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COMMISSION ON NARCOTIC DRUGS

Sixth Session

SUMMARY RECORD OF THE HUNDRED AND FORTIETH MEETING

Held at Headquarters, New York,
on Monday, 7 May 1951, at 2.30 p.m.

CONTENTS:

Draft interim agreement to limit the production of opium to medical and scientific needs (E/CN.7/220, E/CN.7/221, E/CN.7/L.6, E/CN.7/L.6/Add.1, E/CN.7/L.6/Add.2):

Report of the Committee appointed to consider the draft protocol to adapt the provisions of the 1931 Convention for the Limitation of the Manufacture of Narcotic Drugs to Opium (Conference Room Papers Nos. 8 and 9) (continued)

<u>Chairman:</u>	Mr. SATTANATHAN	India
<u>Reporters:</u>	Mr. HOARE	United Kingdom of Great Britain and Northern Ireland
<u>Members:</u>	Mr. SHARMAN	Canada
	Mr. WEI	China
	Mr. KAMEL FAHMY	Egypt
	Mr. BOURGOIS	France
	Mr. VAILLE	
	Mr. AMINI	Iran

Members (continued):

Mr. OR	Turkey
Mr. ZAKUSOV	Union of Soviet Socialist Republics
Mr. ANSLINGER	United States of America
Mr. NIKOLIC	Yugoslavia

Observer: Mr. SCHNEIDER Switzerland

Also present: Mr. MAY Permanent Central Opium Board

Secretariat: Mr. BOLTON Secretary of the Commission

DRAFT INTERIM AGREEMENT TO LIMIT THE PRODUCTION OF OPIUM TO MEDICAL AND SCIENTIFIC NEEDS (E/CN.7/220, E/CN.7/221, E/CN.7/L.6, E/CN.7/L.6/Add.1, E/CN.7/L.6/Add.2):
REPORT OF THE COMMITTEE APPOINTED TO CONSIDER THE DRAFT PROTOCOL TO ADAPT THE PROVISIONS OF THE 1931 CONVENTION FOR THE LIMITATION OF THE MANUFACTURE OF NARCOTIC DRUGS TO OPIUM (Conference Room Papers Nos. 8 and 9)(continued)
Chapter III -- Limitation of the production and import of opium
Paragraph (iv), sub-paragraph (b)

The CHAIRMAN invited the representatives of France, Iran and the United Kingdom to report on their mission of interpreting sub-paragraph (b).

Mr. AMINI (Iran) emphasized that the clause would protect a producing country which had large stocks when the Protocol came into force. The Permanent Central Board would have to take account of that particular situation when it had to evaluate any excess of stocks.

Mr. HOARE (United Kingdom) agreed that it would be sufficient that the Permanent Central Board should take into account stocks which existed when the Agreement came into force, whenever it had to determine whether the stock of a producing country exceeded the maximum permitted under sub-paragraph (a). He wondered, however, whether

/it was

it was really necessary to insert such a provision in the Protocol. Sub-paragraph (e) of the same paragraph already permitted the Permanent Central Board, in proper cases, to dispense a producing country from compliance with the requirements as to the maximum level of stocks. In his view that wording was broad enough to apply to all cases, and in particular to the one in question.

Mr. VAILLE (France) agreed with the Iranian and United Kingdom representatives on the meaning of sub-paragraph (b). He disagreed, however, with the United Kingdom representative's interpretation of sub-paragraph (e) and reserved the right to come back to that point later. He did not think it necessary either to amend the text of sub-paragraph (b). The proposed system of controls and sanctions was flexible enough to allow the Permanent Central Board, if necessary, to take into account stocks in existence when the Protocol came into force.

The CHAIRMAN proposed the following wording for sub-paragraph (b):

"That the producing countries having stocks at or near the maximum level at the time the Protocol enters into force, shall inform the Permanent Central Board, which shall take this information into account when reviewing the situation as regards stocks".

That text had the advantage of being couched in very general terms. He suggested that the Drafting Committee should be guided by it.

It was so decided.

Mr. ANSLINGER (United States of America) suggested that sub-paragraph (a) might be redrafted as follows:

"That the total of the quantities exported during the two best years and of the quantities used during two years for the manufacture of alkaloids shall be considered as the maximum level for stocks".

He felt that it was the Commission's duty not to limit itself to the provision contained in sub-paragraph (a) but also to seek a solution along the lines he had indicated. It would then be in a stronger position vis-a-vis the Economic and Social Council.

/Mr. VAILLE

Mr. VAILLE (France) was in favour of that proposal. He suggested that internal consumption in producing countries, for morphine manufacture, for instance, should also be taken into account.

Mr. SHARMAN (Canada) also supported the United States representative's suggestion.

Mr. ANSLINGER (United States of America) explained, at the Chairman's request, that he had in mind the volume of opium exports for medical and scientific needs, to which might be added, if necessary, the quantities used in a two-year period for the manufacture of morphine and alkaloids. It was, moreover, understood that those two years would not necessarily be years of maximum crops.

The CHAIRMAN said that, if the Commission agreed, the Secretariat would prepare a text for the Drafting Committee.

It was so decided.

Sub-paragraph (c)

No comment.

Sub-paragraph (d)

The CHAIRMAN wondered whether the clause was really necessary.

Mr. MAY (Permanent Central Opium Board) thought that the Commission would be well advised to prepare its own definition of the term "stocks". The general aims of the Protocol were: first, to limit production; secondly, to eliminate illicit traffic thereby; and thirdly, to control the level of existing stocks. It was therefore essential to know the exact meaning of the term "stocks". In his view, that term included all the opium, in any form whatever, existing in a country, except quantities held by authorized pharmacists. It went without saying that stocks still in the hands of growers should also be considered stocks, even if they had not been bought by the national monopoly.

/Mr. VAILLE

Mr. VAILLE (France) did not think Mr. May's last proposal could be put into effect. It called for the declaration of all stocks, whether legal or not, whereas the difficulty was precisely that clandestine stocks existed, the size of which was obviously unknown. He therefore proposed the following text:

"The term 'stocks' means the stocks in the legitimate possession of the national monopoly at a given date."

It should however be made clear whether on that date the monopoly had already taken over the previous year's crop and how much of that crop was still in the hands of growers.

Mr. MAY (Permanent Central Opium Board) said that Mr. Vaillle's first objection was based on a misunderstanding. There could obviously be no question in that connexion of other than licit stocks. On the second point raised by the French representative, he stated that governments had to prepare the inventory of their stocks every 31 December; the harvesting of opium would have been completed several months before that date. Even if a national monopoly had not yet bought the growers' stocks, it would know the amount harvested.

Mr. AMINI (Iran) also agreed that the Commission itself should try to define the term "stocks".

Under Iranian law, only the quantities of opium stored in the national monopoly's warehouses on a specific date were regarded as stocks, the understanding being that, at that time, part of the harvest was still in the hands of the growers, awaiting collection by the monopoly.

The CHAIRMAN noted that Mr. May's definition apparently did not fully satisfy the Commission.

Mr. MAY (Permanent Central Opium Board) pointed out that, in one case, a producing country had returned its stocks as negligible, regardless of the fact that most of the previous year's harvest was still in the hands of the growers. The date of 31 December had been fixed because it was recognized that, on that date, the national monopoly would have information on the amount of opium harvested throughout the whole country.

/Mr. AMINI

Mr. AMINI (Iran) pointed out that a corrected return should be submitted later for that part of the harvest not yet stored in the monopoly's warehouses at the end of the year, and which consequently could not be included in the statistics. That would apply especially to late harvests.

Mr. HOARE (United Kingdom) shared Mr. May's misgivings. The annual return of stocks held by a monopoly on 31 December would misrepresent the position if there had to be a long interval between the end of the harvest and the time all the opium was gathered into the national monopoly's warehouses. He had reason to believe that the time-lag might in some cases amount to as much as ten months. Accordingly, it was essential that provision should be made for quantities of opium still in the hands of growers to be returned also as stocks to the Permanent Central Board.

Mr. AMINI (Iran) observed that monopolies had several kinds of warehouses; some for storage purposes only and others where a beginning was made in preparing the opium. It was a matter of bookkeeping, the problem being to find how the figures for the final harvest of a given year could be shown. The central depots had the job of compiling statistics and had to wait until figures were received from the other warehouses. Hence, there were delays due to the bookkeeping involved. That was why the monopoly had to submit supplementary figures to the Permanent Central Board after the date fixed for sending in statistics.

Mr. VAILLE (France) proposed as a definition of stocks: the quantities of opium legally held by contracting parties on 31 December of each year, whether by the national monopolies of producing countries or by persons authorized to do so on behalf of manufacturing countries.

Mr. HOARE (United Kingdom) found that definition satisfactory.

Mr. MAY (Permanent Central Opium Board) observed that control would have to be exercised mainly on the basis of statistics of stocks; steps should therefore be taken to facilitate the Board's task. The Board met only twice a year. Supplementary returns, therefore, /would be

would be of no value whatsoever, if the Board did not have available at the proper time the requisite statistics on which to base its recommendations.

Mr. BOURGOIS (France) suggested that, whenever the term "stocks" was used, it should be made clear whether the reference was to State monopoly stocks, licit stocks held by individuals, or illicit stocks.

Mr. AMINI (Iran) could not accept Mr. Bourgois' suggestion. Iranian legislation did not allow growers to retain stocks; opium had to be delivered immediately after the harvest. Mr. Bourgois' proposal would imply that the growers had a right to retain opium.

He suggested that the necessary action should be taken to allow the Permanent Central Board to meet four or five times a year.

Mr. MAY (Permanent Central Opium Board) doubted whether the present members of the Board could comply with that suggestion. In any case, the United Nations bodies dealing with budgetary questions would first have to give their assent, before such a proposal could be implemented.

Mr. ANGLINGER (United States of America) failed to understand the reasons for delay in supplying statistics. In a country where the licensing system operated, the license-holder was authorized to grow a certain quantity of opium and at harvest time he reported the quantity produced.

Mr. AMINI (Iran) explained that a license was granted for the cultivation of a given area and not for the production of a certain amount of opium. The opium harvested was weighed in the monopoly depots, recorded, then sent to other warehouses and, lastly, stored in the central depot. Stocks meant the quantities of opium actually stored in the depots, the only quantities for which exact statistics could be supplied.

/The CHAIRMAN

The CHAIRMAN wondered whether there should not be different definitions of stocks for producing countries and for manufacturing countries. In the case of producing countries, stocks could be said to comprise all quantities of opium legally in the possession of a national monopoly on 31 December every year, including quantities legally held by growers. In the case of manufacturing countries, stocks might be defined as all quantities of opium legally held in the country on 31 December every year, except for quantities distributed to authorized pharmacists.

Mr. NIJOLIC (Yugoslavia) did not think it a very good definition; a monopoly in a producing country could not tell how much opium was still held by growers.

Colonel SPARVAN (Canada) considered that, for manufacturing countries, wholesale stocks should be the figure taken; if the quantities held by retailers were to be taken into account, exceptions would have to be made not only for the amounts held by authorized pharmacists but also by doctors, surgeons, hospitals, etc.

Mr. AMINI (Iran) and Mr. VAILLE (France) also disagreed with the Chairman's proposal; they felt it would be impossible to include quantities of opium in transit between farms and warehouses.

Mr. VAILLE (France) added that, properly speaking, pharmacists did not hold opium but drugs for the manufacture of which opium had been supplied under specific conditions, i.e., it was already included in the statistics for stocks.

He proposed that stocks should be defined as the quantities of opium legally held on a specific date in the contracting countries. The Commission, if it so desired, might leave it to the Permanent Central Board to fix the date.

Mr. NIKOLIC (Yugoslavia) pointed out that some producing countries were also manufacturers; in their case account would have to be taken of any stocks held in factories.

/The CHAIRMAN

The CHAIRMAN suggested that Mr. Vaillie's definition and Mr. May's proposals should be combined.

The problem could be put as follows: excluding such a tautological definition as "Stocks are stocks", the definition should meet the requirements of the provisions on control. The question was: what quantities of opium should be legally held by a monopoly on a particular date and whether that quantity could be declared with reasonable accuracy by the monopoly.

For example, there had been a law in India under which taxes were levied only on real income. If an official or employee had not been paid for two or three months, he could exclude that income which had not been received by him from the assessable income. Theoretically, if the word "stocks" were to apply only to the quantities of opium to be found in a warehouse at a given time, and if the last crop had not yet been stored at that time, a producing country could legitimately say that it had had no stocks during that year, whereas large quantities of opium would be reaching the warehouses shortly thereafter. If the definition covered only stocks held in warehouses at a particular time, it might not be adequate.

Mr. NIKOLIC (Yugoslavia) said that that difficulty could be overcome by making the monopoly buy up the total production and submit statistics on set dates.

Mr. ANINI (Iran) entirely agreed with the Yugoslav representative; the national monopoly must buy up the entire opium production.

Mr. VAILLIE (France) thought that the year-end return should list the total amount of opium in store; otherwise, some other word than "stocks" should be used. On the Chairman's hypothesis, the Permanent Central Board could ask for explanations and an investigation. If the definition proposed by the French delegation was adopted, the time-limits for warehousing of crops and submission of reports could be fixed in Chapter 4 of the draft interim agreement. The French definition seemed to satisfy manufacturing countries, producing countries and countries which were both manufacturers and producers.

/The CHAIRMAN

The CHAIRMAN said that when he referred to "legally held quantities" he had really meant to say that there might be some delay in obtaining the necessary statistics and that would make control more difficult. The question was not as hypothetical as it seemed. Even with an efficient revenue collection system no country could predict with certainty the exact amount of taxes due for the previous year. How then could the legally held quantities be estimated? A more precise definition was needed.

Mr. OR (Turkey) agreed with the French, Iranian and Yugoslav representatives. He then explained that in Turkey all authorized growers had to deliver their crops at the latest three months before the end of the year. All quantities not delivered within that time were considered illegal and could be confiscated. If statistics had to cover the stocks held on the previous 31 December there need be no fear that supplementary reports would be made for the total harvest.

It should be added, however, that any amount seized was kept confiscated until the courts had given a ruling. If the case was tried during the year, the amount seized was sent to the monopoly warehouses and shown in the returns. If the case was tried after the date set for the submission of statistics, the quantity was included in the next year's stocks.

Mr. MAY (Permanent Central Opium Board) reminded the Turkish representative that the data to be submitted by 31 May 1952 would be for the stocks on 31 December 1951; thus, if the harvest in Turkey was gathered by end September 1951, the Government would have eight months to compile the necessary statistics.

Mr. OR (Turkey) appreciated Mr. May's explanation. He was well aware of those facts, but, as there seemed to be a tendency to change the dates, he asked that the special position of his country should be considered.

/Mr. NIKOLIC

Mr. NIKOLIC (Yugoslavia) thought the definition of stocks proposed by the French representative entirely satisfactory.

Mr. AMINI (Iran) accepted the definition proposed by the French representative provided the interpretation of the word "legally" was left to the national authorities of the countries parties to the Agreement.

Mr. NIKOLIC (Yugoslavia) supported the Iranian representative's remark. The word "legal" meant in conformity with the law of the land. When a State became a party to an international convention, it brought its national law into conformity with the latter; there could be no mistake or misunderstanding about the interpretation of that word.

Mr. MAY (Permanent Central Opium Board) thought the definition proposed by the French representative was satisfactory, but could not accept the interpretation given it by the Iranian representative; it was essential that the statistics should be uniform.

Mr. AMINI (Iran) said the Commission was now trying to define stocks for statistical purposes; whether or not a quantity of opium was held legally depended on the law of the country concerned; it was a domestic matter with which the Central Board had nothing to do. The statistics on stocks to be supplied to the Permanent Central Board were the figures of stocks held in national monopoly warehouses on 31 December; at the same time the quantities of opium in transit were also held legally, even though they had not yet been included in the statistics sent to the Board.

The CHAIRMAN thought that the definition proposed by France was not sufficiently precise since producing countries could not precisely estimate quantities which were in transit or still held by licensed growers. All opium in the possession of licensed growers or in transit in various stages were "legal" according to the Law of the land and could not be declared as contraband, and the State was responsible for all such opium. If the term "legally held" was adopted in any definition of stocks, it would cause producing countries great difficulties when preparing returns.

Mr. OR (Turkey) remarked that the national monopoly did not hold all the stocks handed over by growers; there were also State stocks which should equally be included in the statistics submitted to the Central Board.

Mr. HOARE

Mr. HOARE (United Kingdom) agreed with the Chairman. It was difficult to cover all the quantities of opium legally held. Only one figure was certain: the figure of the quantity of opium existing at a given date in the State and national monopoly warehouses. The quantities of opium from the preceding harvest, which reached the monopoly warehouses after that date, would, of course, be included in the next year's statistics as the Iranian representative had pointed out. Nevertheless, the same gap was bound to occur in the figures at the end of each year, and there would always be a large amount of legally held opium in the country which would never be included in the statistics. That problem might perhaps be solved by asking producing countries to supply a corrected return after the statistics of stocks on 31 December had been forwarded.

Mr. AMINI (Iran) emphasized that the whole difficulty lay in the fact that the statistical year did not coincide with the agricultural year. Producing countries could send the Permanent Central Board a corrected return three months after forwarding the statistics of stocks on 31 December.

Mr. MAY (Permanent Central Opium Board) thought the United Kingdom representative's proposal was quite satisfactory. The procedure would be even simpler than the Iranian representative thought; the stocks statistics had to be supplied ^{on} by 31 May of the following year and the producing countries could list on the same return, following the figure of stocks as at 31 December, the quantities of opium as and when they entered the warehouses of the national monopoly.

The CHAIRMAN asked whether the Commission would leave it to the Drafting Committee to find a final text which would embody the United Kingdom proposal.

It was so decided.

Mr. FAEMI (Egypt) asked whether the statistics should also include confiscated stocks of opium.

The CHAIRMAN replied that those stocks were held legally and should be included in the statistics submitted to the Permanent Central Board.

/Mr. VAILLE

Mr. VAILLE (France) agreed with the Chairman on that point. That, however, did not solve the substantive question which should be taken up again when the single draft convention was discussed.

Mr. AMINI (Iran) reserved his Government's position on the substance of the question. He could not agree to the Egyptian Government being free to sell on the market opium which had been grown illegally in Syria or Lebanon, and which would thus compete with legally grown opium, on the pretext that the opium had become legal as a result of confiscation.

Paragraph (iv), sub-paragraph (e)

Mr. HOARE (United Kingdom) did not think that the sub-paragraph should be amended by adding, as proposed, the words "of world interest" after the words "proper cases". "Proper cases" applied, for instance, to a particularly good harvest or an error in the export estimates, etc. The existing text was sufficiently general, and the Committee ^{had} felt it advisable to draft it in that form. If the words "of world interest" were added, reference would also have to be made to cases which, though not of world interest, should also be taken into account.

Mr. VAILLE (France) maintained his opinion. In view of the new wording of sub-paragraph (a), the only important cases to which sub-paragraph (e) would apply were the establishment of State stocks and a possible world conflict.

The CHAIRMAN thought that it would be difficult to find a wording which would specifically cover those two cases.

Mr. MAY (Permanent Central Opium Board) proposed that the words "proper cases" in sub-paragraph (e) should be deleted and replaced by the words "if the circumstances were felt to be exceptional".

It was so decided.

Paragraph (iv), sub-paragraph (f)

No comment.

The meeting rose at 5.30 p.m.