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Held at Headquarters, New York,
on Tuesday, 24 April 1951, at 2.30 p.m.

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Chairman: Mr. SATTANATHAN

Members: Mr. SHARMAN

Mr. WEI

Mr. KAMEL FAHMY

Mr. BOURGOIS)

Mr. VAILLE)

Mr. AMINI

Mr. RABASA

Mr. KRUYSSSE

Mr. CABADA

Mr. OR

Mr. ZAKUSOV

Mr. HOARE

Mr. ANSLINGER

Mr. NIKOLIC

India

Canada

China

Egypt

France

Iran

Mexico

Netherlands

Peru

Turkey

Union of Soviet Socialist Republics

United Kingdom of Great Britain and
Northern Ireland

United States of America

Yugoslavia

Observer: Mr. SCHNEIDER

Switzerland

Also present:

Mr. MAY

Chairman of the Permanent
Central Opium Board

Secretariat:

Mr. STEINIG

Director of the Narcotic Drugs
Division

Mr. BOLTON

Secretary of the Commission

DRAFT INTERIM AGREEMENT FOR LIMITATION OF THE PRODUCTION OF OPIUM TO MEDICAL AND SCIENTIFIC NEEDS (E/CN.7/221, Conference Room Paper No. 8)

Mr. ZAKUSOV (Union of Soviet Socialist Republics) said that on his arrival at the meeting he had found at his place at the table a lying and slanderous leaflet, which he had immediately destroyed. The presence of such a paper in a conference room, when a commission was about to hold an official meeting, was unprecedented. He protested against that anonymous act and requested that the incident should be brought to the Secretary-General's notice.

The CHAIRMAN said that it was impossible to carry out a thorough investigation in the absence of documentary evidence. However, the USSR representative's protest would appear in the record of the meeting.

After an exchange of views between Mr. VAILLE (France), Mr. ANSLINGER (United States of America) and Mr. AMINI (Iran), on the question of the respective sacrifices to be made by the producing and manufacturing countries if the principle of an international monopoly were adopted, the CHAIRMAN reminded members of the Commission that the discussion on the draft protocol submitted by the French delegation was on the Commission's agenda, and asked them to express their opinion on Chapter I, dealing with estimates.

Mr. HOARE (United Kingdom) praised the French delegation for its endeavours to submit concrete proposals. The only aim of the criticism he intended to make was to induce Mr. Vaille to clarify some points which he did not consider quite clear.

/The first

The first chapter was apparently aimed at the producing countries because it did not seem that the proposed method of estimating could easily be applied to the producing countries. He wanted to know whether producing countries should take their exports into account when making estimates of the quantity referred to in sub-paragraph (a). He also asked for some clarification of the second part of the sub-paragraph, which dealt with medicaments for the export of which export authorizations were not required. Paragraph 2 could be interpreted in two ways: the quantity necessary for the manufacture of alkaloids and their derivatives could include either the quantities used for that purpose by the producing and manufacturing countries, in other words for domestic needs and exports, or only the needs of the producing country itself. However, under Chapter III, dealing with the limitation of production, the estimate of the production necessary for each producing country was obtained by adding the quantity destined for export to the total estimates. If the export figures were already included in the estimates of Chapter I, it meant that they appeared twice in the estimates. It would therefore seem that the first chapter should be redrafted.

He did not see to what extent stocks would be taken into account in determining the quantities to be produced by each state (Chapter III-1.a/). Under paragraph 1 of Chapter II, producing countries had to inform the Permanent Central Opium Board each year on what area they intended to cultivate the opium poppy, but there was no question of the yield of opium they expected to obtain from the crop. On the basis of that communication, and taking a certain number of factors into account, the Permanent Central Opium Board would decide whether production estimates exceeded the medical needs in opium and also determine the amount of over-production or under-production in each producing country. Apart from the areas they intended to cultivate, producing countries also had to supply the Permanent Central Board with estimates including their own requirements, proposed increases in their stocks and their exports. In view of the importance of exports, the Permanent Central Opium Board was bound to encounter certain difficulties; under a system of free trade, each producing country would have the right to determine the proportion of world needs it intended to cover.

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In the circumstances it was not quite clear how the Board would assess the extent of over-production or under-production in a producing country. It might perhaps base its estimates on changes in stocks, but it would have no means of ascertaining those changes. It was therefore difficult to see how the Board would be able to exercise the powers to be entrusted to it.

The Board would have the right to take certain measures if a country produced more than the estimates provided for, but in judging each case it would have to take account of the statistics of stocks, domestic requirements and exports which were supplied by the producing countries themselves. The machinery set up by the 1931 Convention enabled it to check the accuracy of export figures, but it had no means of checking figures relating to stocks and domestic requirements. It must therefore be admitted that the system proposed for the limitation of production would depend entirely on the good faith of the states parties to the protocol and on the accuracy of the statistics they supplied to the Board; it could not be seriously assumed that a country would supply accurate statistics which might automatically entail sanctions. It should be remembered in that connexion that under the provisions of existing conventions states had to supply not very different statistics. It was generally recognized that some had disregarded such provisions: some had supplied inaccurate or inadequate statistics and others had never sent any statistics at all to the Board.

As similar means had not given satisfactory results in the past, it was uncertain whether the aims could be achieved any better by the protocol.

Colonel SHARMAN (Canada) supported the United Kingdom representative's observations. The difficulty lay not in assessing the quantity of opium delivered to the international monopoly, but in ascertaining the quantity of opium produced which the national monopoly did not receive.

/Mr. MAY

Mr. MAY (Permanent Central Opium Board) stressed the fact that it was essential to obtain exact statistics quickly in any system of limitation of production. One of the disadvantages of the system favoured by the French delegation, which in some respects was a substantial improvement on the existing system, was that it was based on estimates calculated on five-year averages. It would therefore be necessary to wait a number of years before coming to definite conclusions.

Mr. STEINIG (Secretariat) pointed out that, unlike the French proposal, the draft interim agreement prepared by the Secretariat was not based on statistics. It rested on the postulate that no excess stock should remain in the possession of producing countries and that any stock remaining in the possession of a producer was illegal. Moreover, international inspection was an essential part of the international monopoly. It was essential to the operation of the system for all stocks to be transferred to the international monopoly when it was established. Statistics were of only secondary importance to the international monopoly.

Mr. NIKOLIC (Yugoslavia) asked the representative of France whether he would agree to redraft the first chapter himself or to take part in the work of a committee set up to redraft it.

With regard to stocks under an international monopoly, there had been a question of the purchase of stocks corresponding to the medical and scientific needs for one year, or approximately 400 tons, when the financing of the monopoly was discussed, rather than of the purchase of all the stocks of producing countries, which were certainly much higher than that figure.

Mr. STEINIG (Secretariat) explained that the Secretariat had always contemplated the transfer of all existing stocks to the international monopoly at the time of its establishment. That was the only time that producing countries would have to supply statistics; thereafter any excess stocks which did not belong to the international monopoly would be illegal. Nevertheless, as it would not be

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desirable for the international monopoly to be required to buy stocks in excess of the consumption for one year, it had been provided that the excess should be handed over to the international monopoly without payment for storage at the expense of the owner. In that connexion, for the benefit of the representative of Yugoslavia, Mr. Steinig reread Article 18 of the draft interim agreement (third revision) relating to international storage of opium.

The CHAIRMAN requested the members to confine their discussion for the time being to the French proposal, leaving aside the question of monopoly, which they could take up again later. He recalled that at the morning meeting, he had proposed that the draft should be discussed chapter by chapter. Nevertheless, it would be rather difficult to study the first chapter, dealing with estimates, by itself. At a later stage, a drafting committee could be set up to review the text as a whole, as the Yugoslav representative had suggested.

The Chairman proposed that the Commission should continue its consideration of the first chapter of the French draft, touching upon the other parts of the draft if that should prove necessary.

It was so decided.

Mr. VAILLE (France), in reply, emphasized first that the chapter must be taken literally. The contracting parties mentioned in the preamble were the producing, manufacturing and consuming countries. They came under the same regulations whether they belonged to all three categories or to one only. In the case of a producing country, the estimates would be based on domestic consumption and exports. The countries interested mainly in manufacturing should take into account their own needs and the amounts needed for their export trade, and in such cases as that of France should not forget the preparations known as exempted products - medicines containing a very small percentage of morphine which could be given to sick persons without a prescription.

The role assigned to the Permanent Central Opium Board was clearly very important. As Mr. May had emphasized, the Board would have to rely solely on statistics provided by governments. But the situation was the same in the case of existing narcotics conventions. Some countries had not always fulfilled their obligations strictly, and had sometimes supplied incomplete statistics. Thanks to the checks and cross-checks it had made, however, the Board had often been in a position to criticize some states with full knowledge
/of the case

of the case. The present system of conventions had thus been at least partly successful, although, as in the case of the proposed agreement, it rested on the good faith of the signatory states.

It should also be emphasized that the reason why some statistics had not been supplied although countries were under an obligation to supply them was chiefly because no provision had been made for sanctions. An embargo such as that proposed by France was a very serious sanction and might have grave consequences for the country to which it was applied.

Reverting to a point raised by the Canadian representative, Mr. Vaille emphasized that the problem of peasant producers who diverted part of their crop to the illicit market instead of sending it to the national monopoly was of some importance. As had been said, the case was similar to that of peasants who sold part of their harvest on the black market when agricultural produce was strictly rationed.

In the form suggested the inspection-enquiry would be an important step forward. Such a provision was absolutely necessary and he supported the idea of a very strict inspection. If a country refused to submit to inspection, which would give proof of its good faith, it would be acknowledging its guilt and the machinery of sanctions should be set in motion. It was understood that anything relating to the system adopted in various states as regards estimates or distribution of cultivation would come exclusively within the province of the national monopolies.

He supported the setting up of a drafting committee to draw up a final text with the Secretariat's assistance.

Mr. NIKOLIC (Yugoslavia) recognized the great value and constructive nature of the French representative's draft, but felt that it called for certain reservations.

According to paragraph 1 and sub-paragraph (a) of paragraph 2 of Chapter II, the average yield of opium in each state during the last five years would be taken as a basis. That was a much shorter period than the one envisaged at Ankara. It should not be forgotten that opium was difficult to cultivate and it had often happened that harvests were poor for two consecutive years. If too short a period were taken as a basis, it would be difficult to form a correct idea of a country's normal output. For example, Yugoslavia produced nearly twice as much opium in 1939 as in 1938, although the area sown had not been increased.

He further pointed out that to give the Permanent Central Opium Board the right to decide whether a country should increase or decrease the area sown would be to give it arbitrary power. That was a question of principle which should be clarified.

Mr. SHARMAN (Canada) emphasized that for many years Canada had been estimating its needs of opium alkaloids, alkaloids manufactured from poppy straw and synthetic alkaloids. It would not therefore be difficult for it similarly to estimate its raw and medicinal opium needs and it would probably be the same for the other consuming countries.

Mr. AMINI (Iran) also stressed the difficulty of estimating opium production on the basis of the areas cultivated. He wondered, moreover, by what date each year the control organ would be in a position to make the necessary recommendations.

Mr. KRUYSSE (Netherlands) was anxious to know the exact meaning of the words "account shall be taken of" in paragraph 2 of chapter II. Furthermore, it would be difficult to apply the provision referring to exports in that chapter. The demand for medicinal opium on the world market was an essential element of the problem. He also wondered whether the right of each manufacturing country to change its suppliers of opium, if circumstances forced it to do so, would be taken fully into account. Some freedom of trade should be maintained within the general framework of the control measures.

Mr. HOARE (United Kingdom) said that he was satisfied with Mr. Vaille's explanations regarding Chapters I and II of the French draft.

It was understood that the area of opium poppy cultivation should be decided according to production needs, and that seemed to be the only correct basis for estimates. The Permanent Central Opium Board would therefore have the right, according to circumstances, to recommend producing countries to increase or decrease the areas sown, being guided by the following four considerations:

1. The average yield, that is, average production by hectare sown during the last five years.

It would be difficult, however, for the control organ to check the figures supplied to it. It could at most become suspicious if it noted big differences between one country and another.

2. The average world consumption during the last five years.
3. The reserve stocks of signatory countries.
4. The average opium exports of producing countries during the last five years.

The main difficulty lay in the method of estimating the importance of each of those elements. It was obvious that, if world consumption was 450 tons and Yugoslavia, for example, wanted to increase its exports from 50 to 100 tons and lay in a reserve stock of 300 tons, the Permanent Central Opium Board would have the right to ask that country to reduce the area cultivated. But the problem would not always be so simple, and the control organ would have to be very flexible in applying the directives in chapter II.

Producing countries would also have the option of maintaining the stocks they wanted if their production was larger than their estimates. The Permanent Central Opium Board would, in fact, only be able to intervene effectively ^{and} ask for the area sown to be decreased at the end of two years.

Mr. MAY (Permanent Central Opium Board) was not yet in a position to say whether the Board would be prepared to assume the general task of supervision assigned to it, nor whether it would be able to do so. In view of its present organization, it would not be possible for it to solve the economic problems to which the application of the protocol would give rise. Further, it would be essential to hold more meetings, which would entail greater costs; and it must not be forgotten that the Fifth Committee of the General Assembly was trying, on the contrary, to reduce the cost of the Board. It might therefore be necessary to set up a new body to see to it that the protocol was applied.

Mr. NIKOLIC (Yugoslavia) referred to the possibility that Yugoslavia, for example, might state, on the basis of an average yield per hectare, that it intended to sow 10,000 hectares with opium poppy; that would be equivalent to a production of 100 tons, half of which would be for export. After taking total world needs into account, the Board might agree with that figure.

/But if

But if Yugoslavia said it intended to cultivate 20,000 hectares in order to have 150 tons of opium for export and it happened that all the other countries wished to do the same, the control organ would be faced with a situation where production might be equal to twice the world's needs and would have to intervene and require the various countries to reduce their cultivation estimates by a certain percentage. He emphasized once again the considerable risk involved in opium cultivation. If conditions proved unfavourable, an area of 10,000 hectares which would normally yield a crop of 100 tons might yield only 20. The only way in which the Board would be able to perform its function of regulating production would be to control stocks, without interfering in such questions as the areas under cultivation or even the volume of export. Hence the stocks of each State should be limited by law.

Furthermore if, in exceptional circumstances, the areas of cultivation allocated to the different countries were to yield 500 tons -- the exact amount required for world needs -- the same difficulties would arise as had been encountered in the case of the proposed monopoly. Since the supply would be exactly equal to the demand, free trade could no longer be ensured and the manufacturing countries would be forced to pay the price asked by the producers.

Mr. VAILLE (France) said that the period of five years which he had suggested as a basis for estimating average production was merely tentative. It stood to reason that in calculating the basic period, the experience acquired from the discussions at Ankara, Geneva and New York should be taken into account.

He thought it would be advisable to provide for an interim period before the entry into force of the protocol, the arrangements for which would be still more flexible than those contained in the protocol itself.

As regards the Iranian representative's remark, he noted that the producing countries themselves, rather than the Permanent Central Board, should indicate the area to be sown.

The Committee might make recommendations after receiving the estimates of the various States and taking into account all the factors just mentioned by the representatives of the producing countries, more particularly climatic ones. Nevertheless there were still some questions which would have to be settled by arbitration and no one would be better qualified to do that than the Permanent Central Board, in view of its well-deserved prestige.

Concerning the Netherlands representative's remarks regarding the words "account shall be taken of" in chapter II, paragraph 2, he said that the phrase deliberately left much latitude to the producing countries. So far the cultivation had been governed by the law of supply and demand; it would necessarily continue to be governed by it. Nevertheless, the purpose of chapter II was to draw attention to certain factors which should be taken into account with a view to minimizing the consequences of the free application of that law.

The United Kingdom representative had made it clear that the effective working of the system would depend on the good faith and honesty of the signatory countries. He pointed out in that connexion that the members of the Commission and of the Permanent Central Board would have a better understanding of the situation and of the producing countries' efforts effectively to limit production in view of their experience at Ankara and Geneva. That experience would help the Permanent Central Board to judge whether the statistics submitted to it corresponded to the facts.

It had been said that a State might seek to attribute excessive production to an exceptionally good harvest, but if such exceptional harvests recurred often enough to give rise to legitimate doubts, the Committee could ask for an investigation. It would be in the interest of the producing country concerned to agree to such an investigation, as that would be the best way for it to prove its good faith.

He agreed with the Yugoslav representative on the question of control. It was on the basis of stocks that control could most effectively be exercised. The stocks would make possible a system of compensation. As a result, countries would accumulate considerable stocks, but the same situation would have prevailed under an international monopoly.

/In conclusion

In conclusion he stated that he was an optimist, being convinced of the sincere desire of all countries to limit the production of opium to medical and scientific needs.

Mr. MAY (Permanent Central Opium Board) said that the Board would doubtless agree with the observations which had just been made; however the membership of the Committee and of the Supervisory Body might change in the near future. At any rate the two organs must agree to take over the new functions of implementing the protocol. They would need officials qualified to deal with economic problems, which would entail additional expenditure. So far the budget organs of the United Nations had taken the position that the expenses of the Board and of the Supervisory Body should be limited to a minimum.

Mr. OR (Turkey) felt that it would be difficult to apply the provisions of chapter II to his country as the opium growers in the regions where opium cultivation was permitted were free to decide whether or not to extract the juice. He agreed with the remarks of the representatives of Iran and Yugoslavia as regards the standards for determining the areas to be planted; a basic period of more than five years was necessary to determine average production.

He asked the representative of the Central Permanent Board whether it would be in a position to determine the areas to be planted twelve or sometimes eighteen months in advance. Unless the necessary instructions were issued ^{that much time} in advance, opium growers would have difficulty in complying with them.

Mr. MAY (Central Permanent Opium Board) replied that the Board would base its calculations primarily on the stocks held by the different countries. If the reserve stocks were too high it would ask the producers to limit the production.

Mr. ANSLINGER (United States of America) felt that the United Kingdom, Canadian and French representatives had given a clear picture of the difficulties of control, regardless of the system used. India seemed to have solved the problem satisfactorily; he would therefore appreciate it if its representative would explain the method adopted in that country.

/The CHAIRMAN

The CHAIRMAN, speaking as the representative of India, confirmed that in his country control had been exercised satisfactorily. The Central Government estimated the areas to be planted in September or October, that is to say, one month before the planting, taking into account domestic consumption, as well as export needs. Inasmuch as the opium was cultivated in certain well-defined regions, the officials informed the various districts of what areas could be planted. The growers concerned then applied for the licences. The area to be calculated was mentioned in the licence. A month or two after the sowing the authorities made a check by measuring the area planted, noting the result on the cultivator's licence and allowing a margin of from 5 to 10 per cent only for any surplus; the grower was free, however, to sow a smaller area. Officials then made an estimate of the crop. The prospects for the crop, good or bad, were noted on the licence. The opium gathered was preserved in the form of a coagulated liquid. At the time of delivery the authorities had a sufficiently accurate idea of how much the cultivator had been able to harvest to make evasion negligible. The harvest could be reduced by 40 to 50 per cent by heavy rains or frost, but the ordinary variations did not exceed 10 per cent.

Mr. AMINI (Iran) said that the same system prevailed in his country and in Turkey, but that production fluctuated surprisingly. Countries could not be obliged to cultivate a given area. It would be wiser to set a country a quota and leave it to do what was necessary to avoid exceeding the prescribed production.

Mr. VAILLE (France) explained that the success of the proposed system would in any case depend on the good faith of States and that the Supervisory Body should use the greatest flexibility of procedure. Naturally, international control should be backed by national control. Countries would be required to explain any discrepancies. The production of drugs created a precedent. In France, with all the goodwill in the world, the quota had sometimes been exceeded. By furnishing the necessary explanations, it had always been possible to dispel any doubts as to the causes of the irregularity. The proposed system would in any case be an improvement on the present one. The draft had

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mentioned that sowing should be controlled because such control was easy. Naturally, if an increase in sown areas were repeated although the stocks had increased, the Supervisory Body might have to carry out an investigation, and, if such an investigation was refused, it might impose an embargo.

Mr. OR (Turkey) quoted figures to show that production was subject to serious and quite unpredictable fluctuations.

Mr. NIKOLIC (Yugoslavia) instanced a case in his country when 7,000 sown hectares had failed to produce one single ton of opium.

Mr. BOURGOIS (France) also quoted production figures in support of Mr. Or's views. That was why he stressed the need of a control of reserve stocks which would enable a compensation system to be operated. Producers would easily come to an understanding with a body such as the Permanent Central Opium Board; it would be in their interests to do so, as otherwise they would be left with stocks which they could not sell and which would be a burden on their finances.

Mr. HOARE (United Kingdom) said that the penalty laid down in the last paragraph of Chapter II could be imposed only on the evidence of the figures supplied by the very countries liable to that penalty. In practice, a penalty of that nature would not be feasible. It would be easier to control stocks, but even then the Supervisory Body would have to rely on statistics provided by the various countries.

Mr. MAY (Permanent Central Opium Board) agreed as regards the control of stocks; a typical case where penalties could be imposed was that of a country with large stocks disregarding the recommendation to reduce production. There was another question, that of the submission of statistical data. If recommendations were to be well-founded, statistics would have to reach the Supervisory Body in time and not a year late, when they would be useless as a basis for a recommendation. The Commission should provide for appropriate penalties when Governments failed to submit the required statistical data in good time.

/Mr. NIKOLIC

Mr. NIKOLIC (Yugoslavia) pointed out that the Supervisory Body could verify the figure for exports through statistics on imports. Consequently, what was most needed was production figures which would enable the Supervisory Body to make an estimate of stocks.

He agreed with the United Kingdom representative; the following formula should be adopted: a free purchase market and control of stocks, with penalties. Paragraph 2 of Chapter II could be redrafted to that effect.

Mr. HOARE (United Kingdom) replied that it would be difficult to impose the penalties laid down in Chapter II, but that he had not meant that they should be omitted. They were reasonable and should be retained, but their effectiveness should not be overestimated. The Yugoslav representative was quite right in saying that if the necessary data were not obtained by means of one method, others could always be used with greater success.

Mr. VAILLE (France) reserved the right to defer his reply to a question raised by the Chinese representative regarding prepared opium, as he would be dealing with that matter later. Chapter V dealt only with opium not used for medical purposes.

He concluded from the United Kingdom representative's remarks that a greater variety of penalties should be introduced. It was true that to impose a penalty on a State which did not respect the recommendations made to it might cause that State to persist in its course, but there was a penalty which was most effective, as it depended on the other signatories to the Convention -- that of embargo. An embargo imposed at the right moment or for a sufficiently long period provided the most effective penalty. In that case as in all others, a procedure for appeal would of course be provided. Other penalties should be laid down, among the penalties for accumulating stocks and for systematic refusal to furnish the necessary data for purposes of control. A very flexible text, providing penalties for all possible cases would therefore be necessary.

The meeting rose at 5.10 p.m.