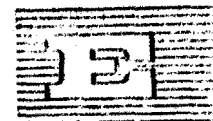


UNITED NATIONS  
ECONOMIC  
AND  
SOCIAL COUNCIL



GENERAL  
E/CN.7/SR.171  
8 May 1952  
ENGLISH  
ORIGINAL: FRENCH

COMMISSION ON NARCOTIC DRUGS  
Seventh Session

SUMMARY RECORD OF THE HUNDRED AND SEVENTY-FIRST MEETING

Held at Headquarters, New York,  
on Friday, 25 April 1952, at 10.30 a.m.

CONTENTS:

The proposed single convention on narcotic drugs (E/CN.7/AC.3/1,  
E/CN.7/AC.3/2, E/CN.7/AC.3/3, E/CN.7/AC.3/4/Rev.1, E/CN.7/AC.3/5,  
E/CN.7/AC.3/5/Corr.1, E/CN.7/AC.3/L.3, E/CN.7/239) (continued)

<u>Chairman:</u>	Mr. RABASA	Mexico
<u>Rapporteur:</u>	Mr. NIKOLIC	Yugoslavia
<u>Members:</u>	Mr. SHARMAN	Canada
	Mr. HSIA	China
	Mr. MAHMOUD	Egypt
	Mr. VAILLE	France
	Mr. KRISHNAMOORTHY	India
	Mr. ABDOH	Iran
	Mr. KRUYSSSE	Netherlands
	Mr. AVALOS	Peru

Members (continued):

Mrs. MELCHIOR	Poland
Mr. OR	Turkey
Mr. ZAKUSOV	Union of Soviet Socialist Republics
Mr. WALKER	United Kingdom of Great Britain and Northern Ireland
Mr. TENNYSON	United States of America

Also present:

Dr. WOLFF	World Health Organization (WHO)
Mr. MAY	Permanent Central Opium Board
Mr. MARABUTO	International Criminal Police Commission

Observer: Mr. TANCREDI Italy

Secretariat: Mr. STEINIG Director, Division of Narcotic Drugs  
Mr. LANDE Division of Narcotic Drugs  
Mr. BOLTON Secretary of the Commission

THE PROPOSED SINGLE CONVENTION ON NARCOTIC DRUGS (E/CN.7/AC.3/1, E/CN.7/AC.3/2, E/CN.7/AC.3/3, E/CN.7/AC.3/4/Rev.1, E/CN.7/AC.3/5, E/CN.7/AC.3/5/Corr.1, E/CN.7/AC.3/L.3, E/CN.7/239) (continued)

Section 13

The CHAIRMAN invited the comments of the Commission on section 13, paragraph by paragraph.

Mr. VAILLE (France) thought that the functions of the International Narcotics Commission and the related obligations of the parties should appear under two separate headings.

Mr. WALKER (United Kingdom) supported the French representative's suggestion. The present title of section 13 covered too wide a field. The functions of the Commission should be considered first and then the obligations of the parties.

It was so decided.

/The CHAIRMAN

The CHAIRMAN invited comments on the Commission's functions.

Mr. WALKER (United Kingdom) wished to make a preliminary observation. It had been pointed out that the Commission's aim was to combine the existing instruments on narcotic drugs in one convention, adding to them where necessary. That objective was admittedly of great importance, but some members of the Commission had expressed the opinion that the Commission should restrict itself to it. The United Kingdom did not think that attitude wise. Application of the existing instruments had admittedly given good results during the last few years. Times had changed, however, and what had been appropriate in 1936 might appear inadequate at the present day. Governments might no longer be willing to accept obligations they had accepted at that time, and they might now be able to accept what they had then refused. It was not simply a matter of leaning upon the past: future requirements must also be borne in mind. The Commission must not allow past achievements and the limited objectives of earlier instruments to paralyze its action. It was no longer an advisory body only. Progress did not necessarily mean that the past must be discarded. The Commission was called upon to perform lasting work, based upon experience; in amending the provisions of previous instruments and the obligations of the parties, it must be careful to avoid the necessity of convening new conferences to draw up new protocols.

Section 3 of the draft convention made it possible for the Commission to introduce considerable changes in the control measures. There might be certain reservations on the proposals in that section. It had already been pointed out, for example, that the provisions whereby parties to the convention were allowed to reject reasonable decisions of the Commission would in effect result in the conclusion of a series of differing protocols of limited scope. That objection was certainly of some weight. It was equally arguable, as appeared to be implicit in the French counter-draft, that the Commission, subject to approval by the Council, might be given full authority to make changes, though it was not certain that it would be acceptable to the majority of the Governments.

The proposals in the draft convention seemed to be aimed at the establishment of a happy mean between granting the Commission very broad powers and drawing up fresh protocols every time any change was made in the control measures in the convention. The proposals were such as to allay any misgivings Governments might feel and to make it easier for them to accede to the convention.

Mr. VAILLE (France), speaking on a point of order, said that much time would be lost if discussion were reopened on section 12. The discussion concerned section 13, not section 12.

Mr. WALKER (United Kingdom) replied he was not discussing section 12. He was discussing the functions of the Commission as set out in section 3. He was entitled to do this because the Commission had decided that, in discussing section 13, members could refer back to other sections that dealt with the Commission's functions.

The CHAIRMAN confirmed that the Commission had decided that it would revert to those provisions in section 3 upon which no decision had been taken when it had completed its consideration of section 13. There was therefore no reason why reference should not be made to the provisions in connexion with section 13, provided no decision was taken upon them.

Mr. WALKER (United Kingdom) pointed out that the Commission had not yet taken any decision on section 3. It had decided to defer discussion of it until it had examined section 13, which was closely related to section 3. He reserved the right to revert to paragraph 2 of section 12 later.

The CHAIRMAN asked whether any members wished to comment on the opening sentence of section 13.

There being no objection, the opening sentence of section 13 was approved.

/The CHAIRMAN

The CHAIRMAN called for comments on paragraph (a) of section 13.

Mr. WALKER (United Kingdom) considered that the functions referred to in sub-paragraph (a) (1) were implicit in the functions outlined in the opening sentence of section 13. The sub-paragraph was therefore not necessary, and in any event it was surely odd for the convention to make the task of revising it the Commission's first duty.

Mr. ABDOH (Iran) did not share that opinion. The Commission's functions could be defined in three different ways: in a general way, without listing them; by listing them; or by a general definition accompanied by a detailed list of the questions within the Commission's competence. It was the last of those methods that had been adopted in section 13.

Mr. KRUYSSSE (Netherlands) said that the listing of the Commission's functions in section 13 was based on the experience of international control organs over a period of nearly 25 years and it appeared to be necessary. Furthermore, paragraph (h) of section 13 provided that the Commission could perform other functions besides those listed in the section. The Netherlands delegation therefore favoured the present draft of section 13.

Mr. WALKER (United Kingdom) was afraid that the Iranian and Netherlands representatives had not altogether understood his remark. He was not questioning the necessity of listing the Commission's functions, but he considered it illogical to begin with the function of considering what changes might be required in the convention.

Mr. ABDOH (Iran) agreed with the United Kingdom representative after that explanation. The functions mentioned in sub-paragraph (a) (1) could appear in another place.

/Mr KRUYSSSE

Mr. KRUYSSSE (Netherlands) considered it important that the functions should be mentioned. In drawing up sub-paragraph (a) (1), the Secretariat had thought that one of the Commission's primary tasks was to supervise the application of the convention and to watch developments that might necessitate some change in it. If the present wording of the sub-paragraph was not satisfactory, the Secretariat could no doubt find a different formula.

Mr. ABDOH (Iran) thought that the Drafting Committee should decide where the functions now appearing in sub-paragraph (a) (1) should be mentioned: whether, for example, they should appear at the end of section 13 or immediately before the last paragraph.

Mr. HSIA (China) agreed with the United Kingdom representative that the list of the Commission's functions should not begin with the consideration of what changes might be required in the convention. Moreover, the text of sub-paragraph (a) (1) was too vague. Who would decide that changes should be made in the convention? According to the existing text, any member of the Commission could propose changes.

Mr. VAILLE (France) said that a case could be made for starting the list with the function of considering what changes might be required in the Convention, because the Commission was to supervise the application of the convention it had drafted, and it did not wish to appear presumptuous. However, he had no objection to the functions now listed in sub-paragraph (a) (1) appearing elsewhere.

The CHAIRMAN pointed out that the first five sub-paragraphs of paragraph (a) dealt with amendments to the convention. If any of the sub-paragraphs was moved or deleted, the balance of the whole paragraph would be destroyed. As for the question whether section 13 should start with the function listed in sub-paragraph (a) (1), that was a different matter.

Mr. MAY (Permanent Central Opium Board) did not think that the Commission's functions had been listed in logical order. They should be listed in order of increasing importance: first, the functions described in sub-paragraph (v), then those in sub-paragraph (iv), then sub-paragraph (i), followed by sub-paragraph (iii) and, finally, sub-paragraph (ii). That was simply a suggestion which the Drafting Committee might bear in mind.

Mr. NIKOLIC (Yugoslavia) did not entirely agree with the President of the Permanent Central Opium Board. The functions of the Commission listed in sub-paragraphs (iv) and (v) were more important than those in sub-paragraph (i).

Mr. VAILLE (France) agreed with Mr. May and proposed that sub-paragraph (a)(i) should be left unchanged.

In reply to Mr. NIKOLIC (Yugoslavia), who had suggested that the Commission should decide immediately on the order of the sub-paragraphs of paragraph (a), the CHAIRMAN reminded the Commission that it had decided in principle to concentrate on questions of substance. After the convention had been redrafted by the Drafting Committee, it would be submitted to the Commission for approval and would be examined by Governments, by the Economic and Social Council and possibly by an international conference. For the time being therefore, the question at issue was not the order in which the various sub-paragraphs of paragraph (a) should be placed, but whether the Commission wished to retain paragraph (a), subject to any decisions it might take on the subject later, when it came to consider section 48.

At the request of Mr. SHARMAN (Canada), Mr. LANDE (Secretariat) explained that the expression "the scope of the Convention" in sub-paragraph (a)(iv) referred to the list of drugs to be subject to one or other of the control systems provided for in the convention as well as the possibility of transferring a drug from one schedule to another and of including a new drug in one of the schedules.

/Mr. VAILLE

Mr. VAILLE (France) agreed to retain sub-paragraphs (a)(i) and (a)(ii), as well as the first part of sub-paragraph (a)(iii), but he did not agree to the retention of the last part of sub-paragraph (iii), reading: "and adopt amendments to the Convention in accordance with its provisions (Section 48)". In such an important matter, the Commission should not be empowered to take decisions which would bind the States parties to the convention, when those States were not all represented in the Commission. The Commission's report should mention the fact that the French Government would never agree to the Commission's being granted such wide powers, either under sub-paragraph (iii) or under sub-paragraph (iv). In addition, he did not think that sub-paragraph (iv) should be kept as part of paragraph (a), for that might lead to differences of interpretation. All that was needed was to specify in the body of the convention that the Commission could alter the schedules: that was not a new power; the Commission already had it under instruments in force, such as the 1948 Protocol. Unlike the United Kingdom representative, he did not think it would be advisable to attempt to meet future needs by altering a system which had already proved its worth and was still functioning satisfactorily. The French delegation had not pressed for its counter-proposal to be taken as the working document. For the sake of compromise, it had adopted a conciliatory attitude and had only asked that the existing instruments should be codified. On another point, the United Kingdom representative had quite rightly emphasized how dangerous it would be to retain the provision inserted in the convention by the Secretariat authorizing the parties to reject a decision taken by the Commission regarding the scope of the control measures. Such a provision would lead to a multiplicity of protocols, each of which would apply to only a small number of States and some of which might only apply to a single State. The United Kingdom representative had not, however, shown how that difficulty could be avoided.

Mr. NIKOLIC (Yugoslavia) agreed completely with the views expressed by the representative of France.

MAHMOUD Bey (Egypt) fully agreed with Mr. Vaille, particularly with regard to the second part of sub-paragraph (iii). The right to adopt amendments should belong to the States parties to the convention and not to the Commission.



Mr. WALKER (United Kingdom) said that, in spite of its imperfections the convention was the instrument States would be most willing to sign.

The CHAIRMAN said that, although the Commission might be authorized to decide on minor changes in the control measures, care should be taken not to give it the power to make far-reaching alterations which would affect the convention as a whole. He proposed that sub-paragraph (a)(iv) should read: "Decide on the composition of the schedules mentioned in section 3 and 24".

Mr. VAILLE (France) was prepared to accept that text, but proposed that it should form a separate paragraph and come after paragraph (a).

Mr. TENNYSON (United States of America) remarked that the wording proposed by the Chairman might give the impression that the Commission had unlimited power to decide on any changes to be made in the schedules. It should be borne in mind, however, that, under sections 3 and 12, the Commission had to consult the World Health Organization or a body of that organization set up or designated for that purpose.

The CHAIRMAN, taking that well-founded comment into account, proposed that sub-paragraph (a)(iv) should read: "Decide on the composition of the schedules in accordance with the methods laid down in sections 3 and 24". In accordance with the French representative's request, that would form a new paragraph (b).

Mr. KRISHNAMOORTHY (India) supported the Chairman's text, but wondered whether it might not be more logical to include sub-paragraph (a) (v) in the new paragraph (b) as well.

Mr. VAILLE (France) thought there would be no further reason for including sub-paragraph (v) either in paragraph (a) or in the new paragraph (b) if the Commission decided that the four schedules should form an integral part of the convention, in accordance with the wishes expressed by most members during the discussion on section 3.

In reply to a proposal by Mr. NIKOLIC (Yugoslavia) that paragraph (a) should be split into two parts, the CHAIRMAN recalled that the Commission had already decided not to spend any time on the discussion of drafting questions. He asked if the Commission agreed to the new text he had proposed for sub-paragraph (iv) and to the proposal that it should form a new paragraph (b) in section 13.

It was so decided.

Paragraph (b) (new paragraph (c) as a result of the decision recorded above)

Mr. SHARMAN (Canada) wondered why the Commission should be empowered to decide on its own what information it considered necessary for the performance of the functions of the two international control organs provided for in the convention. It would be more logical to amend the first sentence of the new paragraph (c) to read: "Obtain such information as it may find necessary for the performance of its functions".

Mr. MAY (Permanent Central Opium Board) supported the Canadian representative's proposal.

Mr. VAILLE (France) also accepted the text just proposed by the Canadian representative. He asked the Chairman whether the Drafting Committee, when going through the text of the convention, would have to take into account the various proposals which the Commission had approved but had not adopted by a formal vote.

/The CHAIRMAN

The CHAIRMAN explained that, in order to speed up the discussion on the draft convention, he had adopted a more flexible procedure and was only calling for a vote on substantive proposals. The Drafting Committee would, however, take into account all the amendments which the Commission had accepted, even if they had not been put to the vote.

Mr. LANDE (Secretariat) noted that there were a number of international control organs concerned with narcotic drugs. Functions of that kind would devolve not only on the Commission, but even to some extent on the Economic and Social Council and the General Assembly. Moreover, there was already a provision in the convention to enable the permanent Central Opium Board to obtain such information as it might require. Juridically, that special clause took precedence over the more general provision in section 13, paragraph (b).

Mr. KRUYSSSE (Netherlands) noted that once again the difficulty resulted from the dual functions of the Commission, which had to carry out duties under the conventions while fulfilling the task of a functional Commission of the Economic and Social Council. While the Permanent Central Opium Board must remain an independent body, as the representative of Canada had said, the Commission ought nevertheless to be able to offer it valuable assistance in certain cases. That was why it should be made possible for the Commission to lend such assistance to the international organs, and, if necessary, to the Permanent Central Opium Board. For those reasons, and in the light of Mr. Lande's explanations, it seemed better to retain the present wording of paragraph (b).

Mr. MAY (Permanent Central Opium Board) pointed out that the Permanent Central Opium Board's essential objection was to the words "such information as it may find necessary". Under that provision the Commission would be entitled to decide what kind of information the Permanent Central Opium Board required.

Mr. WALKER (United Kingdom) agreed with the Netherlands representative that the difficulty arose from the dual functions of the Commission. Nevertheless, it did not seem wise to empower the Commission to obtain information

other than that required to carry out its duties under the convention. The present wording of paragraph (b) made that possible, however, and that was why he preferred the wording the representative of Canada had proposed.

The CHAIRMAN put the Canadian proposal to the vote.

The proposal was adopted by 11 votes to 2, with 2 abstentions.

Mr. VAILLE (France) explained that he had voted for the Canadian proposal because he considered it a great improvement over the wording in the draft. He recalled that in the written observations it had sent to the Secretariat, the French Government had asked for an even greater restriction of the Commission's powers.

Sub-paragraph (1)

Mr. WALKER (United Kingdom) felt that section 13 should end after the first sentence of sub-paragraph (1) with the words "request the Governments of all States to supply such necessary information". It would be better and more orderly for the obligations of contracting parties, now in section 13, to appear in a separate section.

The CHAIRMAN observed that the United Kingdom proposal might give rise to practical difficulties: the latter part of section 13 (from sub-paragraphs (ii) on) was again concerned with the Commission's functions.

Mr. ABDOH (Iran) stressed the need for a general clause dealing with the obligations of the contracting parties. Such a clause could well be included in Chapter III, which dealt with the general obligations of parties, and not in section 13, which was chiefly concerned with the functions of the Commission. Accordingly, he proposed the insertion of the following provision in Chapter III: "the parties to the present convention undertake to supply information requested in accordance with section 13 of the present convention".

The CHAIRMAN observed that that again was a matter of drafting, with which the Commission did not need to concern itself too much.

/Mr. KRUYSSSE

Mr. KRUYSSSE (Netherlands) recalled that the information referred to was generally sent not to the Secretariat, but to the Secretary-General. He therefore proposed the substitution of "Secretary-General" for "Secretariat" in sub-paragraph (b)(1).

Mr. LANDE (Secretariat) pointed out that in providing that the International Commission and the International Narcotic Board would each have a secretariat the Commission had recognized the "secretariat" as an administrative organ. Moreover, there was a difference between the substantive clauses and the general provisions at the end of the convention. In the substantive clauses the secretariat's functions referred to narcotic drugs control properly so-called and so the text mentioned the "secretariat". In the general provisions the draft mentioned "the Secretary-General" as the depositary of the instruments, in accordance with the practice generally followed with regard to other treaties concluded under the auspices of the United Nations.

Mr. VAILLE (France) felt that the Commission was discussing a matter of form rather than substance. The most important parts of sub-paragraph (i) were clauses (ee) and (gg), which the French delegation could not accept. Under those clauses governments would be asked to supply very long and extremely complicated lists, of questionable usefulness since the international clearing house originally envisaged did not exist. It would therefore be better to delete the clauses and replace them with a single provision requesting Governments to supply the list of manufacturers of narcotic drugs. The list would be relatively short, in accordance with the Commission's decisions. The Commission should consider the question of an international clearing house, which was one of the key elements in the narcotics problem.

Mr. KRUYSSSE (Netherlands) accepted Mr. Lande's explanation. He thought, however, that it should be made clear in sub-paragraph (i) that the reference was to the secretariat of the Commission. He therefore proposed that the words "of the Commission" should be added after "to the secretariat".

The proposal was adopted.

/Mr. VAILLE

Mr. VAILLE (France) said that he had no objection to clause (i)(aa) provided that the word "territories" was defined in section 1 of the convention.

Mr. KRUYSSSE (Netherlands) agreed with the representative of France. Furthermore, allowance should be made for countries which were members of a union such as a customs union; they might find it difficult to submit separate reports.

Clause (aa) was adopted subject to those reservations.

Clauses (bb) and (cc) were adopted without discussion.

Mr. SHARMAN (Canada) observed that it would be logical to change clause (dd) along the lines of paragraph (b). He proposed substitution of the words "to enable it to fulfil its functions" for the words "to enable the international control organs to fulfil their functions".

Mr. KRUYSSSE (Netherlands) admitted that the change would be logical. However, under the original draft and according to established practice governments were to supply statistical information for the Permanent Central Opium Board. If clause (da) were altered as the representative of Canada proposed, governments would have to supply the same information to the International Narcotics Commission. The preparation of such information involved many practical difficulties: it was a complicated task, often requiring the training of specialized technical staff. The Netherlands delegation was opposed to changes which would double or complicate the work of governments. If it was felt to be essential that the International Commission should also have such statistical information, it would be well to indicate the questions to which governments would be expected to reply.

Mr. WALKER (United Kingdom) agreed with the Netherlands representative. It would be wise to include a list of the obligations on which governments might be requested to supply information in an annex to the convention. Provision should also be made for the amendment of such a list. That task should not cause any difficulty, as the Commission had enough experience to know what information it would chiefly need.

/Mr. VAILLE

Mr. VAILLE (France) supported the attitude of the Netherlands and the United Kingdom.

The CHAIRMAN noted that there was a difference of opinion. The question would apparently have to be settled by a vote. He called upon the Commission to vote first on the Canadian proposal.

Mr. VAILLE (France) remarked that the Netherlands proposal, as restated by the United Kingdom representative, was furthest removed from the original and should be voted upon first.

The CHAIRMAN pointed out that the rules of procedure applied only to formal amendments. That was why he was putting the Canadian proposal to the vote.

The proposal was adopted by 6 votes to 3, with 5 abstentions.

Mr. VAILLE (France) explained that he had voted for the Canadian proposal because it represented a considerable improvement over the original draft. The French delegation, however, would have preferred the Netherlands proposal.

The meeting rose at 1.5 p.m.