



UNITED NATIONS
ECONOMIC
AND
SOCIAL COUNCIL



GENERAL
E/CN.7/SR.112
13 December 1950
ORIGINAL: ENGLISH

COMMISSION ON NARCOTIC DRUGS
Fifth Session

SUMMARY RECORD OF THE HUNDRED AND TWELFTH MEETING
Held at Lake Success, New York,
on Friday, 8 December 1950, at 10 a.m.

CONTENTS:

Interim agreement to limit the production of opium to medical
and scientific needs (E/CN.7/199/Rev.1) (continued)
Single Convention (E/CN.7/AC.3/1, E/CN.7/AC.3/2, E/CN.7/AC.3/3,
E/CN.7/AC.3/3/Corr.1, E/CN.7/AC.3/4, E/CN.7/AC.3/4/Corr.1,
E/CN.7/AC.3/R.1)

- | | | |
|-------------------------|-------------------|---|
| <u>Chairman:</u> | Mr. SATTANATHAN | India |
| <u>Rapporteur:</u> | Mr. HOARE | United Kingdom of Great Britain
and Northern Ireland |
| <u>Members present:</u> | Colonel SEARMAN | Canada |
| | Mr. HSIA } | |
| | Mr. TSAO } | China |
| | Mr. MAHMOUD LABIS | Egypt |
| | Mr. BOURGOIS } | |
| | Mr. VAILLE } | France |

Members present:

(continued)

Mr. AMINI	Iran
Mr. RABASA	Mexico
Mr. MARTINEZ-LAVALLE	
Mr. KRUYSSSE	Netherlands
Mr. AVALOS	Peru
Mr. OR	Turkey
Mr. ZAKUSOV	Union of Soviet Socialist Republics
Mr. ANSLINGER	United States of America
Mr. KRASCVIC	Yugoslavia

Also present:

Mr. MAY	President of the Permanent Central Board
---------	--

Representative of a non-governmental agency having status of category B:

Mr. MARABUTIC	Representative of the International Criminal Police Commission
---------------	--

Secretariat:

Mr. STEINIG	Director of the Division of Narcotic Drugs, representative of the Secretary-General
Mr. LOPEZ-REY	Division of Narcotic Drugs
Mr. LANDE	Division of Narcotic Drugs
Mr. BOLTON	Secretary of the Commission

INTERIM AGREEMENT TO LIMIT THE PRODUCTION OF OPIUM TO MEDICAL AND SCIENTIFIC MEANS (E/CN.7/199/Rev.1) (continued)

The CHAIRMAN called upon the Commission to resume the discussion of the revised draft of the proposed interim agreement to limit production of opium to medical and scientific means.

Section 48

Mr. AMINI (Iran) and Mr. OR (Turkey) said they still maintained the reservations they had already made in connexion with the question of inspection.

Mr. ANSLINGER (United States of America) referred to paragraph 265 (j), which stated that the Agency would "perform functions delegated by the Committee in accordance with section 35, paragraph 2 (r)". Section 35, paragraph 2 (r) stated that the Committee would "delegate such of its functions under such conditions as it may see fit . . .". In his opinion, the functions which could be delegated should be clearly specified so as to avoid any dispute in the future.

Mr. LANDE (Secretariat) said that the aim of the provisions cited was not to give excessive powers to the Agency but rather to enable ^{to enable} it/the International Monopoly to work efficiently. It was difficult to foresee all the various difficulties which might arise in connexion with complicated commercial transactions and it would be difficult therefore to list all the functions which the Committee might delegate to the Agency.

Mr. RABASA (Mexico) suggested that the word "authorize" should be used instead of the word "delegate".

Mr. AMINI (Iran) thought it was for the Committee to decide what functions it would delegate as occasion arose.

Mr. HOARE (United Kingdom) believed it would be inadvisable to try to specify the functions which the Committee might delegate to the Agency. The whole purpose of the provision was to enable the Committee to delegate whatever powers it wished to the Agency in an emergency, and it was obviously impossible to foresee all possible contingencies.

Mr. KRUYSSSE (Netherlands) wondered whether, in view of the remarks made by the United Kingdom representative, it would not be sufficient to specify the functions which could not be delegated. In his opinion, it was essential to set some sort of limit in that field. If the Committee were to set up a small executive sub-committee, as had been suggested in the past, there might be no need for any delegation of powers to the Agency.

The CHAIRMAN said that it would be impossible for the Committee to carry out all the functions of the Monopoly. Indeed, the Geneva meeting had already considered the advisability of setting up a small sub-committee, and it was clear that some delegation of functions would be unavoidable.

The Secretariat would examine the views expressed during the discussion on section 48. It should be noted, however, that the scope of any possible delegation of powers was already limited to some extent by section 35, paragraph 2 (r) (reference paragraphs 204/Corr.1, 205/Rev.1, 205 a and 206/Corr.1).

Chapter IV. General provisions.

There was no discussion on sections 49 and 50.

Section 51.

Mr. MAY (President of the Permanent Central Board) suggested that the words "such action" at the end of the first sentence of paragraph 287 (a) should be replaced by the expression "the carrying out of such measures". The second sentence should make it clear that it would be for the Board to decide whether any delay was "undesirable".

/Mr. HOARE

Mr. HOARE (United Kingdom) observed that the Board could regard any delay as undesirable only if such delay were detrimental to the implementation of the measures mentioned in the first sentence of paragraph 287 a. The second sentence might therefore be amended to read: "In the event of the Board considering that such delay would be detrimental to the carrying out of such measures, it should inform the Committee as soon as possible of the measures taken." He also suggested that paragraph 275 should be amended to read: "If information at its disposal shall lead the Board to the conclusion that any of the provisions of the present agreement is not being carried out by a Party..."

Mr. ANSLINGER (United States of America) referred to paragraph 275 and pointed out that, strictly speaking, a non-party to an agreement could not violate that agreement. It would be better therefore if the expression "in violation thereof" in paragraph 275 and in subsequent paragraphs were replaced by the expression "contrary to the agreement".

There was no discussion on section 52.

Chapter V: Final clauses.

There was no discussion on section 53.

Section 54.

Mr. KRUYSSSE (Netherlands), repeating a previous statement at the request of the representative of Turkey, said it was extremely desirable that all governments should become Parties to the Monopoly. Otherwise it would be possible for many consumer countries to remain outside the Monopoly and purchase their supplies of alkaloids wherever they wished. For this reason, it was necessary to provide that at least twenty-five States, and not only eight as proposed in section 54, would have to accede to the agreement before it could come into force.

Mr. VAILLE (France) agreed that at least twenty-five States should accede to the agreement before it could come into force. Those twenty-five States, however, should include the eight States listed in section 54.

(Paragraph 298/Rev.1).

It was decided that the Agreement would come into force only after at least twenty-five States had acceded to it.

/Mr. LANDE

Mr. LANDE (Secretariat) explained that the Agreement could not come into force unless the required number of States which acceded to it included a certain number of specific countries. A list of eight such countries had been proposed in paragraph 296/Rev.1. That list, however, was not final and that was the reason why the names of the countries in question were in brackets. If any one of those eight countries refused to participate in the Agreement and the remaining seven came to the conclusion that they could implement the Monopoly despite that refusal, the name of the objecting country would not be included in the list of the countries whose accession was essential to the coming into force of the Agreement.

Mr. HSIA (China) asked what would happen if any of the countries whose accession to the Agreement was essential subsequently decided to withdraw from the Monopoly.

Mr. AMINI (Iran) said that the question had been examined at the Geneva meeting and that section 58 of the draft before the Commission contained provisions for the withdrawal of a party to that Agreement. Such a withdrawal would not mean the end of the Monopoly.

Mr. KRUISSE (Netherlands) said it was most desirable, as he had already pointed out, that the Monopoly should be universal. Hence it was essential that important consumer countries should also become parties to the Agreement, for otherwise they would be obtaining their supplies outside the Monopoly. He proposed therefore that the list of countries whose accession to the Agreement was essential should also include several of the larger consumer countries.

Mr. KRASOVEC (Yugoslavia) thought it would be better to leave section 54 as it stood. The eight countries proposed represented the largest producing, manufacturing and consuming countries, and it would obviously be impossible to have a real Monopoly if one of them remained outside the Agreement.

As for the consumer countries, they would be purchasing their supplies from one of the larger manufacturing countries. He could see no real need to include any of them among countries whose accession to the Agreement was essential.

Colonel SHARMAN (Canada) said that the Yugoslav representative was not wholly accurate when he had said that consumer countries would be purchasing their supplies from one of the main manufacturing countries. In one of his previous statements (E/CN.7/SR.106) he had pointed out that "Canada was now negotiating with a producing country which offered to supply at least one essential drug at a reasonable price". It would be seen, therefore, that supplies could be obtained from producing as well as manufacturing countries.

Mr. LANDE (Secretariat) said it was obvious that the Agreement would work successfully only if a sufficient number of States, including the chief consumers, acceded to it. He proposed that the Committee should be empowered to fix the date on which the Agreement would come into operation. The Committee would not decide that the Agreement should come into operation before it came to the conclusion that a sufficient number of countries had acceded to it.

There was no discussion on section 55.

Section 56

Mr. KRUYSSSE (Netherlands) asked whether the proposal to insert a list of acceptable reservations in paragraphs 305 to 310 would affect the normal right of States to make reservations to international conventions.

Mr. LANDE (Secretariat) explained that the purpose of specifying what reservations would be acceptable was to give States a clear idea of the type of reservation they could make without affecting the essence of the Agreement. If a list of acceptable reservations were inserted in the text of the Agreement, States would be less likely to make any reservations falling outside the scope of the list.

/Mr. HOARE

Mr. HOARE (United Kingdom) did not think that the present wording of Section 56 could be regarded as derogating from the sovereign right of States to make reservations. The general question of all reservations to multilateral conventions had recently been discussed by the Sixth Committee of the General Assembly. The general principle appeared to be that any State when ratifying a convention could make its ratification subject to a reservation. If any of the other Parties to the convention objected to that reservation, the ratification of the reserving State would not be accepted unless the reservation was withdrawn.

He agreed that in view of the purposes of the Agreement, it would be ^{very undesirable} for Parties to accept any reservations other than those which would not affect its basic provisions, but he was not sure that the general principle on reservations could be overruled simply by the insertion of the proposed clauses in Section 56.

Mr. ANSLINGER (United States) agreed with the interpretation given by the United Kingdom representative regarding reservations. As an example, he mentioned that, during the Geneva meeting of the Joint Committee, the representative of India had given notice of a reservation which the United States delegation would be unable to accept.

Mr. VAILLE (France) was satisfied with the text as it stood. He suggested that the interpretation given by the United Kingdom representative regarding the need for the consent of all Parties could be inserted in Section 56.

Mr. KRASOVEC (Yugoslavia) agreed with the interpretation given by the United Kingdom representative. He did not think that any definite decision could be taken regarding reservations until the Agreement itself had been negotiated and all the provisions were known.

Mr. LANDE (Secretariat) agreed that it was the sovereign right of any country to make any reservation it desired when ratifying a convention, unless it specifically agreed to renounce that right. The advantage of including a specific list of acceptable reservations would be that countries would then know in advance what type of reservation they could make without affecting the essence of the Agreement. If the list was not included, a country might quite well spend

some time negotiating its ratification in Parliament and it might finally submit a reservation in the belief that it would not affect the essence of the Agreement. Subsequently it would find that the reservation could not be accepted, and a great deal of time would have been wasted.

Mr. HOARE (United Kingdom) fully agreed that it would be helpful for States to know in advance what reservations would be acceptable before they ratified the Agreement. He did not agree, however, that the inclusion of a list would preclude a State from making a reservation which was not mentioned in the list. As it stood Section 56, did not derogate from the sovereign right of States to make reservations.

Mr. IANDE (Secretariat) said that a State making a reservation was in effect trying to alter the provisions of the Agreement in its favour. Thus the consent of the other Parties was essential. If a State should make a reservation which was not included in the list and the other Parties accepted that reservation, there was no reason why the reserving country should not become a party to the Agreement. The list would simply provide an indication of the reservations which the parties would be prepared to accept and as such it should prove useful.

The CHAIRMAN said that the question of reservations could be discussed again in greater detail at a later stage.

Section 57

Mr. VAILLE (France) recalled that his delegation had made a reservation regarding the procedure laid down for amendments in Section 57.

MR. HOARE

Mr. HOARE (United Kingdom) thought that all delegations had some reservations on that point but hoped that an agreement would finally be reached. He asked what exactly was meant by the following words in paragraph 318/Rev.1: "A party [which did not participate in a vote of the Committee taken in accordance with paragraph 8 of this Section and] which does not wish to accept an amendment ... shall ... have the right to withdraw from the Agreement".

Mr. IANDE (Secretariat) explained that the word "Council" should be inserted in parentheses after the word "Committee" in paragraph 318/Rev.1. Thus, any party which was either not represented on the Committee (Council) or was absent from the meeting at which the amendment was adopted, or had voted against the amendment, would be entitled to withdraw from the Agreement if the amendment was finally adopted.

There was no discussion on Sections 58, 59, 60 and 61.

Annex A

The CHAIRMAN recalled that the Joint Committee had not yet been able to reach an agreement on the price and quality of opium. It would not, therefore, serve any useful purpose for the Commission to discuss Annex A at that stage.

Annex B

Mr. HOARE (United Kingdom) recalled that it had been agreed at Ankara that the international monopoly should supply consumers, in so far as practicable, with opium of their choice. During the meeting of the Joint Committee, he had pointed out that the demands for Indian opium were likely to exceed the allocation granted to India as its share in the world opium production. The Joint Committee had given some thought to that question and had included a paragraph on the subject in its report (E/CN.7/201-E/CN.7/AC.4/1, paragraph 13).

/Mr. AMINI

Mr. AMINI (Iran) recalled that he had replied to the point raised by the United Kingdom representative in the Joint Committee by drawing attention to the fact that the quotas were only valid for one year. Thus a producer could always ask for a revision of its quota at the end of a year.

Mr. VAILLE (France) said that, before the discussion on the Interim Agreement was closed, he wished to ask the Secretariat to compile all the relevant material on the possible establishment of an international monopoly for alkaloids. Such documentation could be submitted at the following meeting of the Commission to be held at Geneva.

The CHAIRMAN said that the Secretariat would take note of the request made by the representative of France.

On behalf of the Commission, he invited the Governments of Belgium, Italy and Switzerland to send observers to the sixth session when the Commission would again take up the discussion of the Interim Agreement.

The meeting was suspended at 11.45 a.m. and resumed at 12.10 p.m.

SINGLE CONVENTION (A/CN.7/AC.3/1, E/CN.7/AC.3/2, E/CN.7/AC.3/3, E/CN.7/AC.3/3/Corr.1, E/CN.7/AC.3/4, E/CN.7/AC.3/4/Corr.1, E/CN.7/AC.3/R.1).

Mr. IOPEZ-REY (Secretariat) recalled that the Secretariat had prepared a draft of the Single Convention as a result of two recommendations adopted by the Commission and approved by the Economic and Social Council in August 1948 and July 1949 respectively.

/The task

The draft did not merely represent a compilation of the provisions of the existing international instruments, which amounted to 17, including the Protocols and Final Acts attached to the Conventions. The draft contained new provisions in view of the developments in the field of narcotics and international administration. Therefore adequate machinery had been envisaged. The idea of simplifying the existing provisions for the international control of the production and manufacture of narcotic drugs was considered to a certain extent by the Advisory Committee of the League of Nations during the discussion on the preliminary studies for a convention to limit the production of raw materials.

He outlined the main problems involved in the Single Convention. Limitation of the production of raw materials was, practically speaking, a new question, although regarding opium it had been discussed in connexion with the Interim Agreement. That question was closely related to the problem of the coca leaf and the Report of the Commission of Enquiry on the Coca Leaf which was available to members. Some provisions for the limitation of the manufacture of narcotic drugs were based on the general outline established by the existing conventions.

Among other problems, the Commission would probably need to consider the question of definitions; the system of control; the problem of drug addiction; the problem of illicit traffic and the proper sanctions; the measures whereby new raw materials or drugs which were not initially included in the Convention would be brought under international control; and the measures to be adopted during the transition period between the entry into force of the new Single Convention and the expiry of existing instruments. Documents E/CN.7/AC.3/1 and E/CN.7/AC.3/2 contained background information while the other documents submitted related directly to the draft Single Convention.

Mr. VAILLE (France) congratulated the Secretariat on its work in producing the draft of the Single Convention (E/CN.7/AC.3/3).

The intention of the authors of the draft had apparently been to establish a direct international administration in the matter of narcotic drugs. If adopted, it would be the first example of its kind, and would create an excellent precedent for international questions in general.

/The legal

The legal basis of the system was apparently the classical idea of "powers": the legislative power would be given to the Commission; the executive power to the Secretariat; and the judicial power to the Board.

The text was in general very satisfactory and completely met the desire of the Commission for a convention unifying the already existing international conventions on the subject. There were, however, some points of detail regarding which he had some definite suggestions to make.

He outlined the subject matter in the convention which appeared to require particular attention. In the first place, international control was to be substituted for national control. The chief effects of that would be felt in the field of foreign trade. Any import or export would be subject to previous authorization by the Board, and an account of each transaction would have to be furnished to that body. Such a procedure would obviously complicate economic relations. It was, moreover, based on a mistaken principle, in that it would entrust all the secrets of commercial operations to an international organ. It was liable to cause excessive delay and to induce States to build up stocks in order to avoid scarcity. It was sought to justify that provision by adducing the fact that certain States exceeded their estimates by importing supplementary quantities during the last quarter of the year and thus avoiding the embargo measures provided in the 1931 Convention. It would, however, be possible to remedy that state of affairs by a slight modification in the embargo procedure. In addition to its complexity, the procedure proposed in the draft convention provided no additional guarantee with regard to practical control over foreign trade operations. Substitution of international for national control would undoubtedly lead to a slackening of national control which would inevitably have very serious consequences in the struggle against the abuse of narcotic drugs. With regard to domestic trade, the proposed procedure, which called for a strict supervision of importers and exporters, would usurp functions generally assigned to national control.

The draft convention gave the Commission and the Board very considerable powers in regard to the practical application of the convention, of which he gave several specific examples. The methods used were of great importance for the effective application of the convention, and it was indispensable that the practical obligations of the contracting parties should be precisely formulated in the convention itself, so that parties would know exactly what obligations they were undertaking by signing it.

/The convention

The convention provided for the establishment of a single joint Secretariat for the Commission and the Board. That measure was supposedly justified by reasons of economy, but he did not believe that any economy would necessarily result from it. Moreover, the measure appeared liable to give a political trend to a committee composed of independent experts. Under previous conventions, the functions of the Secretariat had been strictly administrative, whereas the new provisions entrusted the Secretariat with certain powers, such as that of requesting Governments to provide explanations for additional information whenever that was necessary for the accomplishment of the work of the Commission or Board.

The provisions of the new convention would imply the establishment of a lot of administrative machinery, mainly to ensure the application of the provisions relating to the control of foreign trade. Such machinery would entail considerable expense.

With regard to the provisions relating to Indian Hemp, his Government considered it impossible for the time being to prohibit the use of Indian hemp for medical purposes. It would, moreover, be difficult, when it was still under cultivation, to distinguish between hemp intended for the textile industry and that intended for the production of narcotic drugs. It would also be difficult to control the gathering of Indian hemp in the West African and Equatorial African territories where it grew wild.

Section 31 of the draft convention, which contained provisions relating to poppy straw, was limited and not very clear. The provisions appeared to visualize the exemption of poppy straw, as such, from the control of raw materials provided by the convention. In his opinion, control of poppy straw should only begin when it reached the alkaloid manufacturer, since it could not in its raw state give rise to any illicit traffic.

The principle of stricter control of illicit traffic in narcotic drugs embodied in the convention could not be disputed, but it would be a mistake to consider prevention of the abuse of narcotic drugs as sufficient. Direct repressive action was indispensable and in that field the provisions of the draft convention were inadequate. There was practically no liaison between national bodies dealing with repression of the illicit traffic and no effective coordination on the international level. In that connexion, the collaboration of the ICPC might be very useful.

/Finally, he

Finally, he drew attention to the extreme complexity of the draft convention. Some measures seemed superfluous; they had been drafted from a theoretical point of view.

Having reviewed the various points in the draft convention to which he wished to direct the Commission's attention, he stressed the absence from the convention of special provisions relating to synthetic drugs. In that connexion, he recalled his previous interventions on the subject of synthetic drugs. Synthetic drugs were not specifically mentioned in the draft convention although they might be placed on one of the lists provided for by the convention of narcotic drugs to which its provisions would be applicable. Synthetic drugs, however, raised a very different problem from that of natural narcotic drug products, particularly for the question of manufacture. While the manufacture of morphine might be controlled in view of the opium content, that was not the case for synthetic drugs. Moreover, the consumption of such products involved the certain danger of drug addiction. It therefore appeared necessary to establish special provisions for such products.

In conclusion, the conventions currently in force imposed on the contracting parties national obligations with regard to the control of the legal traffic in narcotic drugs and the suppression of their illicit use. The essential aim of the international control instituted by those conventions was to verify whether the contracting parties had respected their undertakings. International control could only be substituted for national control in the case of estimates, or in the absence of national administrative controls. The draft single convention obviously tended to increase the powers of international organs at the expense of national administrations. That increase in powers which were limited to control of the legal traffic, did not appear such as to prevent illicit traffic. The value of the control of legal traffic was obviously directly dependent on the power and scope of the national administration, and a purely administrative long-distance control could hardly be effective in that field. Moreover, any international regulations should be very flexible so as to enable the contracting parties to adapt them to their respective national circumstances. On the other hand, it was normal to give to the international control organs an opportunity of assessing whether the parties had respected their undertakings with regard to the suppression of the abuse of narcotic drugs. He therefore proposed that inspection by international officials should be instituted in that field.

/He had

He had prepared an amended text of the draft single convention, based on the general principles he had just stated, which he suggested the Secretariat might print and distribute to members of the Commission for consideration in conjunction with the Secretariat draft (E/CN.7/AC.3/3).

Mr. AMINI (Iran), Mr. NIKOLIC (Yugoslavia) and Mr. ANSLINGER (United States of America) supported the French representative's suggestion that, if possible, his proposed amended draft should be circulated for consideration in conjunction with the Secretariat draft.

Mr. STEINIG (Secretariat) declared that it would be difficult for the Secretariat to print and distribute the French representative's text immediately. The Secretariat draft had been available to members for study for some eight months; in view of the short time which representatives would have to study the French text at that session of the Commission, it was doubtful whether it would facilitate discussion of the subject. The Commission should limit itself for the time being to discussing the Secretariat draft, and the proposals made by the French representative should be circulated by the Secretariat to members with a request for comments; they might be taken up at a later session of the Commission.

Mr. KRUYSSSE (Netherlands) said the French proposals were most interesting, but agreed with the representative of the Secretary-General that there would be very little time in which to study them at the current session. Delegations should confine their comments to the Secretariat draft, and the Secretariat should distribute the French counter-proposals as soon as possible so as to enable the French delegation to refer to them in commenting on the Secretariat draft.

Mr. VAILLE (France) again urged that the text of his delegation's proposals should be printed and circulated for consideration at that session.

Colonel SHARMAN (Canada), in view of the lateness of the hour, moved adjournment of the meeting.

The motion for adjournment was adopted.