



The Single Convention on Narcotic Drugs, 1961

Author(s): Adolf Lande

Source: *International Organization*, Vol. 16, No. 4 (Autumn, 1962), pp. 776-797

Published by: Cambridge University Press

Stable URL: <http://www.jstor.org/stable/2705215>

Accessed: 03/09/2008 10:37

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## THE SINGLE CONVENTION ON NARCOTIC DRUGS, 1961

ADOLF LANDE

The Single Convention on Narcotic Drugs, 1961,<sup>1</sup> was opened for signature on March 30, 1961. As of August 1, 1961 (the last day for such action<sup>2</sup>), this treaty was signed by 64 countries and as of the date of writing this article eleven states had become parties by ratification or accession: Cameroun, Canada, Cuba, Dahomey, Iraq, Ivory Coast, Republic of Korea, Kuwait, Morocco, Syria, and Thailand. When the United Nations Conference for the Adoption of a Single Convention on Narcotic Drugs, meeting at United Nations Headquarters from January 24 to March 25, 1961, adopted the new Convention on March 25, 1961, it completed a work which had occupied international organs since 1948. It was in this year that, at its third session, the Commission on Narcotic Drugs adopted a resolution,<sup>3</sup> introduced by the representative of the United States, which recommended the draft finally adopted by the Economic and Social Council (ECOSOC) as Resolution 159 II D (VII), August 3, 1948. In this resolution the Secretary-General of the United Nations was requested to begin work on the drafting of a new single convention on narcotic drugs. He was instructed that the new treaty should replace the existing treaties in the field, provide for control of the cultivation of plants grown for the production of narcotic drugs, and simplify the international control machinery by replacing the present Permanent Central Opium Board and Drug Supervisory Body by a single organ.

### The Case for Codification of the Treaty Law on Narcotic Drugs

At the end of World War II international narcotics control was governed by six treaties concluded between the years 1912 and 1936.<sup>4</sup> To describe a

ADOLF LANDE is with the Division of Narcotic Drugs in Geneva. He played a significant part in the drafting of the Single Convention on Narcotic Drugs, 1961.

<sup>1</sup> Subsequently referred to as "Single Convention."

<sup>2</sup> Article 40, paragraph 1, of the Single Convention.

<sup>3</sup> Economic and Social Council *Official Records* (7th session), Supplement No. 9, p. 23.

<sup>4</sup> The International Opium Convention, signed at The Hague, on January 23, 1912, subsequently referred to as the "1912 Convention."

The International Opium Convention, signed at Geneva on February 19, 1925, subsequently referred to as the "1925 Convention."

The agreement concerning the manufacture of, internal trade in, and use of prepared opium, signed at Geneva on February 11, 1925, subsequently referred to as the "1925 Agreement."

The convention for limiting the manufacture and regulating the distribution of narcotic drugs, signed at Geneva on July 13, 1931, subsequently referred to as the "1931 Convention."

The agreement for the control of opium smoking in the far east, signed at Bangkok on November 27, 1931, subsequently referred to as the "1931 Agreement."

complicated system in a few words and without taking into account exceptions of detail, one may say that the regime established by these treaties contained the following provision: narcotic drugs were to be used only for medical or scientific purposes. The participants in the various phases of the narcotics trade had to have a government license and maintain records of all individual transactions in narcotic drugs (such records to be available for examination by government inspectors<sup>5</sup>). The narcotics supplies of each country or territory obtained from either manufacture or import had to be limited to the quantities needed for medical and scientific purposes, these needs to be computed on the basis of estimates in principle made by the government concerned.<sup>6</sup> Effective measures were to be taken to ensure the prosecution and effective punishment of illicit traffickers, in particular with a view to preventing illicit traffickers from escaping prosecution for reasons of lack of criminal jurisdictions on purely technical grounds.<sup>7</sup>

Governments were also under an obligation to organize their narcotics control services in accordance with the treaty requirements.<sup>8</sup> They were required to furnish to international organs periodic or current information, such as annual reports on narcotics control in their territories, relevant laws and regulations, reports on individual seizures of narcotic drugs from illicit traffic, statistical information, and estimates of their narcotics requirements. This gave the international organs an opportunity to review periodically the narcotics situation in all countries and territories, to make evaluations and recommendations, generally included in published reports, and thus to exercise a system of international control, the effectiveness of which depended on the good faith of the cooperating governments and on the power of public opinion.

This system, developed prior to World War II, has had considerable

The convention for the suppression of the illicit traffic in dangerous drugs, signed at Geneva on June 26, 1936, subsequently referred to as the "1936 Convention."

The following treaties were concluded after World War II:

The protocol signed at Lake Success on December 11, 1946, amending the agreements, conventions, and protocols on narcotic drugs concluded at The Hague on January 23, 1912, at Geneva on February 11, 1925, February 19, 1925, and July 13, 1931; at Bangkok on November 27, 1931, and at Geneva on June 26, 1936; subsequently referred to as the "1946 Protocol."

The protocol signed at Paris on November 19, 1948, bringing under international control drugs outside the scope of the convention of July 13, 1931 for limiting the manufacture and regulating the distribution of narcotic drugs, as amended by the protocol signed at Lake Success on December 11, 1946, subsequently referred to as the "1948 Protocol."

The protocol signed at New York on June 23, 1953, for limiting and regulating the cultivation of the poppy plant, the production of, international and wholesale trade in, and use of opium, subsequently referred to as the "1953 Protocol."

<sup>5</sup> The relevant provisions were mainly contained in the 1912 and 1925 Conventions.

<sup>6</sup> The provisions concerned constituted the principal subject of the 1931 Convention.

<sup>7</sup> The provisions relating to the illicit traffickers were primarily in the 1936 Convention.

<sup>8</sup> Article 15 of the 1931 Convention ("special administration"), articles 11 and 12 of the 1936 Convention ("central office"); see also recommendation I of the 1931 Conference for the "Limitation of the Manufacture of Narcotic Drugs" as regards a "single authority."

success, and no need has been felt for changing its basic features. Nevertheless, when international narcotics control, which, in a rudimentary way, had been continued during World War II, was fully resumed under the auspices of the United Nations after the end of this war, attention was focused on some of the weaknesses of, and gaps in, the existing system. These shortcomings had various causes. The gradual development of the treaty system led to an unwieldiness in the law itself, including obscurities and inconsistencies. The very fact of six existing treaties in the field, to which were added three more in the postwar period, was a basic factor in this. The international control machinery which resulted from this situation had become more complex than was desirable or necessary. Four different international organs were exclusively concerned with narcotics control: the Commission on Narcotic Drugs, the Permanent Central Opium Board, the Drug Supervisory Body, and the World Health Organization (WHO) Expert Committee on Drugs Liable to Produce Addiction. Several more had permanent functions in this field or were, from time to time, called upon to deal with narcotics questions. Among these were the General Assembly, ECOSOC, the Trusteeship Council, and the Secretary-General of the United Nations; the Assembly, Executive Board, and Director-General of WHO; the Director-General of the Food and Agriculture Organization (FAO); and organs of the International Civil Aviation Organization (ICAO) and the Universal Postal Union (UPU).

While the manifold aspects of the narcotics problem made it unavoidable and even desirable that such a wide range of international organs in different fields dealt with some special features of the narcotics problem from time to time, it had been felt for a long time that the number of organs exclusively concerned with narcotic drugs should be somewhat reduced. In fact, since the adoption of the 1931 Convention, which provided for the establishment of the Drug Supervisory Body, it had been widely felt that the functions of this organ and of the Permanent Central Opium Board, both concerned with closely related matters, could safely be entrusted to a single organ. This feeling led to efforts to bring about some simplifications by administrative means, insofar as this was possible without changing the treaty law, for example, by a union of membership of the two organs.<sup>9</sup> This could not, however, be made complete since only three out of the four members of the Drug Supervisory Body were simultaneously members of the Permanent Central Opium Board.

The situation was equally complicated at the secretariat level. There were three secretariat units dealing with problems of narcotic drugs: the Division of Narcotic Drugs, serving the Commission on Narcotic Drugs and other

<sup>9</sup> Economic and Social Council Resolution 667 H (XXIV), August 1, 1957; see also ECOSOC Resolution adopted at the 34th session on August 3, 1962 (Document E/3692, Resolution F).

Charter organs of the United Nations; the Joint Secretariat of the Permanent Central Opium Board and Drug Supervisory Body; and the Addiction Producing Drug Section of the WHO secretariat. Some simplification was achieved by administrative means through combining the secretariats of the Permanent Central Opium Board and Drug Supervisory Body. Further simplification seemed, however, impossible without change of the treaty law since a separation of the secretariats of the Commission and the Permanent Central Opium Board was apparently mandatory under existing treaties.<sup>10</sup> The Division of Narcotic Drugs and the Joint Secretariat, although performing basically different tasks, both had to keep continuously under review all or most aspects of the narcotics problem if they wished to carry out efficiently their respective functions. This unavoidable duplication of efforts was considered to be an uneconomical arrangement.

Some provisions of the existing treaties were adopted at a time when parties, for reasons since overcome, were not yet capable of applying the idea of exclusive use for medical and scientific purposes and the system of administrative control—as described above—to all narcotic drugs and to all conditions under which narcotics were used. The treaties in force sometimes reflected historical conditions which were a thing of the past and contained many gaps which were no longer necessary. In fact, the nearly universal practice of states was more advanced than would have been required under the narcotics treaties. For instance, under the existing treaty law the non-medical use by addicts of raw opium, prepared opium (smoking opium), coca leaves, cannabis, the resin of cannabis (marihuana, hashish), and of so-called “drugs of Group II,” i.e., relatively weak drugs such as codeine, was permitted. Under national regimes, however, the non-medical use of opium (opium eating or smoking) was everywhere prohibited or, in the few places where still tolerated, a national policy had been adopted looking toward its abolition. The same also applied generally to cannabis and cannabis resin; and insofar as is known, the use of such drugs as codeine, although exempted in many countries from the requirements of medical prescription, was nowhere permitted solely for the satisfaction of addicts.

The system of control by government license also did not apply to all narcotic drugs or to all phases of the trade in some narcotics. This was the case for the trade in raw opium, prepared opium,<sup>11</sup> medicinal opium, cannabis, cannabis resin, extracts and tinctures of cannabis,<sup>12</sup> and for the retail trade in “drugs of Group II” (such as codeine). If the treaties in force were taken literally, governments could, without violation of their obligations,

<sup>10</sup> Article 20 of the 1925 Convention.

<sup>11</sup> As regards prepared opium see, however, chapter II of the 1912 Convention, article 1 of the 1925 Agreement, and article 1 of the 1931 Agreement.

<sup>12</sup> The system of licensing applied, however, to preparations of the extracts and tinctures, i.e., to dilutions which are less potent than the basic drugs.

permit the sale of these substances by grocery stores and the uncontrolled (unlicensed) manufacture of medicinal opium, prepared opium, and such cannabis preparations as hashish. There again, however, the general practice of states was much more advanced than would be required under the treaties.<sup>13</sup>

The most serious gap in the treaties in force was probably the lack of provisions for effective control of the cultivation of plants for the production<sup>14</sup> of the narcotic raw materials (opium, coca leaves, cannabis, and cannabis resin).<sup>15</sup> There was only a general obligation of parties "to enact laws and regulations to ensure the effective control of the production of . . . raw opium. . . ."<sup>16</sup> Not even such a general obligation existed in respect to the production of coca leaves and cannabis. The 1953 Protocol would have provided for effective control of the cultivation of the opium poppy grown for the production of opium, since it required opium-producing countries to establish national opium monopolies to this effect,<sup>17</sup> but this Protocol required, *inter alia*, for its coming into force, the adherence of three of the seven opium-producing countries named in the treaty.<sup>18</sup> Only two of these seven countries, India and Iran, had ratified the Protocol in the nine years since its adoption. Three others had declared that they would not ratify the treaty: Bulgaria, the Soviet Union, and Yugoslavia.

It looked for a long time as though the Protocol would never come into force. Recently, however, at the seventeenth session of the Commission on Narcotic Drugs in May 1962, the observer for Greece, which although not actually an opium producer was one of the seven above-mentioned countries, declared that his government had decided to ratify the Protocol,<sup>19</sup> which would thus have come into force on the 30th day following the deposit of the Greek instrument of ratification. If this should happen, Turkey, which had reservations on some provisions of the Protocol, might become a party in order to preserve its export trade in opium. This it could not do under the terms of the treaty<sup>20</sup> without participation therein; but even if in force, the Protocol could not be fully effective without the participation of such opium-producing countries as Bulgaria, the Soviet Union, and Yugoslavia, which do not wish to become parties.

Without effective control of the production of opium and coca leaves,

<sup>13</sup> For a comparison of the provisions of the existing treaties with the Single Convention, see Document E/3527.

<sup>14</sup> "Production" is a treaty term for "harvesting."

<sup>15</sup> Poppy straw is also a raw material for the manufacture of "natural" narcotic drugs, but cannot be considered to be a narcotic as such.

<sup>16</sup> Article 2 of the 1925 Convention; see also article 1 of the 1912 Convention.

<sup>17</sup> Article 3.

<sup>18</sup> Article 21 in connection with article 6, paragraph 2.

<sup>19</sup> Document E/CN.7/SR.493.

<sup>20</sup> Article 6, paragraph 2, of the 1953 Protocol.

however, the campaign against the illicit traffic could hardly be fully successful. The most important manufactured drugs in the international illicit traffic were not diverted from legal trade but nearly entirely supplied by clandestine manufacturers who, in their turn, received their raw materials, opium or coca leaves, from illegal cultivation or by diversion from legally harvested crops.

The need for further adjustments in the international regime resulted from the disappearance of the League, from scientific progress leading since 1939 to the discovery of an ever-increasing number of synthetic narcotic drugs, and from far-reaching economic and social change, in particular from the emergence of a number of countries with a socialist economy.

Under these circumstances it was not surprising that voices were raised requesting the preparation of a single convention, not only for the purpose of codification in the narrow meaning of this term, but also with a view to simplifying the treaty law and the international administrative machinery, to adjusting the system to the requirements brought about by scientific progress and economic and social changes, and finally, to closing the control gaps outlined above.<sup>21</sup>

### Preparatory Work on the Single Convention

When the United Nations replaced the League, it had to deal with two emergency situations. The prewar narcotics treaties had assigned numerous functions to League bodies or League-appointed bodies. It seemed necessary to adopt legal measures for the transfer of these functions to corresponding United Nations organs. This was accomplished by the adoption of the 1946 Protocol.

As mentioned above, since 1939 an ever-increasing number of synthetic narcotic drugs of a variety and growing number of chemical groups was discovered. Prior to this date all narcotic drugs belonged to a few chemical groups obtained from three plants. Under the prewar treaties there was no international authority to place the new synthetic drugs under full international control and indeed no authority to require governments to impose even partial control without their consent.<sup>22</sup> There was fear that the lack of control would lead to widespread abuse of and addiction to the synthetics; but quick action was sometimes possible in the early days of the United Nations, and the adoption of the 1948 Protocol brought a solution which was generally considered to be satisfactory. This authorized the

<sup>21</sup> Bertil A. Renborg, *International Drug Control* (Washington, D.C.: Carnegie Endowment for International Peace, 1947), p. 239; Adolf Lande, "The Adjustment of the International Opium Administration to an Eventual Dissolution of the League of Nations," 45 *Columbia Law Review* (May 1945), p. 411.

<sup>22</sup> Article 10 of the 1925 Convention and article 11 of the 1931 Convention.

World Health Organization to place, without consent of the parties, the new synthetic drugs under the same control regime as applied to the natural manufactured narcotics under the prewar treaties.

The United Nations was less successful in its attempts to deal by interim measures with a third problem which was considered by many to be very urgent. As has been pointed out above, effective control of opium production is necessary for a successful fight against the illicit traffic. It was therefore considered to be advisable to work for the adoption of interim measures pending the long-term solution of this problem in the Single Convention. Thus, at the same time at which work was begun on the Convention, the Commission started to consider interim measures.<sup>23</sup> The Economic and Social Council adopted a resolution,<sup>24</sup> recommended by the Commission at its third session, in which the Secretary-General was requested to initiate studies and inquiries on the desirability of an interim agreement on the control of opium production pending the coming into force of the Single Convention.

Initially, UN efforts were directed at a system of control by which countries permitting the production of opium would have had to apply to such production and to the wholesale and international trade in opium a system of control amounting, in fact, to a system of national monopoly, and by which the international trade in opium would have become a monopoly of an international organization of public law. In this work, ideas which had been developed in the League of Nations period were still very influential. It was, however, soon found that the conception of an international monopoly was unacceptable to most countries which participated in the consultations on the problem, and it had to be abandoned. The 1953 Protocol retained the idea of national opium monopolies for the opium-producing countries but did not provide for an intergovernmental monopoly of the international trade which, under the 1925 Convention, was subject only to the requirement of authorization of individual transactions.

Despite the lapse of nine years since its adoption, the Protocol has not yet come into force. This is very unfortunate because as an interim measure this treaty would be very useful in providing international control for opium production pending the definite measures to be included in the Single Convention. Looking back, however, it does not seem surprising that a number of countries find it difficult to accept the Protocol, including countries whose cooperation would be important for an effective implementation of its provisions. Even in the Commission only eight of its fifteen members voted for the principles on which this treaty is based.<sup>25</sup> It contains quite unusual provisions which would severely restrict the freedom of economic

<sup>23</sup> Economic and Social Council *Official Records* (7th session), Supplement No. 9, pp. 24-25.

<sup>24</sup> ECOSOC Resolution 159 II E (VII), August 3, 1948.

<sup>25</sup> Economic and Social Council *Official Records* (13th session), Supplement No. 13, paragraph 134.

action of parties. Such provisions as those limiting to seven named countries the right to produce opium for export and those prescribing maximum stocks of opium which countries may hold have not appealed to many countries, particularly to those which do not have a serious narcotics problem. When the Commission included these provisions in the third draft of the Single Convention, it was very well aware of their highly controversial character.<sup>26</sup>

### The Three Drafts of the Single Convention

Under the authority of the above-mentioned Economic and Social Council Resolution 159 II D (VII), the Division of Narcotic Drugs of the UN Secretariat and the Joint Secretariat of the Permanent Central Opium Board and Drug Supervisory Body prepared a number of papers<sup>27</sup> formulating and explaining in some detail the principles on which the new Convention might be based and which were approved by the Commission and the Council.<sup>28</sup> These principles were incorporated in the first draft of the Single Convention<sup>29</sup> prepared by the UN Secretariat, as requested by the Commission, with the approval of the Council.<sup>30</sup>

Without going into details, which are only of historical interest insofar as they represented the trend of thought in the early years of the United Nations, one may say that the first draft provided for simplification of the international administrative machinery and for extension of control to the cultivation of the plants grown for the raw materials of natural narcotic drugs, as was requested in ECOSOC Resolution 159 II D (VII) of August 3, 1948; as well as stipulating the replacement of the present Permanent Central Opium Board and Drug Supervisory Body by a single organ, it made provision for a single secretariat to serve this new organ and the Commission. It will be recalled that at present the Permanent Central Opium Board and Drug Supervisory Body are served by a joint secretariat which is entirely different from the Division of Narcotic Drugs, serving the Commission on Narcotic Drugs and, in matters of narcotics, the other UN organs. This administrative simplification on the secretariat level did not reappear in the second and third drafts, but, in a somewhat modified form, found its entrance into the final text as adopted by the Plenipotentiary Conference in 1961.<sup>31</sup>

<sup>26</sup> Economic and Social Council *Official Records* (26th session), Supplement No. 9, paragraphs 478 and 479; see also Document E/CN.7/AC.3/9, articles 32 and 33.

<sup>27</sup> Documents E/CN.7/W.41, 44, 50, 53 and E/OB/W.78. See this issue, p. 776.

<sup>28</sup> Economic and Social Council *Official Records* (9th session), Supplement No. 9, pp. 39 and 40; ECOSOC Resolution 246 D (IX), July 6, 1949.

<sup>29</sup> Document E/CN.7/AC.3/3.

<sup>30</sup> ECOSOC Resolution 246 D (IX), July 6, 1949.

<sup>31</sup> Document E/CONF.34/22, article 16.

The first draft contained three particularly controversial ideas which originally were developed at the time of the League of Nations and, although first approved by the Commission on Narcotic Drugs, were generally rejected at an early stage and thus did not appear in the subsequent drafts nor in the final text. At present each government is the final authority in determining the annual estimates of its narcotics requirements. The maximum amounts of each manufactured narcotic drug which a country or territory may import and manufacture are computed on the basis of these estimates. The first draft would have authorized an international organ to revise the estimates, after consultation with the government concerned, but even without the consent thereof, and would thus have given to this organ the final say about the quantities of drugs a country may import and manufacture.<sup>32</sup>

The rejection of this innovation reflected not only the reluctance of governments to admit such a far-reaching impingement upon their sovereignty, but also the widespread feeling that the estimate system as such was less useful than was originally believed. The first draft also would have provided for the establishment of an international clearing house. Under this system no party would permit an export of narcotic drugs until it had been notified by an international organ that the export would not exceed the import maximum of the country of destination as computed on the basis of that country's estimates.<sup>33</sup> This arrangement would have contributed to a more perfect achievement of the aims of the estimate system. But it was rightly feared that it would cause serious delays in the international shipment of narcotic drugs. After having originally approved the idea in 1949 at its ninth session,<sup>34</sup> the Commission, on second thought, and after having obtained the adverse opinions of the Permanent Central Opium Board and Drug Supervisory Body, unanimously rejected the proposal for an international clearing house at its seventh session in 1952.<sup>35</sup>

The first draft of the Single Convention did not provide for an international monopoly of the opium trade. It stipulated, however, that parties should undertake "to use their best endeavours" to conclude periodically agreements for the establishment or maintenance of such a monopoly. It was considered that the particular conditions under which the monopoly would have to operate would be subject to continuous changes and thus should not be included in a permanent instrument such as the Single Con-

<sup>32</sup> Section 23, paragraph 7.

<sup>33</sup> Section 24.

<sup>34</sup> Economic and Social Council *Official Records* (9th session), Supplement No. 9. The idea of the international clearing house had been suggested by the Joint Secretariat of the Permanent Central Opium Board and Drug Supervisory Body: Document E/OB/W78, pp. 19-21.

<sup>35</sup> Economic and Social Council *Official Records* (14th session), Supplement No. 8, paragraphs 99 and 100.

vention was intended to become. In view of the above-mentioned general opposition to the idea, the conception of an international opium monopoly did not appear in the following drafts.

As a general proposition, the text prepared by the Secretariat reproduced the existing control system as outlined above, but contrary to the existing treaties it frequently described the obligations of parties in very general terms, leaving international organs to fill in details. For example, under the first draft, parties would have been obliged to furnish "such statistical information . . . as the Commission [on Narcotic Drugs] shall request as being necessary to enable the international control organs to fulfil their functions."<sup>36</sup> In contrast, the existing treaties expressly indicated the economic phases, such as production, manufacture, consumption, stocks, imports, and exports, on which statistical returns were required.<sup>37</sup>

The first draft of the Single Convention was on the Commission's agenda from its fifth to its tenth sessions, 1950 to 1955.<sup>38</sup> During this time it adopted detailed decisions to guide the preparation of a second draft. The second draft of the Single Convention,<sup>39</sup> written by the Secretariat in accordance with these instructions, omitted such controversial ideas as that of an international opium monopoly and of an international clearing house; it retained some others, such as the right of an international organ to impose a mandatory import and export embargo upon countries violating provisions of the convention<sup>40</sup> and to obligate parties to prohibit, even for medical purposes, the use of such particularly dangerous narcotic drugs<sup>41</sup> as diacetylmorphine (heroin). Apart from this, the draft's control regime for manufactured narcotic drugs might be characterized as conservative. In general, the provisions of the existing narcotics treaties were taken over, and the obligations of parties were, in principle, not formulated in general terms, but often spelled out in great detail as in the existing narcotics treaties.

On the other hand, the second draft retained the idea of replacing by a single organ, the International Narcotics Control Board, the present Permanent Central Opium Board and Drug Supervisory Body, but not that of a single secretariat for the Commission and the new board. It also contained provisions for the extension of international control to the cultivation of

<sup>36</sup> Section 13(b)(i)(dd).

<sup>37</sup> See article 22 of the 1925 Convention and article 22 of the 1931 Convention.

<sup>38</sup> Economic and Social Council *Official Records* (12th session), Supplement No. 2, chapter III; (13th session) Supplement No. 13, chapter III; (14th session) Supplement No. 8, chapter III and annex C; (16th session) Supplement No. 4, chapter III and annex C; (18th session) Supplement No. 8, chapter III and annex D; (20th session) Supplement No. 8, chapter III and annex D.

<sup>39</sup> Document E/CN.7/AC.3/7.

<sup>40</sup> Article 23, paragraph 2(d).

<sup>41</sup> Article 2, paragraph 5 (first alternative: paragraph reference 55). Under a second alternative of paragraph 5 (paragraph reference 56) the prohibition would only have the character of a recommendation to parties.

plants grown for the raw materials of natural narcotic drugs.<sup>42</sup> In so doing it incorporated the provisions of the 1953 Protocol for the control of opium production and of the international trade in opium, and it extended these provisions governing opium to poppy straw intended for the extraction of opium alkaloids (morphine). The control envisaged for the cultivation of the coca bush was in many respects the same as that for the production of opium and poppy straw. The cultivation of the cannabis plant for the production of cannabis drugs and such production were prohibited except for such small amounts as governments or licensed and closely supervised scientific institutes might need for research purposes. Moreover, the second draft stipulated the prohibition, after a transitional period, of opium smoking, opium eating, marihuana (hashish) consumption, and coca leaf chewing, practices which were not illegal under the existing narcotics treaties.<sup>43</sup> In accordance with the Commission's instructions, the second draft contained in many cases alternative provisions.<sup>44</sup>

During its eleventh, twelfth, and thirteenth sessions (1956–1958) the Commission used the second draft as the basis of its work on the new treaty;<sup>45</sup> during its twelfth and thirteenth sessions (1957 and 1958) it prepared a new, the third, draft of the Single Convention.<sup>46</sup> The new text was basically not very different from the second draft, except that it did not retain the numerous alternative versions; it maintained, however, most of the controversial features of the earlier draft. When it had finished the third draft, the Commission stated that it was “fully aware that not all provisions of the new treaty would be welcomed equally by all Governments. . . . Several remained controversial in the Commission, and . . . it was to be expected that the opinions of Governments not represented on the Commission would be similarly divided.”<sup>47</sup> The Commission showed considerable foresight in listing the features of the draft which it considered controversial, such as the closed list of countries authorized to produce opium for export; the penal provisions for illicit traffickers; and the right of an international organ to prohibit, with mandatory effect on governments, the use of particularly dangerous narcotics even for medical purposes and to impose a mandatory embargo on the import or export of narcotic drugs in the case

<sup>42</sup> Articles 32–40.

<sup>43</sup> Article 59.

<sup>44</sup> For a detailed discussion of the second draft see A. Lande, “La Codification du droit international des stupéfiants,” 2 *Annuaire Français de Droit International* (1956), pp. 557–571 plus *corrigendum*.

<sup>45</sup> Economic and Social Council *Official Records* (22nd session), Supplement No. 8, chapter IV and annex IV; (24th session) Supplement No. 10, chapter X and annex VI; (26th session) Supplement No. 9, chapter XII and annex V.

<sup>46</sup> Document E/CN.7/AC.3/9 and Add.1; the drug schedules (Add.1) were prepared by the Secretariat.

<sup>47</sup> Economic and Social Council *Official Records* (26th session), Supplement No. 9, paragraph 471. See also Leland P. Goodrich, “New Trends in Narcotics Control,” *International Conciliation*, November 1960 (No. 530), Carnegie Endowment for International Peace, pp. 191 ff.

of violations of certain treaty obligations.<sup>48</sup> In fact, these problems gave rise to considerable differences of opinion at the conference which adopted the Single Convention on Narcotic Drugs, 1961.

### Plenipotentiary Conference for the Adoption of a Single Convention on Narcotic Drugs

On the recommendation of the Commission,<sup>49</sup> the Economic and Social Council, in summer 1958, adopted a resolution<sup>50</sup> in which it requested the Secretary-General (a) to transmit the third draft of the Single Convention for comments to all Member States of the United Nations, of the specialized agencies, or of the International Atomic Energy Agency, as well as to these agencies, to the Permanent Central Opium Board, the Drug Supervisory Body, and the International Criminal Police Organization; and (b) to prepare a compilation of these comments. The Council also decided to convene a plenipotentiary conference for the adoption of a single convention on narcotic drugs to replace the existing multilateral treaties in the field and requested the Secretary-General to invite to this conference the above-mentioned states, the specialized agencies interested in the matter, the Permanent Central Opium Board, the Drug Supervisory Body, and the International Criminal Police Organization.

The conference called under the authority of this resolution was held at United Nations Headquarters, New York, from January 24 to March 25, 1961. Seventy-four governments participated in its work, 73 of them with plenipotentiary representatives and one through an observer. FAO, ICAO, the International Labor Organization (ILO), WHO, the Permanent Central Opium Board, and the Drug Supervisory Body were represented at the conference. Three nongovernmental organizations, the International Conference of Catholic Charities, the International Criminal Police Organization, and the International Federation of Women Lawyers also attended the conference. The conference elected as president Ambassador Carl Schurman of the Netherlands and as vice-presidents the representatives of Afghanistan, Brazil, Dahomey, France, Hungary, India, Iran, Japan, Mexico, Pakistan, Peru, the Soviet Union, Switzerland, Thailand, Turkey, the United Arab Republic, the United Kingdom, and the United States. Mr. G. E. Yates, Director of the Division of Narcotic Drugs of the UN Secretariat, was the executive secretary.<sup>51</sup>

The principal working papers of the conference were the above-mentioned

<sup>48</sup> Economic and Social Council *Official Records* (26th session), Supplement No. 9, paragraphs 471-483.

<sup>49</sup> *Ibid.*, annex I.

<sup>50</sup> ECOSOC Resolution 689 J (XXVI), July 28, 1958.

<sup>51</sup> Document E/CONF.34/23.

third draft of the Single Convention on Narcotic Drugs<sup>52</sup> and the compilation of comments on this draft, received from governments and organizations.<sup>53</sup> It completed its work on March 25, 1961, with the adoption of the Single Convention on Narcotic Drugs, 1961,<sup>54</sup> and five conference resolutions incorporated in a final act.<sup>55</sup>

It is not intended to describe all the numerous technical problems, sometimes controversial, which the conference had to solve, but it is not going too far if one states that the tasks of the conference were very difficult indeed. There were first some difficulties which experience had shown generally arise in the course of codifying international law. Rules generally applied are not always very popular with all governments; there are reservations and objections, sometimes only theoretical, which do not prevent the general observance of the rules, but which are nevertheless reasserted at the codification conference; there are the traditional differences of opinion which in some form had already appeared at earlier narcotics conferences, between those which, like the United States, advocate more radical control measures and others, such as some European countries including states from eastern Europe, which adopt a more conservative approach toward measures of administrative control of narcotic drugs. Such different views are also explained by the fact that some countries have a serious narcotics problem, while others have no particular problem or do not consider their problem serious enough to adopt measures which would impose too cumbersome controls upon their narcotic drug trade and, in particular, upon their pharmacists and medical practitioners. Moreover—as was pointed out—the third draft of the Single Convention on which the conference worked, contained highly controversial provisions which had been adopted in the Commission only by narrow majorities. In addition, there was the difficult problem of reforming an administrative machinery established by an international treaty; and finally there were some difficulties of a political nature relating to the present groupings of states.

### Major Controversial Problems of Narcotics Control

The third draft contained a provision<sup>56</sup> according to which only opium “produced” (harvested) in Afghanistan, Bulgaria, Greece, India, Iran, Turkey, the Soviet Union, or Yugoslavia could have been imported or exported.

<sup>52</sup> Document E/CN.7/AC.3/9 and Add.1.

<sup>53</sup> Document E/CONF.34/1 and Add.1-4. For comments received on earlier drafts see Documents E/CN.7/AC.3/5 and Add.1 and Corr.1, E/CN.7/AC.3/8 and Add.1-3, and E/CN.7/308 and Add.1-2.

<sup>54</sup> Document E/CONF.34/22.

<sup>55</sup> Document E/CONF.34/23.

<sup>56</sup> Document E/CN.7/AC.3/9 and Add.1, article 32, paragraph 1(a).

The 1953 Protocol had the same clause except that Afghanistan was not included in this group of countries.<sup>57</sup>

The advocates of such a provision argued that the limitation of opium production to the quantities required for medical and scientific purposes would reduce the amounts of opium diverted into illicit channels and that it would therefore be useful if only a few countries were permitted to produce opium for export. Opponents declared that such a provision was inconsistent with the principles of sovereignty and equality of states; would be contrary to a policy of assisting new countries to develop their economy; might lead to a shortage of medical supplies; and did not serve the purpose for which it was intended since a few and even a single country could produce more opium than was required for the world's medical and scientific needs.<sup>58</sup> After lengthy debates, the conference adopted a compromise<sup>59</sup> by which only the traditional producers of opium for export were permitted to continue to do so; new producers could enter the export market for opium only with the consent of the Economic and Social Council, except that any country might commence the production for export of a maximum annual quantity of five tons of opium without this consent. Such a country, however, had to give prior notice to the International Narcotics Control Board<sup>60</sup> which was authorized to recommend to the country not to engage in this new production. A similar provision of the third draft,<sup>61</sup> which would have reserved to Bolivia, Indonesia, and Peru the exclusive right to "produce" (harvest) coca leaves and to manufacture crude cocaine for export, was deleted without strong opposition.<sup>62</sup>

The existing narcotics treaties authorized the Permanent Central Opium Board to recommend an embargo of the import of narcotic drugs against a country which accumulated excessive quantities of narcotic drugs and thus might become a center of the illicit traffic<sup>63</sup> or which had failed<sup>64</sup> to carry out its obligations relating to the provisions which governed the maximum amounts of narcotics which it might obtain by manufacture or import. An equivalent provision authorizing, for much the same reasons, the recommendation not only of an import embargo but also of an export embargo was incorporated into the third draft.<sup>65</sup>

<sup>57</sup> Article 6, paragraph 2(a).

<sup>58</sup> Documents E/CONF.34/C.5/SR.1, E/CONF.34/C.5/SR.4-6, E/CONF.34/SR.9-11, and E/CONF.34/SR.33.

<sup>59</sup> Documents E/CONF.34/C.5/L.6 and E/CONF.34/SR.33; the vote was 39 to none with 10 abstentions. See article 24 of the Single Convention on Narcotic Drugs, 1961.

<sup>60</sup> The organ that under the new convention will replace the Permanent Central Opium Board and Drug Supervisory Body.

<sup>61</sup> Document E/CN.7/AC.3/9 and Add.1, article 37.

<sup>62</sup> Documents E/CONF.34/C.7/SR.2 and E/CONF.34/SR.33.

<sup>63</sup> Article 24 of the 1925 Convention.

<sup>64</sup> Article 14, paragraph 3 of the 1931 Convention.

<sup>65</sup> Document E/CN.7/AC.3/9 and Add.1, article 22, paragraph 3.

This instrument would, however, have permitted the International Narcotics Control Board to give such an embargo a mandatory character by allowing it to impose on the parties the legal obligation to implement the embargo.<sup>66</sup> This innovation, referred to as controversial even by the Commission which adopted it, met strong opposition at the conference and was rejected by a vote of 41 to 3 with 3 abstentions.<sup>67</sup> The opponents justified their position on grounds of principle: they pointed out that, under the existing narcotics treaties, the Permanent Central Opium Board had never recommended an embargo, and that in any case it was not a practical measure to be taken against states; moreover, a mandatory import embargo might endanger medical supplies for sick people who should not be punished for the failure of their government to carry out treaty obligations. The proponents of the embargo agreed that it should be imposed only in very exceptional cases, if ever; they declared, however, that the possibility of imposing a mandatory embargo would represent a valuable weapon in the hands of the International Narcotics Control Board, a weapon which, although perhaps never used, would have psychological effects conducive to a better implementation of the new treaty.

As a result, the Single Convention, 1961,<sup>68</sup> retained the authority given in the existing treaties to an international organ to recommend a narcotics embargo, but there was an important modification: while under the existing treaties only an import embargo could be recommended, the new convention provided for an import and export embargo. While a recommended import embargo might be a measure of doubtful value because it could endanger necessary supplies for sick people and could not affect the industrially advanced countries which manufactured their narcotic drugs themselves, an export embargo would affect primarily the economic interests of an offending country and this theoretically might constitute an appropriate sanction.

The third draft provided the Commission with the authority to prohibit, with binding effect upon parties, the use of particularly dangerous narcotic drugs, even for medical purposes.<sup>69</sup> There was no corresponding provision in the existing treaties. It was, however, the practice of WHO, the Commission on Narcotic Drugs, and the Economic and Social Council to *recommend* to governments the prohibition of the medical use of such potent addiction-producing drugs as heroin, which in medical therapy can be replaced by less dangerous medicines.

As was expected, the provision for a mandatory prohibition met strong

<sup>66</sup> *Ibid.*, article 22, paragraph 4.

<sup>67</sup> Document E/CONF.34/SR.19; see also Document E/CONF.34/SR.18.

<sup>68</sup> Article 14.

<sup>69</sup> Document E/CN.7/AC.3/9 and Add.1, article 2, paragraph 1(e) in connection with article 3, paragraph 3.

resistance at the conference.<sup>70</sup> It was generally defended on the ground that the medical use of such drugs created conditions of very strong addiction in patients which it was very difficult to cure. The opponents of the provision stated that it would impede medical research and would unduly interfere with the freedom of parties to regulate medical practice in accordance with the advice of their own medical research institutes and competent professional organizations. They also referred to the fact that WHO was opposed to an international organization with the authority to decree the prohibition of the medical use of drugs, with binding effect upon governments.<sup>71</sup> The Single Convention, 1961, therefore, did not provide for a mandatory prohibition; it stipulated, however, that a party should prohibit narcotic drugs declared to be particularly dangerous by the Commission, "if in its opinion the prevailing conditions in its country render it the most appropriate means of protecting the public health and welfare."<sup>72</sup>

Poppy straw as such is considered to be a relatively harmless substance; it is however used in the manufacture of morphine. The third draft provided that the straw intended for such manufacture should be subject to the same control as opium.<sup>73</sup> This would have meant that such straw *inter alia* would have been subject to the system of national monopoly for opium production. As the Commission had foreseen, there was strong opposition to such a system of control for poppy straw, particularly on the part of European countries which cultivated the poppy for its seeds,<sup>74</sup> and the provisions of the third draft were rejected. As a result, the Single Convention, 1961, stipulated only a general obligation of parties to provide for "adequate control" of the manufacture of narcotic drugs from poppy straw. The parties also undertook to require an authorization for each import and export of this substance, as in the case of narcotic drugs, and to furnish statistical information on such imports and exports and on the utilization of the straw for the manufacture of narcotics.<sup>75</sup>

As stated above, the Commission also foresaw that the penal provisions of the third draft<sup>76</sup> would be controversial at the conference; but this was not a problem peculiar to the illicit traffic. Experience has shown that international agreement on principles to be applied to criminals of any kind was very difficult indeed. Such international efforts at fighting crime by treaty generally aimed at the following: punishment should be effective; all forms of participation in the crime (principal and accessory) should be sub-

<sup>70</sup> Documents E/CONF.34/C.2/SR.2 and 3, E/CONF.34/SR.5-6 and 14.

<sup>71</sup> Document E/CONF.34/1, p. 41.

<sup>72</sup> Article 2, paragraph 5(b).

<sup>73</sup> Articles 31-34, Schedule I (in Document E/CN.7/AC.3/9/Add.1) in connection with article 1(v).

<sup>74</sup> Documents E/CONF.34/C.5/SR.1-3, E/CONF.34/SR.9-11 and 33.

<sup>75</sup> Article 20, paragraph 1(b) and (d) and article 25.

<sup>76</sup> Article 45.

ject to punishment; criminal acts should be penalized even if not yet consummated (punishment of conspiracy, preparatory acts and attempts); prosecution of crimes committed abroad and measures of extradition should assure that criminals did not escape prosecution because of lack of local jurisdiction in the country where the criminal happened to be found; and the effective and speedy cooperation between the authorities concerned with the fight against crime should be promoted. The 1936 Convention tried to promote these aims in respect to the illicit traffic in narcotic drugs; but despite the fact that it contained several escape clauses intended to make it acceptable to more countries, it had fewer parties than any other general narcotics treaty. This was not very surprising in view of the fact that, particularly in the field of criminal law and procedure, there were great differences between countries of different legal heritage and it was thus very difficult to arrive at exactly defined and binding principles on such matters as the punishment of crimes committed abroad or of conspiracy or preparatory acts.

The authors of the third draft were aware of these difficulties and provided for a text with a number of escape clauses to facilitate general acceptance, but despite a time-consuming discussion<sup>77</sup> the text of the third draft was not acceptable to the conference. The provisions which were finally adopted<sup>78</sup> were much weaker than those of the 1936 Convention; they were in several instances hardly more than recommendations. It was for this reason that the conference decided that the new convention<sup>79</sup> should not replace the 1936 Convention between parties thereto as it did in the case of the other narcotics treaties. The parties to the 1936 Convention would, therefore, be able to continue to apply among themselves its stronger provisions.

The conference faced another problem of general importance, namely, that of the best method of replacing or reforming an international administrative machinery established under a treaty by a later instrument with parties not completely identical with those to the earlier treaty. In accordance with the aims of the Single Convention, as envisaged in Economic and Social Council Resolution 159 II D (VII) of August 3, 1948, the treaty as adopted by the conference was to replace two control organs—the present Permanent Central Opium Board and Drug Supervisory Body—by a single organ, the International Narcotics Control Board to be established under the new convention. The conference wished to avoid, during the period in which many of the parties to the present narcotics treaties had not yet accepted the new treaty, the complicated administrative situation that would

<sup>77</sup> Documents E/CONF.34/SR.26-27, 32 and 42, and E/CONF.34/C.12/SR.1-5.

<sup>78</sup> Article 36.

<sup>79</sup> Article 44. Article 9 of the 1936 Convention will however be terminated. This article provided that crimes of illicit traffic should be deemed to be included in present and future extradition treaties and should be considered as extradition crimes by countries which grant extradition without treaty.

result if the old organs and the International Narcotics Control Board were to exist side by side. The Single Convention therefore provided<sup>80</sup> that the present Permanent Central Opium Board and Drug Supervisory Body should perform the functions assigned in the new convention to the International Narcotics Control Board until a date to be determined by the Economic and Social Council. After that date the International Narcotics Control Board would begin its duties under the new treaty and at the same time undertake the functions of the present Permanent Central Opium Board and Drug Supervisory Body in respect to parties to the old narcotics treaties, but not to the Single Convention. The first part of this arrangement did not give rise to any legal difficulties; as regards the second part, it was pointed out<sup>81</sup> that rights of states would be affected by a treaty to which they were not parties and that the solution offered in the new treaty was thus not fully satisfactory from a legal point of view.

On the other hand the arrangement was defended by reference to the advisory opinion of July 11, 1950, of the International Court of Justice on the international status of South West Africa.<sup>82</sup> In the light of this opinion it was stated that international control continued to exist even if the original organs of control disappeared and were replaced by organs having equivalent functions. It was also pointed out that the new organ could include among its members all the members of the two old organs and thus validly act under the old and new treaty system; that such a union of membership could be achieved by understandings between the various appointing bodies; and that the matter was considerably simplified by the fact that the Economic and Social Council was the appointing organ of the Permanent Central Opium Board as well as of the International Narcotics Control Board.<sup>83</sup> Since simplification and reform of ageing international administrative machinery might become increasingly important, the solution offered by the conference seemed to be of general interest in view of the difficulties inherent in the character of the international society as a society of sovereign states.

There were of course also some discussions which reflected political difficulties of a general nature. Under the terms of the Single Convention<sup>84</sup> only states which were Members of the United Nations, members of the specialized agencies, parties to the Statute of the International Court of Justice, or invited by the Economic and Social Council might become parties.

<sup>80</sup> Article 45.

<sup>81</sup> Document E/CONF.34/SR.36.

<sup>82</sup> *International Status of South-West Africa, Advisory Opinion of July 11, 1950: I.C.J. Reports 1950*, pp. 128-145.

<sup>83</sup> Article 19 of the 1925 Convention and article 9 of the Single Convention. Of the four members of the Drug Supervisory Body, two are appointed by WHO, one by the Commission on Narcotic Drugs, and one by the Permanent Central Opium Board.

<sup>84</sup> Article 40.

The third draft had, in effect, equivalent provisions;<sup>85</sup> both followed in this respect the usual UN practice. Several delegations opposed these restrictive provisions,<sup>86</sup> advocating the admission of all states.

There were several provisions in the third draft and in the Single Convention, 1961, which parties and international organs were required to apply to non-parties; they followed in this respect existing treaty provisions. Delegations which opposed the above-mentioned restrictive provisions concerning admission of states were also against the application of treaty stipulations to such non-parties as would not be permitted to become parties to the Single Convention.<sup>87</sup> The conference rejected their view, but by way of compromise included in the Single Convention a provision which permitted a reservation in respect of clauses applicable to non-parties.<sup>88</sup> The provision was, however, formulated in broader terms than was required, probably due to the speed with which it was adopted.<sup>89</sup> The reservation was permitted in respect of the relevant clauses as a whole and not only insofar as they would apply to states not permitted to become parties to the convention. All states which until then had made use of this provision had limited their reservation to the application of the clauses in question to states not entitled to become parties to the Single Convention.<sup>90</sup>

The third draft provided for compulsory jurisdiction of the International Court of Justice;<sup>91</sup> the Single Convention, 1961, had an equivalent provision.<sup>92</sup> There was the usual political opposition to such jurisdiction.<sup>93</sup> To compromise with this view the Single Convention permitted a reservation in respect to the Court's role in case of disputes.<sup>94</sup>

### Progress Made in the Single Convention<sup>95</sup>

The new convention will bring about a simplification of international law and administration in the field of narcotic drugs; in principle there will

<sup>85</sup> Article 48. Under the third draft also, members of the International Atomic Energy Agency (see article 48, paragraph 1, in connection with ECOSOC Resolution 689 J [XXVI], July 28, 1958) were admitted; no reference was made to the Statute of the Court.

<sup>86</sup> Document E/CONF.34/SR.34-35.

<sup>87</sup> Documents E/CONF.34/C.10/SR.2-3, and E/CONF.34/18-19.

<sup>88</sup> Article 50, paragraph 2. No such reservation was permitted in respect of article 21, paragraph 4, also applicable to non-parties.

<sup>89</sup> Document E/CONF.34/SR.38.

<sup>90</sup> Bulgaria, Byelorussian Soviet Socialist Republic, Czechoslovakia, Hungary, Poland, Soviet Union, Ukrainian Soviet Socialist Republic.

<sup>91</sup> Article 55.

<sup>92</sup> Article 48, paragraph 2.

<sup>93</sup> Document E/CONF.34/SR.36.

<sup>94</sup> Article 50, paragraph 2. It is interesting to note that at the time of signature Bulgaria and Hungary, but not the Byelorussian Soviet Socialist Republic, Czechoslovakia, Poland, the Soviet Union, and the Ukrainian Soviet Socialist Republic, made this reservation; Argentina and Indonesia also made the reservation.

<sup>95</sup> For a detailed survey of the progress made in the Single Convention and a comparison of this convention with the existing narcotics treaties, see Document E/3527.

be only one treaty instead of many; only the 1936 Convention<sup>96</sup> will continue to be in force for the limited number of countries which will continue to be parties to it or will choose to accept it in the future. One organ, the International Narcotics Control Board, will replace two existing organs, the Permanent Central Opium Board and Drug Supervisory Body; there will be a considerable simplification on the secretariat level, since the secretariat of the new board will be furnished by the Secretary-General<sup>97</sup> and will not be appointed as a separate entity by a special procedure as is the secretariat of the present Permanent Central Opium Board.<sup>98</sup>

International narcotics control will be strengthened and extended. The limitation of the use of narcotic drugs to medical and scientific purposes will be extended to all narcotic drugs including relatively weak drugs such as codeine and, after a transitional period, also to raw opium, prepared (smoking) opium, coca leaves, cannabis, and cannabis resin (and their "ordinary" preparation). Opium eating, smoking, coca leaf chewing, and hashish consumption will thus finally be outlawed throughout the world. The system of administrative control applicable at present to manufactured narcotic drugs and involving the licensing of all persons engaged in the narcotics trade and requiring the recording of individual transactions will be extended to all narcotic drugs. The retail trade in relatively weak drugs such as codeine and ethylmorphine, at present not subject to international control, will be under a regime of licensing. Administrative control will also be extended to preparations of narcotic drugs at present exempted from control. In this way a number of countries will have to adjust their narcotics regime to the higher standards prevailing in such countries as the United States. The system of limiting narcotics supplies to the amounts needed for medical and scientific purposes, applicable at present only to manufactured narcotic drugs, will be extended to all narcotics. Rigid control will be established for the cultivation of plants for narcotic drugs amounting to a system of national monopoly. Some measure of administrative control will also be applied to poppy straw and cannabis leaves at present not under such control.

It may be admitted that if the 1953 Protocol had come into force, it would, in its limited field, have gone in some respects further. One may, however, say that when the Single Convention enters into force, efforts of half a century, and particularly those of the United States and its Narcotics Bureau as pioneer in the field, to establish a comprehensive and effective system of narcotics control will finally be brought to fruition, and this despite all imperfections which may continue to exist and which seem unavoidable in a

<sup>96</sup> Except its article 9; see article 44, paragraph 2 of the Single Convention.

<sup>97</sup> Article 16.

<sup>98</sup> Article 20 of the 1925 Convention.

work which requires the consent of numerous states of different legal, administrative, social, and cultural backgrounds and having different degrees of interest in the problem.

The Single Convention will enter into force on the 30th day following the deposit of the 40th instrument of ratification or accession.<sup>99</sup> Until now the acceptance of the new treaty by governments has been rather slow. This is probably largely due to the fact that many governments require parliamentary approval for ratification of, or accession to, the treaty, or wish to enact the necessary changes in their legislation before formal acceptance of the new convention.

A few governments also seem to have some reservations on several provisions of the Single Convention. The representative of the United States at the seventeenth session of the Commission expressed the view<sup>100</sup> that the Single Convention should be amended to make it more effective before it came into force. It would not be advisable to accept the new treaty without such a revision. The control of the cultivation of the opium poppy, as envisaged in the Single Convention, would not be as effective as under the 1953 Protocol. The provision of the Single Convention referred to above,<sup>101</sup> permitting any country to commence, without the consent of an international organ, the production for export of a maximum annual quantity of five tons of opium was particularly criticized. The United States representative also mentioned that some unilateral reservations permitted under the new treaty in respect to certain provisions relating to non-parties would seriously interfere with the universal application of the treaty. He also stated that, pending the necessary amendment of the Single Convention, the 1953 Protocol could effectively deal with the most urgent problem, the control of the opium plant. In this way, illicit traffickers would be deprived of their supplies of opiates (morphine and heroin, the most important drugs illicitly traded), and the coming into force of the Single Convention would not be particularly urgent.

The majority of the Commission, however, did not share this critical view.<sup>102</sup> They expressed the opinion that the 1953 Protocol would not be sufficient because it did not deal with the coca leaf, the raw material for cocaine, or with cannabis, cocaine and cannabis still being very important items in the international illicit traffic. Moreover, the Protocol was unacceptable to a number of countries. All the essential provisions of the 1953 Protocol concerning the control of the cultivation of the opium poppy plant were taken over by the Single Convention. The provisions of the 1953 Protocol which did not find their way into the new convention were those

<sup>99</sup> Article 41, paragraph 1.

<sup>100</sup> Documents E/CN.7/SR.493 and E/3645, paragraphs 239-245.

<sup>101</sup> Article 24, paragraph 2(a).

<sup>102</sup> Documents E/CN.7/SR.493-495, and E/3648, paragraphs 217 to 238.

which, although imposing considerable burdens on the contracting parties, were either unnecessary or, at most, of a very limited value and, moreover, unacceptable to the great majority of states. This was evident at the plenipotentiary conference which adopted the Single Convention and which refused to incorporate these provisions in the new treaty. The unilateral reservations regarding clauses applicable to non-parties could not affect the universal application of the Single Convention. The clauses in question, although not legally binding upon the reserving states, would remain applicable to the latter as, by their very terms, they would be applicable to non-parties. Moreover, in a convention codifying nine treaties, some of which were not acceptable to all states, provision had to be made for appropriate reservations to facilitate universal acceptance. Finally the reservations already made at the time of signature in respect of the provisions concerned showed that they were very limited in scope and could not possibly affect the universality of the application of the new treaty.

The Commission therefore recommended to the Economic and Social Council the adoption of a resolution inviting governments to take steps for the ratification of or accession to the Single Convention. On a roll call vote the draft resolution was adopted by 12 votes for, 2 against, and 5 abstentions.<sup>103</sup> The Economic and Social Council on August 3, 1962, at its 34th session, adopted the resolution as recommended by the Commission, by a vote of 15 for, 1 against,<sup>104</sup> and 1 abstention.<sup>105</sup>

<sup>103</sup> The votes for were: Brazil, Canada, Hungary, India, Japan, Morocco, the Netherlands, Poland, the Soviet Union, Switzerland, the United Kingdom, Yugoslavia; the votes against were: Mexico and the United States; China, France, Iran, Turkey, and the United Arab Republic abstained.

<sup>104</sup> United States.

<sup>105</sup> France; see Documents E/3692 and E/SR.1336.