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COMMISSION ON NARCOTIC DRUGS

Fifth Session

SUMMARY RECORD OF THE ONE HUNDRED AND TENTH MEETING

Held at Lake Success, New York,
on Thursday, 7 December 1950, at 10 a.m.

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(E/CN.7/199/Rev.1)

<u>Chairman:</u>	Mr. SATTARATEAN	India
<u>Rapporteur:</u>	Mr. HOARE	United Kingdom of Great Britain and Northern Ireland
<u>Members:</u>	Colonel SEARMAN	Canada
	Mr. HSIA }	China
	Mr. TSAO }	
	Mr. MAEMOUD LABIB	Egypt
	Mr. BOURGOIS }	France
	Mr. VAILLE }	

Members: (continued)

Mr. AMINI

Iran

Mr. RAELASA

Mexico

Mr. KRUYSEE

Netherlands

Mr. AVALOS

Peru

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Poland

Mr. OR

Turkey

Professor ZAKUSOV

Union of Soviet Socialist Republics

Mr. ANSLINGER

United States of America

Mr. KRASOVEC

Mr. NIKOLIC

Yugoslavia

Also present:

Mr. MAY

President of the Permanent
Central Board

Mr. ERREIRA

Belgium

Mr. van HUYDEN

Switzerland

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Italy

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

Mr. MARAZZO

Representative of the International
Criminal Police Commission

Secretariat:

Mr. HUANG

Division of Narcotic Drugs

Mr. LANDE

Division of Narcotic Drugs

Mr. BOLTON

Secretary of the Commission

/TRIBUTE

TRIBUTE TO THE MEMORY OF THE LATE SIR MALCOLM DELEIVINGNE

Mr. BOURGOIS (France) wished to pay tribute to the memory of the late Sir Malcolm Delevingne, of whose death the Commission had just learned. Sir Malcolm Delevingne had been one of the greatest figures in the history of the struggle against the abuse of narcotic drugs and the conventions which had been adopted on the subject were in a large measure due to his efforts. He had worked with the Permanent Central Opium Board and the Supervisory Body and had played a leading part in all phases of the problems relating to narcotics. He had been a man of high conscience and he was leaving behind him a fine example for others to follow.

Colonel SHARMAN (Canada), Mr. ANSLINGER (United States of America) and Mr. MAY (Permanent Central Board) associated themselves with the tribute paid by the French representative and expressed sympathy for the friends and relatives of Sir Malcolm Delevingne.

Mr. HOARE (United Kingdom) on behalf of his Government expressed appreciation of the tribute paid and said he would convey it to his Government and to the relatives of the late Sir Malcolm Delevingne.

At the invitation of the Chairman, the members of the Commission rose and observed one minute's silence in memory of the late Sir Malcolm Delevingne.

INTERIM AGREEMENT TO LIMIT THE PRODUCTION OF OPIUM TO MEDICAL AND SCIENTIFIC NEEDS: REVISED DRAFT OF THE PROPOSED INTERIM AGREEMENT TO LIMIT THE PRODUCTION OF OPIUM TO MEDICAL AND SCIENTIFIC NEEDS (E/CN.7/199/Rev.1).

After some discussion on the procedure to be followed in considering the revised draft of the proposed interim agreement, in the course of which the representatives of the NETHERLANDS, TURKEY and the UNITED KINGDOM reserved the right to make further comments on the draft at the Commission's session in April, the CHAIRMAN indicated that the Commission would consider the revised draft chapter by chapter. In order to save time, he asked representatives merely to

comment on the general principles contained in the draft and to leave drafting amendments to the Secretariat. He requested representatives to refer to the paragraphs in the various chapters by the reference number given in the left-hand margin. Priority in the expression of views would be given to representatives of the consuming countries.

Chapter I: Definitions

Mr. OR (Turkey) drew attention to certain inaccuracies in reference paragraphs 8a, 15 and 28a.

The CHAIRMAN said those were defects in the French translation of the document and would be rectified.

Mr. ANSLINGER (United States of America) raised the question of the use of the term "International Monopoly". He did not object to the principle of an international monopoly but to the use of the term in an international legal document. He also stated that reference paragraph 14a should read "director of the agency" and that the definition of opium in reference paragraph 21 should be less detailed.

After various suggestions for an alternative title had been made, the CHAIRMAN said the matter would be noted and the Secretariat would endeavour to produce another term and also review the definition of opium.

Chapter II: Limitation of the production of opium.

Section 2

There were no comments on Section 2.

Section 3

Colonel SHARMAN (Canada) asked whether he was correct in interpreting paragraph 35a as meaning that consumer countries which signed the agreement would undertake not to buy morphine, codeine or any other drug made from poppy straw.

Mr. HOARE (United Kingdom) said that was not quite correct. The paragraph was an undertaking not to import alkaloids from countries not parties to the agreement.

/Mr. AMINI

Mr. KRUYSSSE (Netherlands) indicated that in drawing up the paragraph, the Joint Committee had had in mind chiefly the competition of morphine made from poppy straw by some Eastern European countries, particularly Czechoslovakia, Hungary, and Poland. After manufacturing countries had become parties to the agreement, they would be obliged to buy opium at a higher price than they might have paid on the open market. They must therefore be assured that there would be no competition from countries manufacturing alkaloids from opium produced outside the monopoly or from poppy straw. Otherwise, consuming countries might be tempted to buy from the latter which would be able to sell their products at a much lower price. The paragraph was a most important provision; without it, it would be very difficult for manufacturing countries to adhere to the agreement.

He further suggested that paragraph 35a should be studied in conjunction with paragraph 298. In his Government's view, the number of states required to accede to the agreement for its coming into force should be greatly increased, so that there would be some assurance that the majority of the consuming countries would accede and manufacturing countries which had acceded to the agreement would not be obliged to compete with those which had not.

Mr. VAILLE (France) said it had, at one point, been suggested in the Joint Committee that the agreement should come into force when it had been signed by twenty-five countries.

Mr. LANDE (Secretariat) said that in drafting paragraph 35a the Joint Committee had also been guided by the principle that countries which did not assume the obligations proposed by the Interim Agreement should not be in a position to compete unfairly in the export market of opium alkaloids with countries which did accept such obligations.

/Colonel SHARMAN

Colonel SHARMAN (Canada), speaking personally, indicated that consuming countries would probably undertake to buy opium only from countries parties to the agreement but that it was doubtful whether they would undertake the same obligation with regard to opium alkaloids.

Mr. NIKOLIC (Yugoslavia) stressed that the question was one of not buying alkaloids from countries not parties to the agreement.

Mr. KRUYSSSE (Netherlands) said the idea of a monopoly had been the solution reached by the Joint Committee but that it should not necessarily be presented to consumers as the only solution.

Section 4

Colonel SHARMAN (Canada) said that under paragraph 37, national monopolies were to have the exclusive right to license cultivators. He would point out that while they had the power to issue such licenses, they were not required to do so.

Mr. AMINT (Iran) observed that only national monopolies were referred to in paragraph 37. It was necessary for them to issue licenses so as to have an idea of the total area to be cultivated within the country, but no production figures were asked for from the farmers.

Mr. LANDE (Secretariat) stated that the intention had been that wherever cultivation of the opium poppy for the production of opium was carried out by individual farmers, each farmer should be separately licensed. The draft had, however, to take into consideration the existence of different economic systems and the fact that in some countries cultivation was not confided to individual farmers. The draft therefore provided also for the licensing of co-operatives and corporations and for cultivation by state farms.

/The CHAIRMAN

The CHAIRMAN said that if it was desired to make licensing compulsory, that could be achieved by deleting the words "have the exclusive power of" at the end of paragraph 36, and replacing them by the words "among others, perform the following functions": compulsory licensing could then be included as one of those functions.

Mr. AMINI (Iran) saw no reason for such a re-drafting, as he considered that the present text conveyed the meaning clearly.

Mr. HOARE (United Kingdom) agreed with the Canadian representative that the text did not require the authority having the power to issue licenses to exercise it. The case of other producing countries which might later become parties to the agreement should also be considered: they too should be bound by the same provisions. He was therefore in favour of amending the existing text, so as to make it clear that where a party had individual farmers in its territory, those farmers should be licensed.

Mr. AMINI (Iran) maintained that the text already made that point clear, but he had no objection to the proposal made by the United Kingdom representative.

Mr. VAILLE (France) was in favour of retaining the present text, but, if necessary, the paragraph could be inverted and begin with some such phrase as "Countries shall have the right to (a) license ...etc".

Mr. OR (Turkey) said that the position was different in his country where the existing national monopoly provided for the limitation of cultivation. Farmers applied in writing for permission to grow opium in the specified zones.

The CHAIRMAN stated that the text could, if desired, make it clear that an obligation and not just an optional power was imposed upon the parties to the agreement.

Mr. ANSLINGER (United States of America) asked whether that obligation should not be extended to all growers of the opium poppy and not only to opium producers. He referred to farmers growing poppy for seeds and oil, and mentioned in particular the situation in Germany.

Mr. KRUYSSSE (Netherlands) said that in his country many farmers grew the poppy for seed; it was not possible to license them all, nor was it necessary, since those poppies could not give rise to illicit traffic. The statistics in the annual report for the United States Zone of Germany showed that only one-third of the poppy straw produced was used for the manufacture of morphine, and that the poppy was mostly grown for the production of seed and oil. It would be impossible to create a licensing system to cover such farmers.

Mr. VAILLE (France) referred to the summary records of the Geneva conference and pointed out that poppy straw had been excluded from the licensing system, even if used for the manufacture of alkaloids. He thought it desirable to retain the idea that if a country grew the poppy for purposes covered by the Convention it should impose a licensing system.

Mr. AMINI (Iran) observed that any proposals which were made in the Commission were merely suggestions and not decisions.

Mr. OR (Turkey) had no objection to the proposal that the obligation to license should be imposed upon the countries which were parties to the draft agreement.

The CHAIRMAN said that the United States suggestion would require a separate article; moreover, as the Netherlands representative had pointed out, it would lead to administrative and practical difficulties. He suggested that the Secretariat should study the question for discussion at the next meeting of the Joint Committee.

Mr. KRUYSSSE (Netherlands) wished to explain that in his country the poppy constituted a "speculative crop" covering an area which changed considerably from year to year. A large corps of inspectors would be

/required

required to ensure compliance with the regulation. As there was no danger of illicit traffic from that source, it would be unreasonable to go to such lengths for purely hypothetical reasons.

Mr. HOARE (United Kingdom) also referred to the practical difficulties raised by the United States proposal. Those countries which manufactured alkaloids from poppy straw were not represented in the Commission and it could not be assumed that they would accept such an obligation, on which they had not been consulted. They would probably prefer not to become parties to the agreement.

Mr. LANDE (Secretariat) commented that the conditions prevailing in the Netherlands were also prevalent in most Central European countries: farmers who grew the poppy often did not know whether they would eventually be able to sell the straw; if they received an offer for it for that purpose, they would sell it. In the single Convention control was provided only for trade in poppy chaff which becomes dangerous only when subjected to manufacturing processes.

Mr. ANSLINGER (United States of America) understood that in Turkey the poppy was grown over large areas for the production of seed and oil. Could the Turkish inspectors distinguish between those areas and the areas set aside for the cultivation of the poppy for opium?

The CHAIRMAN stated that the point had already been covered in the draft agreement, which provided that producing countries must also control the cultivation of opium poppy for purposes other than the production of opium.

Mr. OR (Turkey) stated that in Turkey there were separate zones for the production of opium, and of poppy seed and oil. If a farmer wished to grow the poppy for either purpose, he was required by law to apply for permission, and both types of zone were strictly supervised.

He recalled that he had already submitted a draft amendment to Section 4 at Geneva. He believed that the Government had already communicated it to the Secretariat.

/Colonel SHARMAN

Colonel SHARMAN (Canada) said he understood that if, say, Hungary became a party to the agreement it would be permitted to sell morphine obtained from poppy straw. He failed to see how that could be reconciled with paragraph 43.

Mr. HOARE (United Kingdom) stated that the words "such a Party" at the beginning of paragraph 43 clearly meant an opium-producing country, as could be seen from the preceding paragraph.

Mr. VAILLE (France) affirmed that it was not the textual drafting which was disputed, but the actual principle involved. No agreement on that point had been reached at Geneva.

Section 5

Mr. MAY (President of the Permanent Central Opium Board) said that from his own experience, Section 5 placed an almost impossible task upon the Supervisory Body. Paragraph 46, for example, which spoke of "replenishing Government stocks", would be very difficult to implement without an accurate knowledge of the desired level of stocks. Again, with regard to paragraph 48, the Supervisory Body had never had available the figures for the quantities of opium required for medical or scientific purposes; with regard to paragraph 49, the Supervisory Body lacked the necessary technical knowledge to decide on the question of areas.

Among other difficulties presented by Section 5, he referred to the fact that decisions were to be taken on the basis of the business year, whereas all other decisions were based on the calendar year. Moreover, the Supervisory Body was to meet in April, when it would almost certainly coincide with a meeting of the Commission.

In conclusion, he offered to assist the Secretariat in determining what could be done with regard to the question of estimates. The Canadian representative, he felt sure, would also offer his services.

/Colonel SHARMAN

Colonel SHARMAN (Canada) agreed to assist the Secretariat if necessary.

The Supervisory Body knew nothing about areas, but even if it did, such information would be of little use, as production from any given area varied considerably from year to year. The Supervisory Body might estimate area allotments on the basis of 100 per cent yield, while the Regulating Committee might proceed on the basis of 75 per cent only. He therefore felt that the entire matter should be in the hands of the Regulating Committee.

Mr. VAILLE (France) thought that the purpose of Section 5 was to make the 1931 Convention applicable. In that section, it was merely a question of reporting to the Supervisory Body.

Mr. LANDE (Secretariat) suggested that it might be better to defer discussion on Section 5 until the Secretariat had examined it with the Canadian representative and the representative of the Permanent Central Opium Board.

Mr. AMINI (Iran) said that it was desired to have a body to centralize all the information, and it had been thought that the Permanent Central Board and the Supervisory Body could help. If the latter were in difficulty themselves, the question would have to be deferred.

Mr. OR (Turkey) could not agree as to the date by which the estimates were to be submitted and thought that the question should be left to a subcommittee at Geneva to discuss with the Permanent Central Board.

The CHAIRMAN said that the two representatives of the Permanent Central Board had agreed to discuss the matter with the Secretariat and that a revised draft of the section would be submitted at a later date.

Mr. HOARE (United Kingdom) pointed out that under paragraph 49 a party was to state the area it intended to permit to be sown with opium poppy, whereas under paragraph 83 the Committee was to recommend the area to be sown. It had been agreed at Geneva that a producer need not follow that recommendation, but paragraph 83 did not state that a producer was required to indicate

/the area

the area which he intended to sow and its location. That was probably an error in drafting and the Secretariat could no doubt consider it at the same time as the other questions.

The CHAIRMAN said that the Secretariat would examine the point at issue.

Mr. AMINI (Iran) recalled that at Geneva it had been agreed to accept a recommendation, but not the imposition of an obligation.

Chapter III: International Trade in Opium

Section 6

Colonel SHARMAN (Canada) assumed that the right to continue the present practice of entrepot trade should be recognized. If that was not the case it would be an extremely serious matter for the consumer countries. Canada, for example, bought most of its drugs from the United Kingdom and, in normal circumstances, it would not buy any supplies direct from the monopoly, although of course the monopoly would be the original source of supply for all drugs. He thought that the right to continue such entrepot trade should be specifically recognized in Section 6, because the present wording of paragraph 60/Rev.1 seemed to imply that consumer countries would have to obtain specific permission for each such transaction.

Mr. AMINI (Iran) said that it was clear from paragraph 63/Corr.1, that, provided the United Kingdom bought its supplies from the monopoly, there was no reason why it should not subsequently re-export them to Canada.

Mr. VAILLE (France) pointed out that paragraph 63/Corr.1 applied only to opium already processed for medicinal use. Raw opium could not be re-exported under Section 6 without the previous consent of the Committee, as provided in paragraph 60/Rev.1. In fact, the consumers and manufacturers combined would make up half the members of the Committee and it should therefore be quite easy to obtain its consent by a simple majority for any legitimate transactions. He agreed with the representative of Canada, however, that some further guarantee should be given to the consumer countries that their normal trade would be
/allowed

allowed to continue. Such a guarantee might be provided by an amendment to paragraph 59 stating that the sales and purchases in question could be made either directly or indirectly from the international monopoly.

Colonel SHARMAN (Canada) said that such an amendment would meet his point.

Section 7

Mr. ANSLINGER (United States of America) and Colonel SHARMAN (Canada) wondered why copies of requisitions were to be sent to the Supervisory Body under paragraph 66.

Mr. LANDE (Secretariat) explained that copies of requisitions were to be sent to the Supervisory Body purely for its information. It was not expected to take any action on them, as that was the task of the Regulating Committee. Since the Supervisory Body was to be called upon at a later stage to evaluate the estimates of manufacturing countries, it might find it useful to refer to copies of their requisitions which would give some indication of their later requirements.

The CHAIRMAN said that the question was one of administration and it could not be settled while the draft was still at a preparatory stage. The international organs entrusted with functions under the Agreement would naturally have to be informed of the exact duties they were being asked to fulfil and the Secretariat would prepare an explanatory memorandum for them at a later stage.

Colonel SHARMAN (Canada) pointed out that under paragraph 70/Rev.1 the Committee was to meet during the first half of April each year. It was specified in paragraph 73 that, during such meetings, the Committee was to establish the total amount of opium that the Producers would be called upon to produce in the business year in question. It appeared, however, from paragraph 55/Rev.1 that the Committee would ^{not} receive the estimates from the Supervisory Body until the first day of May of each year. He wondered therefore how it was expected to submit its conclusions by the middle of April.

/Mr. LANDE

Mr. LANDE (Secretariat) explained that the Regulating Committee would not be obliged to take action on the information submitted under paragraph 55/Rev.1 unless it desired to do so. The Regulating Committee was to deal only with the export requirements of the producer countries, while the information referred to under paragraph 55/Rev.1 covered only domestic requirements. It would naturally be advantageous if that information could be submitted earlier than 1 May of each year, but that would be very difficult since the estimates referring to domestic production would ^{then} have to be furnished by the producers at a much earlier date, a condition which would impose a great burden on them.

There was no discussion on sections 8, 9, 10 and 11.

Section 12

Mr. ANSLINGER (United States of America) pointed out that the second sentence of paragraph 109, giving the international monopoly the discretion to decide on priorities, appeared to contradict the first sentence of the same paragraph in which a strict order of priorities was established.

Mr. HOARE (United Kingdom) explained that the first sentence of paragraph 109 was a general provision, while the second sentence referred only to the priority to be given to late requests from countries which were not Parties to the Agreement after all requests from Parties had been met. That point might be made clearer by a change in the drafting.

The CHAIRMAN said that the Secretariat would study that point in the light of the summary records of the meetings held at Geneva.

Mr. NIEDLIC (Yugoslavia) referred to paragraph 98/Rev.1 and asked what procedure was envisaged if a producing country should happen to harvest twice the amount of opium allocated to it, while having at the same time complied with the monopoly's recommendation regarding the area which should be sown.

/After some

After some discussion as to the exact decisions taken at the Geneva meetings, the CHAIRMAN said that the monopoly was clearly under the obligation to buy all the opium produced by a given country, provided that the country had accepted the monopoly's recommendation regarding the area it should sow in order to meet its allocation. The question of the exact obligations of the monopoly in cases where countries did not accept its recommendation regarding the area to be sown could be cleared up by reference to the relevant summary records of the Geneva meetings.

Mr. HOARE (United Kingdom) recalled that the understanding was that if a country cultivated only the area recommended, the international monopoly would buy the entire crop. In cases where a country cultivated a larger area, the monopoly would take over any excess over the allocation but pay for it only when it was sold.

Mr. AMINI (Iran) could not agree with this interpretation.

He did not, in fact, see why producing countries should be obliged to pay for the storage of opium they produced in excess of their allocation, even if they had not agreed to the monopoly's recommendation regarding the area they should sow.

There was no discussion on Sections 13, 14, 15, 16 and 17.

Section 19

The CHAIRMAN said that the United States representative's objection to the title "international opium monopoly" would be taken into account by the Secretariat when preparing a redraft for Section 19.

Section 20

The CHAIRMAN recalled that no decision had yet been taken as to the place where the international monopoly should have its seat. It had been emphasized at the Geneva meetings that the seat of the monopoly should be situated at a port which was at the same time a business centre and in fair proximity to the producing and manufacturing countries.

/Mr. OR

Mr. OR (Turkey) emphasized that it would be useful for the monopoly to be situated near the headquarters of the Permanent Central Opium Board and the Supervisory Body. There were therefore strong reasons for adopting Geneva as the seat for the monopoly.

Mr. VAILLE (France) said that he had no objection to the proposal that the monopoly's seat should be at Geneva, provided that its warehouses were at a port.

Mr. HOARE (United Kingdom) saw no reason why the headquarters should necessarily be at the same place as the warehouses. He felt that the monopoly should have its seat in Europe and suggested that the word "Geneva" should be inserted provisionally in paragraph 140 so that the Commission would at least have a definite proposal to consider at its following session.

It was so agreed.

There was no discussion on Section 21.

Section 22

Mr. ANSLINGER (United States of America) pointed out that, under Section 22, private importers and exporters would have no right to sue the monopoly even if they had a just claim against it, unless the Committee agreed to waive the immunity conferred upon the monopoly. He did not wish to enter into a detailed discussion of the point at that stage but had simply raised it so that other members could reflect upon it before the Agreement came up for full discussion at the following session.

Mr. KRUYSSSE (Netherlands) thought it would be better if the privileges and immunities granted to the monopoly were the same as those included in the Agreement on the privileges and immunities of the specialized agencies of the United Nations. Moreover, the Government of the country in which the monopoly was situated should exempt monopoly officials' salaries from taxation except in the case of its own nationals.

Mr. HOARE (United Kingdom) said that his Government would reserve its position on all the provisions relating to privileges and circumstances of the monopoly and its staff until its legal experts had had time to study the question in detail.

/Section 23

Section 23

Colonel SHARMAN (Canada) asked whether all the monopoly's stocks were to be stored in one place.

Mr. HOARE (United Kingdom) replied that the question had been discussed informally and it had been tentatively agreed that the monopoly should have one warehouse in America and one or two in Europe. The stocks would be evenly divided between the two continents for storage purposes.

Section 24

Mr. KRUYSE (Netherlands) recalled that his Government had made reservations on Section 24. The Secretariat had subsequently pointed out that the provisions were the same as those contained in the Agreement on the privileges and immunities of specialized agencies. His Government had, however, ratified that Agreement only in respect of three specialized agencies -- WHO, ICAO and ILO. As the monopoly did not bear any resemblance to a specialized agency, his Government did not feel that that argument was a sufficient reason for withdrawing its reservation.

Mr. HOARE (United Kingdom) recalled that his Government had also made a reservation regarding Section 24. He must maintain that reservation for the time being.

There was no discussion on Section 25.

Section 26

Mr. LANDE (Secretariat) stated that the Secretariat had been informed that the International Telecommunications Union might not be willing to grant the monopoly the privileges mentioned. The Secretariat was studying that point and would be in a position to report on it at a later date.

There was no discussion on Section 27.

The CHAIRMAN said that the Commission would continue the discussion at its following meeting, starting with Section 28.

The meeting rose at 1.05 p.m.

12/12 p.m.