

INTRODUCTION - THE PRINCIPAL U.N. ORGANS INVOLVED IN INTERNATIONAL DRUG CONTROL

The principal U.N. organs and agencies involved in the international drug control are the following:

The Economic and Social Council

The Commission on Narcotic Drugs

The International Narcotics Control Board

The Division of Narcotic Drugs

The U.N. Fund for Drug Abuse Control

The World Health Organisation

In this Section only some of the important aspects of their functions have been discussed. The purpose of this discussion is not to show the weakness of the functional aspects of these organs, but to demonstrate their usefulness in co-ordinating the international drug control programme with the national authorities.

The Economic and Social Council

Article 62, paragraph 1 of the U.N. Charter empowered the Economic and Social Council to make or initiate studies and reports concerning international economic, social, cultural, educational, health and related matters, and to make recommendations on these matters to the General Assembly of the United Nations, to the Members of the United Nations and to the specialised agencies concerned. By virtue of Articles 57 and 63 of the U.N. Charter, the World Health Organisation, a specialised agency of the U.N., has been brought into relationship with the United Nations. Both the Commission on Narcotic Drugs and the International Narcotics Control Board are directly responsible to the Economic and Social Council. The Council has also been empowered to "make suitable arrangements for consultation with non-Governmental organisations which are concerned with matters within its competence."³² Of the non-Governmental organisations which are concerned with the question of international drug control, mention should be made of the League of Arab States, International Federation of Women Lawyers, International Conference of Catholic Charities and the World Alliance of Young Men's Christian Association. One of the most important inter-governmental organisations operating in close collaboration with the U.N. and national Governments in relation to the prevention of drug abuse is the International Criminal Police Organisation (INTERPOL). The Economic and Social Council has also the power to create bodies, whether functional, regional or other.

In relation to international drug control, the Council performs its functions under Articles 57, 62, 63 and 66 of the U.N. Charter. It may prepare draft conventions for submission to the General Assembly, and it may call international conferences on matters falling within its competence. In so far as the programme of international drug control is concerned, the Council often initiates various studies, drafts conventions and calls conferences. The International Narcotics Control Board is required to submit annual reports to the Council. The Council, in consultation with the Commission on Narcotic Drugs, give assistance, financial or otherwise, e.g. expert advice, elaboration of programmes for the most effective utilisation of personnel and available resources to

various Member States. In addition, the local United Nations Development Programmes Authorities have been made accountable to the Council, and the latter has the right to review these programmes, if necessary.

The Commission on Narcotic Drugs being a functional commission of the Council, its fund is approved by the Council before being finally authorised by the General Assembly of the United Nations.

The relationship with the World Health Organisation and other relevant agencies in relation to drug control, is maintained in accordance with the rules and procedures governing the relationship between the Council and the various Specialised Agencies of the U.N. The Council maintains relationship with various non-Governmental organisations on an informal basis.

It allows participation by representatives of inter-governmental organisations for exchanging ideas and arrangements for reciprocal participation with such organisations as already exist. They are usually allowed to participate in conferences as Observers. In co-ordinating its functions, the Council does not command obedience; the basis for co-ordination is consultation and mutual understanding.

The Commission on Narcotic Drugs

The Commission on Narcotic Drugs was established in February 1946. It was established to:

- (a) Assist the Council in exercising such powers of supervision over the application of international conventions and agreements dealing with narcotic drugs as may be assumed by or conferred on the Council ...
- (b) Advise the Council on all matters pertaining to the control of narcotic drugs, and prepare such draft international conventions as may be necessary;
- (c) Consider what changes may be required in the existing machinery for the international control of narcotic drugs and submit proposals thereon to the Council; and
- (d) Perform such functions relating to narcotic drugs as the Council may direct.³³

Membership of the Commission is open to the Members of the United Nations and "important producing or manufacturing countries in which illicit traffic in narcotic drugs constitutes a serious social problem."³⁴ At its thirty-second session in 1961, the Economic and Social Council decided that the members of the Commission should be elected with due regard to the adequate representation of countries which are important producers of opium and coca leaves, and of countries which are important in the field of manufacturing of narcotic drugs and of countries in which drug addiction or the illicit traffic in narcotic drugs constitutes an important problem.³⁵ This division has opened up membership to countries that are not members of the United Nations, e.g. Switzerland. The Commission is constituted of those persons most appropriate to represent the problems of the countries concerned. This system of membership benefits both the Commission and the countries concerned as they are able to enrich themselves mutually. However, it should be pointed out that the Single Convention has not provided for any criterion of membership of the Commission.

Article 8 of the Single Convention details the functions of the Commission. The Commission is authorised to consider all matters pertaining to the aims of this Convention, and in particular:

- (a) To amend the Schedules in accordance with Article 3;
- (b) To call the attention of the Board to any matters which may be relevant to the functions of the Board;
- (c) To make recommendations for the implementation of the aims and provisions of this Convention, including programmes of scientific research and the exchange of information of a scientific or technical nature; and
- (d) To draw the attention of non-Parties to decisions and recommendations which it adopts under this Convention, with a view to their considering taking action in accordance therewith.

Article 17 of the Convention on Psychotropic Substances provides that:

"The Commission may consider all matters pertaining to the aims of this Convention and to the implementation of its provisions, and may make recommendations relating thereto."

The Commission can perform these functions only if the Economic and Social Council so wish.³⁶ However, Article 15, paragraph 1 of the Single Convention provides the annual reports of the International Narcotics Control Board (containing, inter alia, analyses of the estimates and statistical information) "shall be submitted to the Economic and Social Council through the Commission, which may make such comments as it sees fit." In other words, the Board's reports would first be examined by the Commission, as an expert body. According to Article 18 of the Single Convention, the Parties to the Convention "shall furnish to the Secretary-General such information as the Commission may request as being necessary for the performance of its functions." 'Information' in this context, would include, annual report on the working of the Convention within a country; the text of all laws and regulation promulgated in order to give effect to the Convention; specific information on cases of illicit traffic and the names and addresses of the Governmental authorities empowered to issue export and import authorisations or certificates. The Commission may ask a non-Party to the Convention, but one who is a Member of the United Nations to furnish any relevant information concerning the drug problem. According to Article 31, paragraph 5 of the Single Convention, the Parties to the Convention "shall follow as closely as may be practicable the form of import certificate approved by the Commission." In terms of Article 32, paragraph 2, "the Commission, in consultation with the appropriate international organisations, shall recommend such safeguards" as may be necessary for the prevention of the illicit use of or traffic in those drugs that are carried in the first-aid kits of ships or aircrafts engaged in international traffic.

Under the Convention on Psychotropic Substances, the Commission has been empowered to recommend various measures to both contracting and non contracting Parties to the Convention. However, the Commission is the common organ for both the Single Convention and the Convention on Psychotropic Substances. "Although it functions almost on the same basis in respect of both the Conventions, its new legal relationship with the World Health Organisation in relation to the control, transfer of a substance or preparation from one Schedule to another or de-control of substance(s) and their preparations is declaratory of a new approach to the control measures than those adopted by the Single Convention."³⁷ Although, generally speaking, the Commission is subordinate to the Economic and Social Council, it appears that at least in two areas of its Charter functions it has been allowed a certain measure of independence:

- (1) In advising "the Council on all matters pertaining to the control of narcotics and preparing such draft international conventions as may be necessary"; and in "considering what changes may be required in the existing machinery for the international control of

narcotic drugs and submitting proposals thereon to the Council." In practice, most of the recommendations of the Economic and Social Council are initiated by the Commission. The Commission is one of the functional commissions of the Economic and Social Council.

The International Narcotics Control Board

The International Narcotics Control Board was set up in March 1968. The Board consists of thirteen members who are elected for a period of five years by the Economic and Social Council. The members of the Board may be re-elected. The procedure for election of members is as follows:

- (i) "Three members with medical, pharmacological or pharmaceutical experience from a list of five persons nominated by the World Health Organisation," and
- (ii) Ten members from a list of persons nominated by the Members of the United Nations and by Parties which are not Members of the United Nations."³⁸

In order to achieve full co-operation, membership of the Board has been linked with that of the United Nations. The candidates to be nominated for membership of the Board need not be their nationals.³⁹ The Economic and Social Council is not bound to select the candidates from the panels prepared by the Committee on Candidates. Membership is open to persons with a special knowledge of the problems concerning drug problems. Whereas the Members of the Commission are Government representatives, the members of the Board are experts. Article 9, paragraph 2 of the Single Convention provides that the "Members of the Board shall be persons, who by their competence, impartiality and disinterestedness, will command general confidence." The Economic and Social Council shall, "in consultation with the Board, make all arrangements necessary to ensure the full technical independence of the Board in carrying out its functions." The General Assembly of the United Nations grants the budget of the Board and it is accountable to the Council. In terms of Article 15 of the Single Convention, the Board shall submit to the Council through the Commission an annual report on its work, including an analysis of the estimates and statistical information etc.

The functions of the Board have been enumerated in Articles 12, 13, 14, 19 and 20 of the Single Convention, Article 2 of the 1972 Protocol, amending Article 9 of the Single Convention and in Article 19 of the Convention on Psychotropic Substances. The most important functions of the Board are the following:

Administration of the Estimates System

Administration of the Statistical Returns System

Taking measures to ensure the execution of the Conventions

Vigilance over the manufacture and importation of drugs and psychotropic substances.

The Parties to the Conventions are required to "furnish to the Board each year for each of their territories, in the manner and form prescribed by the Board, estimates on forms supplied by it." If estimates are not supplied on the prescribed form, they may not be regarded as qualified estimates. The Parties are required to supply information on the following matters:

- (a) quantities of drugs to be consumed for medical and scientific purposes;

- (b) quantities of drugs to be utilised for the manufacture of other drugs, of preparations in Schedule II, and of substances not covered by these Conventions;
- (c) stocks of drugs and substances necessary for addition to special stocks;
- (d) the area (in hectares) and the geographical location of land to be used for the cultivation of opium poppy;
- (e) approximate quantity of opium to be produced;
- (f) stocks of drugs to be held at 31 December of the year to which the estimates relate;
- (g) the number of industrial establishments which will manufacture synthetic drugs; and
- (h) the quantities of synthetic drugs to be manufactured by each of the establishments.

The Parties are also required to inform the Board of the method they have used in determining the quantities of their requirements for drugs and psychotropic substances. Should any State, whether or not a Party to the Convention fail to furnish the estimates within the specified date, the Board shall, in co-operation with the Government of State, establish the estimates for that State. The Board has the power to examine the estimates submitted by a State, and if necessary, ask it to justify its estimates. The Board may also amend the estimates of a State, with the consent of the State concerned. In the event of a disagreement between the Government of a State and the Board, the latter has the right to establish its own estimates, including supplementary estimates.⁴⁰ The Board has been authorised to apply the estimates system to non-Parties to the Conventions. The Board can advance suggestions to any Government should a re-consideration of the estimates of that country appear to be desirable.

The Parties are required to submit to the Board by a specific date statistical returns on forms supplied by the Board. The Board has not, however, the power to express any opinion on statistics for special purposes. Despite the absence of any Convention provisions, the non-Parties often willingly submit statistical returns to the Board. The Board is the ultimate authority to determine the manner and form in which the countries should supply statistics on drugs. It has the authority to ask any Government to indicate the sources from which it might have obtained drugs, i.e. whether from opium or from poppy straw or obtained as a by-product etc. Both the importing and exporting countries are required to furnish to the Board details of their imports and exports, in order to enable the Board to determine the discrepancy, if any, in the statistics on imports and exports, and in the event of any discrepancy, the Board may ask the Government concerned to investigate whether any illicit traffic in drugs and psychotropic substances has occurred. The Board has also been empowered to ask the Governments to show separately the amounts of drugs imported for 'special purposes'.

If the Board has "objective reasons to believe that the aims of this Convention are being seriously endangered by reason of the failure of any Party, country or territory to carry out the provisions" of these Conventions, it shall have the right to propose to the Government concerned the opening of consultations or to request it for an explanation. The real purpose of such consultations or asking for explanations is to suggest remedies to that Government, if necessary. The Board has the authority to see:

- (1) if the aims of the Conventions are being seriously endangered; and

- (ii) if a serious situation, within the purview of the Conventions, needs co-operative action at the international level with a view to remedying it.

The Board has the power to recommend that a Party stop import and/or export of drugs from or to a country for a designated period if it should believe that such import or export has seriously endangered the aims of the Conventions. The Single Convention has authorised the Board to impose a mandatory embargo not only upon opium, but also upon all other listed drugs. The decision as to the length of the embargo rests with the Board. Under the Convention on Psychotropic Substances however, the Board has been given the power to recommend an embargo upon a Party, but it is not mandatory in character. However, the very act of recommending an embargo on a recalcitrant country should deter other countries to trade in drugs and psychotropic substances with that country. The Board acts as a watch-dog of the international drug control system.

The Division of Narcotic Drugs

The Division of Narcotic Drugs is the secretariat to the Commission on Narcotic Drugs. It assists the Secretary-General of the United Nations in fulfilling the treaty functions entrusted to him in relation to drugs and psychotropic substances. It prepares reports for the Secretary-General and the Commission on Narcotic Drugs and the Economic and Social Council. It also reports to the Commission on Narcotic Drugs the global situation of and trends in the illicit traffic in drugs. The Contracting Parties to the Conventions are required to report to the Division of Narcotic Drugs whether or not they have promulgated laws and regulations in accordance with the Conventions. They shall also submit their laws and regulations to it. It also offers expert advice to Governments on the formulation of legislation concerning all aspects of drugs. National Governments can always seek assistance from the Division of Narcotic Drugs for developing and/or improving its administrative machinery for the proper enforcement of the drug conventions. It offers a platform for exchange of information among countries and it publishes the Bulletin on Narcotics and the Information Letter. All notifications and information concerning changes in the scope of control, ratification accession, denunciation of the Conventions or any Convention matter for which a notification would be necessary must be sent to the Division of Narcotic Drugs.

United Nations Fund for Drug Abuse Control

The United Nations Fund for Drug Abuse Control was established in 1971. The purpose of this Fund is to "develop short and long-term plans and programmes intended to launch a concerted and simultaneous attack on the supply of drugs, the demand for them and the illicit trade through which the drugs flow from the producer to the consumer.⁴¹ It operates on voluntary contributions. It is headed by an Executive Director and it reports directly to the United Nations Secretary-General. Its annual report is discussed by the Commission on Narcotic Drugs. The Fund has taken steps for crop replacement and community development.⁴² In 1972, it established a Central Training Unit for Law Enforcement Officers, the main functions of which are the following:

- (i) to deal with the problems created by drug addiction and drug abuse, including illicit trafficking;
- (ii) to formulate national and international policies on various aspects of drug abuse; and
- (iii) to investigate techniques for use by law enforcement officers.

The Fund has assisted the Afghan and the Philippines Governments in their efforts to solve some of their drug problems. It gave financial assistance to Pakistan in 1974 in

relation to their pilot project in the Buner sub-division of the North-West Frontier Province for the control of drug abuse.⁴³ The Fund has extended assistance to many other countries, notably, Bolivia, Burma, Peru, Portugal, Thailand and Turkey in its efforts towards treatment and rehabilitation of addicts and preventive education against drug-abuse and crop substitution.⁴⁴ The Fund collaborates, amongst others, with the United Nations Development Programme (UNDP).

Of the U.N. specialised agencies which also participate in the U.N. Programme of Drug Abuse Control, mention should be made of the International Labour Organisation, the Food and Agriculture Organisation and the United Nations Educational, Scientific and Cultural Organisation.

The World Health Organisation

Within the U.N. family, any matter concerned with health must involve the World Health Organisation. The World Health Organisation functions as a specialist institution. Unlike the Commission on Narcotic Drugs, which have many policy-making functions, this organisation is mostly concerned with the technical and health promotional aspects of the Conventions. However, it functions with the assistance of its Expert Committees. The Director-General of the World Health Organisation decides on the question of control drug(s) or psychotropic substance(s) on the basis of the recommendations of these Committees, and communicates his decision to the Secretary-General of the United Nations. An Expert Committee's functions are manifold. Its recommendations have a far reaching effect upon the entire drug control system in that it gives warnings to the control authorities by examining the potential risks of abuse and illicit traffic in certain types of drugs and psychotropic substances.

The World Health Organisation, through its Expert Committees, mainly performs the following functions:

- It considers the dependence liability of a drug and determines the appropriate level of control;

- It classifies drugs in accordance with the level of control;

- It suggests remedies to the problems of dependence on drugs;

- It formulates coded information on narcotics and psychotropic substances;

- It publishes reports on the effective methods of treatment of drug addicts and of their rehabilitation; and

- It recommends the most suitable type of education and training programmes.

The opinions of the World Health Organisation on a drug and/or substance are forwarded to the Secretary-General of the United Nations, and are primarily considered by the Commission on Narcotic Drugs. Although the Convention on Psychotropic Substances has endowed the Commission on Narcotic Drugs with greater powers than those enjoyed by it under the Single Convention, in practice, almost all the recommendations of the World Health Organisation have been accepted by the Commission. In so far as the Member States of the World Health Organisation are concerned, the Director-General of the organisation, in a circular letter dated June 1982, emphasised that the main concern of the World Health Organisation is to "work more closely with the Member States and other related United Nations organs in its very important role in making recommendations on international control of narcotic drugs and psychotropic substances under the Conventions. Since the World Health Organisation's decision to recommend control is based on the benefit/risk

ratio involved in the use of a substance, it is essential that Member States co-operate with the World Health Organisation in providing data on usefulness and on public health and social problems associated with the use of psychotropic substances using, where possible, methods developed by the World Health Organisation for the purpose."

Certain non-U.N. and regional institutions have also been involved in the eradication of drug problems. Of these institutions, mention should be made of the following:

Association of the South East Asian Nations (ASEAN)

Colombo Plan

Commonwealth Secretariat

Council of Europe

Pan American Health Organisation

Pan Arab Bureau on Narcotic Affairs (the Arab League)