



UNITED NATIONS OPIUM CONFERENCE  
MAIN COMMITTEE  
Sub-Committee I

CONSIDERATION OF THE DRAFT PROTOCOL FOR REGULATING THE  
PRODUCTION OF, INTERNATIONAL AND WHOLESALE TRADE IN,  
AND USE OF OPIUM (E/2186, annex)

Fourth report of Sub-Committee I

1. At its 13th and 16th meetings, the Main Committee referred sections 7 and 8 of the draft protocol to Sub-Committee I for further study on the basis of technical considerations.<sup>1/</sup>
2. Sub-Committee I, composed of the representatives of India, the United Kingdom and Yugoslavia held four meetings for this purpose on 26, 27, 28 and 29 May 1953 under the chairmanship of Mr. John Walker (United Kingdom). In addition to the representatives of India and of the United Kingdom, the representatives of Switzerland, the Permanent Central Opium Board and the Drug Supervisory Body were present at all the meetings: The representative of Yugoslavia attended all but the fourth of these meetings. The Swedish observer took part in all meetings but the third, and the representative of Japan was present at the second meeting. The Sub-Committee considered section 7 on 26 and 27 May 1953, section 8 on 28 May 1953 and the formulation of the present report to the Main Committee on 29 May 1953.

A. Recommendations relating to section 7

3. The Sub-Committee could not reach agreement on the disposition of paragraph 1. The majority of the representatives favoured its deletion for the following reasons: paragraph 1 (a) covered relatively unimportant quantities of opium;

<sup>1/</sup> See document E/CONF.14/AC.1/SR.13, p. 11-12.

paragraph 1 (b) referred to information which was already deducible from the information communicated under article 5, paragraph 2, of the 1931 Convention; and a provision similar to paragraph 1 (c) which appeared in article 5, paragraph 2 of the 1931 Convention had been found in practice to be in some respects unworkable. The majority also considered that estimates obtained under paragraph 1 would not serve the purpose of furnishing information which would be useful to producing countries in determining their estimates under paragraph 2, and that past statistics would be a safer guide for this purpose. On the other hand, a minority held that the information to be furnished under paragraphs 1 (a) and 1 (b) would be useful, and that therefore those parts of paragraph 1 should be retained.

4. If it should be decided to retain paragraph 1, the Sub-Committee felt that, subject to what is said below about the "automatic embargo", it was unnecessary that military stocks should be accounted for in the estimates furnished under paragraph 1 (c). In this connexion, the Sub-Committee noted the Main Committee's decision that additions to military stocks already made should be reported to the Permanent Central Opium Board under section 8.<sup>1/</sup>

It was also considered that the present formulation of paragraph 1 (c) was defective and that it should be redrafted along the following lines: "The amount of opium stocks it wishes to hold on the 31st of December of the year to which the estimates relate." This sub-paragraph would then have to be supplemented by a clause, perhaps in paragraph 6, requiring the Drug Supervisory Body to compute on the basis of statistics of opium stocks received by the Board for the preceding year the amount that the government concerned needed to add during the year to which the estimates related in order to bring its stocks to the desired level.

The Sub-Committee wishes, however, to point out that if the Main Committee decides to include a provision such as that in document E/CONF.14/15, paragraph 12 (so-called automatic embargo), paragraph 1 would have to be retained and the drafting suggestions made in respect of paragraph 1 (c) would have to be withdrawn. In addition an estimate of the additions to all stocks including military stocks which a government wishes to make in the following year would have to be given.

<sup>1/</sup> See document E/CONF.14/AC.1/SR.15, p. 7.

5. With regard to paragraph 2, the Sub-Committee decided to delete paragraphs 2 (a) and 2 (c) and to recommend that paragraph 2 (b) should be redrafted to call for estimates of the acreage, stated as exactly as possible, which the Party proposed to cultivate, together with statistics as to the average yield per hectare over the past five years. Where poppy is cultivated in more than one region, separate information should be given in respect of each area of cultivation.

6. In connexion with paragraph 3 (a) a suggestion was made that the Protocol should empower the Permanent Central Opium Board to consult governments about the form of returns called for under the Protocol. The Sub-Committee thought this unnecessary and dangerous in the sense that it might cast doubt on the Board's powers to do anything not specified in the draft.

7. The question was raised as to whether the word "method" which appears in paragraph 4 should not be clarified, but the Sub-Committee concluded that it would be better not to overload the text with details, especially since, in this instance, a satisfactory explanation might be included in the form to be drawn up by the Board in accordance with paragraph 3. It was considered, however, that the paragraph should be amended to provide that the statement to be made by Parties should also explain the method by which the estimates had been compiled.

8. In connexion with the supplementary estimates referred to in paragraph 5, the Sub-Committee considered that it should be made clear throughout section 7 in which places the term "estimate" included supplementary estimates and in which places it did not.

9. The Sub-Committee recommends that paragraph 6 should be redrafted to make the examination of estimates by the Supervisory Body mandatory and that the power of that organ to require further information to make an estimate complete or to explain a statement should remain discretionary. The Sub-Committee approved the final clause of the paragraph providing that estimates should be amended by the Body only with the consent of the government concerned.

10. The Sub-Committee considered that paragraph 7, which had been copied from article 2, paragraph 3, of the 1931 Convention, was badly drafted, but concluded that this disadvantage was outweighed by the desirability of maintaining a uniformity of phraseology between the two treaties in order to avoid difficulties of interpretation. It therefore recommends that this point should be referred

to the Commission on Narcotic Drugs in connexion with its work on the proposed single convention.

11. With regard to paragraph 8, the Sub-Committee decided that it would be better to use the phraseology employed in article 2, paragraph 2, of the 1931 Convention, which provides that the "estimate will, so far as possible, be furnished by the Supervisory Body".

12. The Sub-Committee preferred the alternative "not exceeded by" in paragraph 9 and recalled that the Commission on Narcotic Drugs had made a similar choice in connexion with the single convention. It was also noted that if paragraph 1 were deleted, paragraph 9 should not be retained.

13. The Sub-Committee considered that the periodic publication of information referred to in paragraph 10 should be mandatory and proposes that this provision should be included in the section of the Protocol dealing with the publications of the Supervisory Body and Board. This matter will be dealt with more fully in a later paragraph of the present report.

#### B. Recommendations relating to section 8

14. With respect to paragraph 1 (a) (1), the Sub-Committee concurred with the suggestion made in the Main Committee that the phrase "production of opium" should be replaced by "quantity of opium produced". The Sub-Committee further proposes that with regard to statistics of the area cultivated, the considerations set out in paragraph 5 of this report should apply.

15. The Sub-Committee considered the misunderstanding that might arise in connexion with the present text of paragraph 1 (a) (1) and, in particular the meaning that was to be attached to the word "consumption". It was decided that although, as it was presently used, the term might be misunderstood, it should be retained because it had been used in the 1925 Convention and its replacement would lead to certain practical difficulties. It was the opinion of the Sub-Committee, however, that the meaning of consumption should be clarified in the Protocol and that it should be regarded for this purpose as the transfer of opium from the wholesale to the retail level and not as consumption in the narrow meaning of that word. This idea might perhaps be expressed by the addition of a phrase such as "the amount of opium delivered for retail trade or for dispensation or administration by hospitals or professional persons to individuals".

The Sub-Committee also proposes that the words "as such" should be omitted from paragraph 1 (a) (ii) and understands that the word "opium" refers to raw opium, prepared opium and medicinal opium, but that opium preparations should be dealt with under paragraph 1 (a) (iii).

16. The Sub-Committee considered that the figure to be submitted under paragraph 1 (a) (iii) should include opium used for the manufacture of opium alkaloids and of opium preparations but should exclude opium used in compounding such preparations as are made by professional persons, retailers or hospitals for administration or dispensation to individuals. The object of the Sub-Committee's proposals on paragraphs 1 (a) (ii) and 1 (a) (iii) is to emphasize the impossibility of furnishing statistics on operations at the retail level.

17. The Sub-Committee agreed with the suggestion to include a new sub-paragraph, possibly between paragraphs 1 (a) (iii) and 1 (a) (iv) calling for statistics on the total amounts of opium seized and the amount thereof utilized for medical or scientific purposes.

18. With respect to paragraph 1 (a) (iv), the Sub-Committee proposes the inclusion of an additional clause providing that Parties should furnish statistics on additions to military stocks and diversions therefrom to legal commerce. It was not considered, however, that they should be held to account for the size or consumption of their military stocks.

The Sub-Committee did not consider it necessary to include in the Protocol a provision patterned after article 22, paragraph 4, of the 1925 Convention because the exemption suggested for military stocks will not apply to other government stocks.

19. The Sub-Committee considered the question of the consistence of opium in connexion with its examination of paragraph 2 and is of the opinion that the powers given to the Board by that paragraph would be adequate to request information on consistence, and therefore it would not be necessary to include a separate provision in the Protocol to this effect. There was, however, no objection to the insertion of a provision in the Final Act of the Conference that this power was among those granted to the Board under this paragraph, provided it was made clear that this did not imply restriction of the Board's freedom to act in other fields.

The Sub-Committee wishes to draw the attention of the Drafting Committee to the desirability of omitting the square brackets which appear on paragraph 2, so that it would, in addition, refer to the statistical information to be furnished in accordance with other provisions of the Protocol, e.g. section 8, paragraph 4. 20. The Sub-Committee also desires to request the Drafting Committee to make it clear in the text, e.g. by some such phrase as "unless they have not already done so" that the information to be furnished under paragraph 4, which a Party had already submitted to the Board, need not be re-submitted.

21. As already indicated in paragraph 12 above, the Sub-Committee wishes to propose that a separate section should be added requiring the Board and the Supervisory Body to publish an annual report giving an account of the application of the Protocol. This report should be communicated to the Parties, to the Economic and Social Council and to the Commission on Narcotic Drugs. The Statistics, estimates and maximum stocks mentioned in the Protocol should be published too and so far as practicable these data and the above-mentioned annual reports could at the discretion of the Board and Supervisory Body be incorporated in the corresponding reports which they now published in accordance with the existing conventions.

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