

UNITED NATIONS
ECONOMIC
AND
SOCIAL COUNCIL



GENERAL

E/CN.7/AC.3/5/Add.1
17 June 1952

ORIGINAL: ENGLISH

COMMISSION ON NARCOTIC DRUGS
Committee on a Single Convention
on Narcotic Drugs
Committee of the Whole

INDEX UNIT MASTER
30 JUN 1952

AN ANNOTATED COMPILATION OF OBSERVATIONS ON THE
DRAFT OF THE SINGLE CONVENTION

Note by the Secretary-General

The Secretary-General has the honour to submit to the Commission the text of the observations of the Government of India, which reached the Secretariat too late for inclusion in the Annotated Compilation (E/CN.7/AC.3/5).

Observations of the Government of India on the principles
underlying the Draft Single Convention document
E/CN.7/AC.3/3, dated 27 February 1950
prepared by the Secretariat of
the United Nations

After a careful reading of the discussions in the Fifth and Sixth sessions of the Commission on Narcotic Drugs on the Draft Single Convention (document E/CN.7/AC.3/3, dated 27 February 1950) prepared by the Secretariat of the United Nations, it appears to the Government of India that the time has not yet come for detailed comment on the content of each separate provision in the draft instrument. The examination of the draft instrument is still at a stage where the Members of the Commission on Narcotic Drugs have not arrived at final conclusions on some of the main principles on which the draft instrument has been based. The Government of India accordingly propose to confine themselves in the course of this note, to the expression of their tentative views on the main principles, reserving their comments on the detailed provisions of the draft to a future date when the draft may emerge in a modified form based on the agreed conclusions of the Commission.

2. Form of International Control

(1) The Government of India are in full agreement with the views expressed in paragraph 70 of the Report of the Fifth Session of the Commission on Narcotic Drugs, namely:

- (a) that the control of narcotic drugs should be primarily carried out by national organs; and the function of international organs should be of a supervisory character, and
- (b) that, in general, indirect international administration is preferable to direct international administration.

(2) The Government of India support, generally, the Permanent Central Opium Board's and Drug Supervisory Body's criticism of the features of international control embodied in the draft instrument, vide paragraphs 10 to 28 of their note E/OB-DSB/2, dated 7 November 1951.

(3) International Clearing House

The Government of India consider that serious attention should be paid to the Permanent Central Opium Board's and Drug Supervisory Body's analysis of the proposal to set up an International Clearing House, vide their comments on Section 24 of the Draft Instrument (pages 5-6 of document E/OB-DSB/1, dated 15 June 1951). The principal justification for this radical change in the form of control of imports and exports of restricted drugs, lies in the experience of the working of the 1925 and 1931 Conventions which has shown that a prior scrutiny of imports and exports, against estimates furnished by Governments, is necessary, if the estimates are not to be exceeded with impunity. While the Government of India appreciate this argument they agree with the Permanent Central Opium Board and the Drug Supervisory Body, that a wiser course would probably be to make certain improvements in the existing system, without setting up a Clearing House which might develop, in actual operation, some of the objectionable features mentioned in paragraph 106 of the Report of the Fifth session of the Commission on Narcotic Drugs. In order to prevent estimates being exceeded, it should be possible, as suggested by the Permanent Central Opium Board and the Drug Supervisory Body; to penalize excess import by an equivalent reduction of

/estimates

estimates for the following year, so that over a two-year period, the estimated quota would be achieved. Another alternative would be to permit Government to import and export drugs as at present, without prior reference to the International Drug Board, on the strength of import and export authorizations issued against their estimates, but simultaneously with the issue of the authorizations, to transmit copies of the authorizations to the Board, in order to enable the Board to make a debit against the estimates furnished by the respective countries. To meet the objection that supply of copies of authorization to the Board would expose the trade secrets of exporters and importers, the information supplied to the Board may be restricted to an abstract showing merely, (1) the name of the drug, (2) the country of consignment or destination, (3) the quantity, and such other particulars as are essential for the purpose of verification with the estimate, but omitting details such as the names of the consignors or consignees, the price of the drugs, etc. with which the Board may not be concerned.

4. International Drug Commission

Chapter IV of the draft instrument should include a provision specifically defining the status of the International Drug Commission as being a body appointed by the Economic and Social Council under its own charter. In order to ensure the continued application of the accepted principles which are at present observed in the nomination of the Members of the Commission by the Economic and Social Council, and which have been mentioned in the footnote at page 11 of the draft instrument, some means should, if possible, be found to incorporate these principles in the body of the Convention itself.

5. Provisions concerning the organization and functions of the International Board: the Board's Secretariat

The Government of India support, generally, the views expressed on these provisions at pages 3-11 of their note (document No. E/CN-DCB/1, dated 15 June 1951) by the Permanent Central Opium Board and the Drug Supervisory Body, subject to the following:

- (1) It does not seem necessary, as proposed in the Board's comment on paragraph 116 of the draft, to prescribe a time limit for supplementary estimates, since the imposition of such a time limit might prove to be a serious obstacle in a country obtaining drugs in an emergency.

- (2) Section 19 (paragraph 196 of the draft instrument) which provides for delegation of authority by the Board cannot be regarded as redundant, merely because, in the experience of the Permanent Opium Board and the Supervisory Body, such a contingency has not so far arisen.
- (3) While the Government of India agree that the International Drug Board should have its own Secretariat distinct from the Secretariat of the International Drug Commission, they do not hold the same strong views as the Permanent Central Opium Board and the Supervisory Body on the question of the Secretariat having been mentioned as a separate entity in the draft instrument. Consistently with the principle (to which no exception can be taken), namely, that the separate Secretariat now proposed for the International Drugs Board should take orders from the Board, and not from the Secretary-General, it seems proper and desirable to define the functions of even such a Secretariat in the draft instrument itself.
- (4) As regards service contracts for the Secretariat officials, the existing provision under Article 20, paragraph 2 of the Convention of 19 February 1925 seems adequate. It is reasonable that the grade and type of contract granted to officials of the Board's Secretariat should be determined, without reference to the Board itself, by the Secretary-General of the United Nations, in accordance with the general principles governing such contracts laid down by the United Nations for the United Nations Secretariat.

6. Sanctions

In Section 26 of the draft instrument provision should be made for the following:

- (1) Measures provided in paragraphs 141-145 of the draft instrument should not be regarded as mere alternatives, but they should be applied, one after another in their proper sequence, the heavier penalty being imposed only if a lighter one does not produce the desired effect.
- (2) A full hearing should be given to the Party concerned before any of the provisions contained in paragraphs 141-145 of the draft instrument is brought into effect.
- (3) Appeals to the International Court of Justice or to the Economic and Social Council should be provided for.

- (4) Local inquiries should be made subject to the prior consent of the Party concerned.

The Government of India have formed identical views on the sanctions provided in Section VII of the "Draft Principles" included in Annex F to the Report of the Sixth Session of the Commission on Narcotic Drugs, and have communicated them to the Economic and Social Council in response to the Council's Resolution on the subject in its 13th Session held in August 1951.

7. Bilateral agreements for the regulation of internal trade in opium:
Paragraph 189.

The Government of India accept the provision in this paragraph, subject to their views on the International Opium Monopoly, which have been communicated to the Economic and Social Council in the course of their comments on the "Draft Interim Agreement for the limitation of production of opium to medical and scientific needs."

(Document E/CN.7/221) in response to the resolution on the Agreement adopted by the Council in its 13th session.

8. Indian Hemp

The Government of India support the Commission's views on this subject in paragraph 124 of the Report of its Fifth Session. The practical position in regard to the growth and use of the Indian hemp plant and its products, cannot be ignored in framing the provisions for their control.

In India,

- (1) the cultivation of the Indian hemp plant is prohibited except under a State Government license, and cultivation is confined to districts specified in a State Government notification;
- (2) harvesting of wild hemp is prohibited in the greater part of the country, and where it is permitted, the collection is made by licensed contractors;
- (3) cultivation of the plant is permitted in certain States for the production of fibre used in the manufacture of ropes and textiles;
- (4) production of the resin of the Indian hemp plant and consumption of 'charas' are prohibited;
- (5) consumption of Indian hemp is permitted in the form of

/(1) 'Ganja'

266

- (i) 'Ganja' which includes the dry flowering tops of the female plant which have become coated with resin; this form is usually consumed by smoking in a country-made pipe;
 - (ii) 'Bhang' which denotes the leaves and flowering shoots, whether green or dried, generally prepared for consumption by pounding with sugar and spices to produce an ingredient of drinks or sweet-meats;
- (6) the manufacture of medicinal hemp is prohibited, except under, and in accordance with, the conditions of a license granted by the State Government.

It does not seem possible to make any radical improvements in this form of control, except in the matter of the control of consumption of 'ganja' and 'bhang'. In this connexion, although these forms of Indian hemp are mild narcotics as compared to opium, some of the States in India have, in pursuance of a policy of prohibition of all forms of intoxicants, already heavily reduced the quotas permissible for registered addicts, and the general policy laid down by the All India Excise Conference, 1949, is to bring about a progressive reduction in the consumption of these two drugs, so as to eliminate them altogether at the earliest possible time.

9. In regard to exports of Indian hemp, the provisions of Article 11 of the Geneva Convention of 1925 seem to be fully adequate.
