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UNITED NATIONS OPIUM CONFERENCE  
Main Committee  
Drafting Committee

SEVENTH REPORT OF THE DRAFTING COMMITTEE

The Drafting Committee has the honour to submit the following article which has been redrafted in the light of the decisions taken by the Main Committee, for its consideration.

CHAPTER V - INTERNATIONAL SUPERVISION AND ENFORCEMENT MEASURES

Article 12

Administrative Measures

1. In order to supervise the operation of this Protocol the Board may adopt the following measures:

(a) Request for information

The Board may ask Parties for information regarding the implementation of this Protocol and, in this connexion, make appropriate suggestions to the Parties concerned;

(b) Request for explanation

If on the basis of information at its disposal the Board is of the opinion that any important provision of this Protocol is not being observed in any country or territory or that the opium situation therein requires elucidation, the Board shall have the right to ask for an explanation from the Party concerned;

(c) Proposal of remedial measures

If the Board thinks fit, it may, either confidentially or publicly, call the attention of a government to its failure to carry out substantially any important provision of this Protocol or to a gravely unsatisfactory opium situation in any of the territories under its control. The Board may also call upon the government to study the possibility of adopting such remedial measures as the situation may require;

(d) Local inquiry

If the Board considers that a local inquiry would contribute to the elucidation of the situation it may propose to the government concerned that a person or a committee of inquiry designated by the Board be sent to the country or territory in question. If the government fails to reply within four months to the Board's proposal, such failure shall be considered a refusal to consent. If the government expressly consents to the inquiry, it shall be made in collaboration with officials designated by that government.

2. The Party concerned shall be entitled to be heard by the Board through its representative before a decision is taken under sub-paragraph (d) of the preceding paragraph or before it is decided to take the public action provided for in sub-paragraph (c) of that paragraph.

3. Decisions of the Board taken in accordance with sub-paragraphs (c) and (d) of paragraph 1 shall be made by a majority of the whole number of the Board.
4. If the Board publishes its decisions taken under sub-paragraphs (c) and (d) of paragraph 1 or any information relating thereto, it shall also publish the views of the government concerned if available.

Article 12 bis  
Enforcement Measures

1. Public declarations

If the Board finds that the failure of a Party to carry out provisions of this Protocol is seriously impeding the control over narcotic substances in any territory of that Party or in any territory of another State, it may adopt the following measures;

(a) Public notification

The Board may call the attention of all Parties and of the Council to the matter.

(b) Public statements

If the Board considers that its action taken in accordance with the preceding sub-paragraph has not had the desired results, it may issue a statement that a Party has violated its obligations under this Protocol, or that any other State has failed to take the necessary measures to prevent the opium situation in any of its territories from becoming a danger to effective control of narcotic substances in one or several of the territories of other Parties or States.

2. Recommendation of embargo

If the Board finds:

(a) As a result of its study of the estimates and statistics furnished under articles 7 and 8, that a Party has failed substantially to carry out its obligations under this Protocol or any other State seriously impedes the effective administration thereof,

(b) In the light of the information at its disposal, that excessive quantities of opium are accumulating in any country or territory or that there is a danger of that country or territory becoming a centre of the illicit traffic,

It may recommend to the Parties an embargo on the import of opium, the export of opium or both, from or to the country or territory concerned, either for a designated period or until it shall be satisfied as to the opium situation in such country or territory.

The State concerned is entitled to bring the matter before the Council.

3. Mandatory embargo

(a) Announcement of, and imposition of embargo

The Board may, on the basis of findings made under sub-paragraphs (a) or (b) of paragraph 2, adopt the following measures:

(i) The Board may announce its intention to impose an embargo on the import of opium or the export of opium or both from or to the country or territory concerned;

(ii) If the announcement mentioned in (i) fails to remedy the situation the Board may impose the embargo, provided that the lesser measures set out in sub-paragraphs (a) and (b) of paragraph 1 of this article have failed or are unlikely to correct the unsatisfactory situation. The embargo may be imposed either for a definite period or until the Board is satisfied as to the situation in such country or territory. The Board shall forthwith notify the Party concerned and the Secretary-General of its decision.

(b) Appeal

(i) A State in respect of which a decision to impose a mandatory embargo has been taken may, within thirty days of receipt by that State of such decision, notify the Secretary-General in writing of its intention to appeal and, within another thirty days, substantiate in writing the reasons for such appeal.

[(ii) Upon receipt of the notification of intention to appeal referred to in sub-paragraph (b) (i) the Secretary-General shall request the President of the International Court of Justice to appoint an Appeals Committee (hereinafter referred to as the Appeals Committee) to hear and determine such appeal. The Appeals Committee shall consist of three competent, impartial and disinterested persons who will command general confidence. If the President of the International Court of Justice informs the Secretary-General that he is unable to make the appointment or does not make it within a period of two months of receipt of the request to do so, the Secretary-General shall make the appointment.]

[(ii) The Secretary-General shall at the time of coming into force of this Protocol request the President of the International Court of Justice to appoint an Appeals Committee consisting of three members who, by their

competence, impartiality and disinterestedness, will command general confidence and who shall not receive any instructions from their governments relating to the exercise of their functions. If the President of the International Court of Justice informs the Secretary-General that he is unable to make the appointment, or does not make it within a period of two months from the receipt of the request to do so, the Secretary-General shall make the appointment.

The term of office of the members of the Appeal Committee shall be five years and any member may be eligible for reappointment.]

- (iii) Vacancies on the Committee shall be filled in accordance with the procedure set out in sub-paragraph (b) (ii).
- (iv) The Secretary-General shall forward to the Board copies of the written notification and the reasons for the appeal referred to in sub-paragraph (b) (i) and, without delay, provide for a meeting of the Appeals Committee to hear and determine the appeal and shall make all arrangements necessary for the Committee's work. He shall furnish the members of the Committee with copies of the Board's decision, the communications referred to in sub-paragraph (b) (i) above, the Board's reply if available and all other relevant documents.
- [(v) The Appeals Committee shall adopt its own rules of procedure.]
- (vi) The appellant State and the Board shall be entitled to be heard by the Appeals Committee before a decision is taken.
- (vii) The Appeals Committee may affirm, vary or reverse the Board's decision relative to the imposition of the embargo. The decision of the Appeals Committee shall be final and binding and shall forthwith be communicated to the Secretary-General.
- (viii) The Secretary-General shall communicate the decision of the Appeals Committee to the appellant State and to the Board.
- (ix) If the appellant State withdraws the appeal, the Secretary-General shall notify the Appeals Committee and the Board of such withdrawal.

(c) Execution of the embargo

- (i) The embargo imposed in accordance with sub-paragraph (a) shall come into force sixty days after the Board's decision unless notice of appeal is given in accordance with sub-paragraph (b) (i). In this case the embargo shall come into force [thirty days] after the withdrawal of the appeal or after a decision of the Appeals Committee upholding the embargo in whole or in part.

(ii) As soon as it is established in accordance with sub-paragraph (c) (i) that the embargo is to take effect, the Board shall notify all the Parties of the terms of the embargo and the Parties shall comply therewith.

4. Procedural safeguards

(a) Decisions of the Board taken in accordance with article 12 bis shall be made by a majority of the whole number of the Board;

(b) The State concerned shall be entitled to be heard by the Board through its representative before a decision is taken under article 12 bis.

(c) If the Board publishes a decision taken under article 12 bis or any information relating thereto, it shall also publish the views of the government concerned if available. If the decision of the Board is not unanimous the views of the minority shall also be stated.

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