanations except in important instances.

Sub-section (e) was accepted as amended.

The CHAIRMAN inquired whether it was considered necessary to revert to sub-section (c).

Mr. MAY (Permanent Central Opium Board) remarked that it would be unnecessary to retain the section if the protocol specifically provided that national monopolies should be effectively controlled.

Mr. AMINI (Iran) and Mr. VAILLE (France) failed to see the need for such a provision.

Mr. NIKOLIC (Yugoslavia) said he would be prepared to accept a provision giving the Board the right to ask for explanations in the event that the functioning of a national monopoly was found to be inefficient.

Mr. ANSLINGER (United States of America) pointed out that the provision contemplated in sub-section (c) should apply to all states parties to the protocol, and not merely to the producing countries.

Mr. HOARE (United Kingdom) said that the discussion hinged on what power should be given to the Board in the exercise of its control functions under the protocol. There seemed to be general agreement that it should have the right to ask for explanations if the situation in a country was such as to give rise to the contingencies affecting illicit traffic foreseen in sub-section (e).

The contingency cited earlier by Mr. May should also be covered, as the Board should be in a position to ask for explanations in all instances where it found that the situation in a country in respect to illicit traffic so required, including a case where the national administration was not taking effective steps to fulfil the purposes of the protocol.

The specific phrase "... by reason of a country violating any provision of the protocol..." would appear to be out of context in sub-section (e) as it now stood. He nevertheless considered that the Board should also have the right to ask for explanations in the event of any such violation taking place.

/Mr. VAILLE

Mr. VAILLE (France) suggested that sub-section (e) should be re-drafted to cover the two issues: violation of the provisions of the protocol and danger of becoming a centre or source of illicit traffic.

Mr. NIKOLIC (Yugoslavia) contended that it would automatically follow from a violation of the provisions of the protocol that the situation in a country was illegal. He was therefore unable to accept the distinction made by the United Kingdom representative.

Referring to the Chairman's observations, he considered that a definition of the word "important" was not needed. Its meaning and scope were already well defined by past usage.

Mr. AMINI (Iran) still maintained that sub-section (e) as now drafted provided all the requisite safeguards. The change suggested would widen the Board's powers to an unjustified and unnecessary extent.

Mr. VAILLE (France) suggested, as a compromise, that the acceptance of sub-section (e) might be made subject to the proviso that the Board should interpret its provisions in the light of the Commission's preparatory work.

Mr. KAMEL FAHMY (Egypt) again drew attention to his proposal to amend sub-section (c).

The CHAIRMAN noted that the main objection to sub-section (c) was that it would confer too wide powers on the Board vis-a-vis the national administration concerned with the execution of the protocol. As a compromise, he suggested that the section should be deleted and a provision on the following lines inserted under chapter VI, General Provisions: "The Permanent Central Opium Board may from time to time ask for information regarding the administration or execution of the protocol in the territories of the parties concerned and, if considered necessary, tender advice to Governments."

Mr. AMINI (Iran) supported the proposal.

Colonel SHARMAN (Canada) observed that the proposal did not include provision for action in the event of an explanation being withheld entirely or proving unsatisfactory. It was imperative that provision should be made for such contingencies.

Mr. ANSTINGER

Mr. ANSLINGER (United States of America) had similar misgivings regarding the Chairman's proposal.

The CHAIRMAN maintained that the point was adequately covered by sub-section (e), since administrative effectiveness would undoubtedly result in one or other of the contingencies therein foreseen; thus the Board would have the possibility of taking further action. It would have been more appropriate if the point now raised had been brought up in connexion with chapter IV, National Control.

Mr. MAY (Permanent Central Opium Board) maintained his view that, if sub-section (c) was to be deleted, a provision would be needed under the heading of "National Control" making it obligatory for Governments to establish an administration capable of exercising effective control and thus making lack of effective control a violation of the protocol.

Mr. ANSLINGER (United States of America) suggested that sub-section (c) should be maintained, and the Chairman's proposal included as an alternative.

Mr. AMINI (Iran) failed to understand the insistence on the provision in question. As the Chairman had pointed out the results of ineffective administration would in practice become apparent to the Board, and it could base its findings on such facts, without sitting in judgment.

Mr. HOARE (United Kingdom), in an effort to meet Mr. May's view, suggested that the phrase "and to the suppression of illicit traffic in opium" should be added at the end of section (2) of the chapter on national control. That addition, with the provisions set out in sub-section (e), would give the Board adequate power to act in all contingencies.

The provisions of national control should also be extended to apply to non-producing countries, which would meet the point previously raised by the United States representative.

/ He also

He also suggested that in sub-section (e) the phrase, "by reason of a country's failing to comply with any obligation," should be substituted for the present wording.

The United Kingdom representative's suggestions were accepted.

It was further agreed that sub-section (c) should be deleted and that the text proposed by the Chairman should be inserted in chapter VI.

The CHAIRMAN invited observations on section (ii).

Mr. NIKOLIC (Yugoslavia) asked for a definition of the term "reasonable time", used in connexion with the giving of explanations to the Board. It appeared to him to allow too much latitude.

Mr. AMINI (Iran) recalled that, to meet just that difficulty, the VAO made a proposal in the sub-committee that a time-limit of three months should be fixed. He had also proposed that the qualifications "convincing" should be substituted for the word "satisfactory".

Mr. HOARE (United Kingdom) explained that the sub-committee had been unable after careful consideration to meet the suggestion of the Yugoslav delegate that the term "satisfactory" should be defined. It had been considered impracticable to define in the protocol the grounds on which the Board should base its conclusions regarding the satisfactory nature or otherwise of an explanation. The Board should be given full discretion on that point. He had no objection to the term "convincing".

Any definition of "reasonable time" would likewise tend to limit the Board's discretion, as well as entailing other disadvantages. For instance, if a time-limit were set, authorities would tend to defer replying until the time-limit was running out and on the other hand a time-limit would give the Board the authority to act regardless of the circumstances, immediately on its expiration.

Mr. NIKOLIC (Yugoslavia) still maintained that a definition was necessary. The term was not recognized in international law and should therefore not be employed in the protocol.

/Mr. VAILLE

Mr. VAILLE (France) suggested that a time-limit of three months should be fixed. That should be adequate for all practical purposes.

Colonel SHARMAN (Canada) and Mr. ANSLINGER (United States of America) agreed with the United Kingdom representative. Colonel Sharman added that the Board had had considerable experience, and might be relied upon to be reasonable in exercising its discretion.

The CHAIRMAN suggested that the section should be amended to read: "If an explanation convincing to the Board is not furnished within two months or such extended time as the Board may give in any particular case ...".

Mr. AMINI (Iran) said that difficulties of communication would have to be taken into consideration and would vary, with different countries.

Mr. HOARE (United Kingdom) thought too much correspondence would be involved in getting extensions. He preferred the original draft.

It was decided to continue the discussion at the next meeting.

The meeting rose at 1.10 p.m.