

## Chapter One

### *Evolution of international drug control measures*

The development of the international drug control system has been a continuous and incremental process and is spread over more than the past hundred years. The gradual evolution of the international narcotics control regime can be historically divided into three periods, namely, prior to the First World War (1909-1914); during the existence of the League of Nations (1920-1940); and the period after the establishment of the United Nations. The concerted efforts to control drug abuse started to evolve in the beginning of the Twentieth century when the first Opium Conference was convened at Shanghai in 1909. At the end of the 19th century, the increased consumption of psychoactive substances such as morphine, heroin and cocaine and the globally unregulated market for these substances led to serious concerns in the United States. However, for other colonial powers, such as the United Kingdom or the Netherlands, narcotic drugs, especially opium, were a commodity of enormous economic significance. The export of Indian opium to China created significant revenues for British and it ultimately led to the two Opium Wars between Britain and China (1839-42 and 1857-60) in which Britain defended the interests of British merchants in the region. During the period of last 100 years (1909-2009), important and significant changes took place in respect of the drugs involved, as well as the form and extent of their abuse, but it was realized from the very beginning that national efforts aimed at restricting the availability of drugs of abuse to medical and scientific purposes must be supported by international action.

The Shanghai Opium Conference, 1909, was followed by the first Opium Convention at Hague in 1912 and thereafter several treaties and agreements were adopted in order to control the abuse and traffic in narcotic drugs. International drug control treaties concluded between 1912 and 1988 provide the legal basis for the present international drug control system.

Prior to the establishment of the United Nations the following efforts were made to develop international drug control rules:-

- Shanghai Opium Conference, 1909;
- The Hague Opium Convention, 1912;

- The Geneva International Opium Convention, 1925;
- The Agreement Concerning the Suppression of the Manufacture of , International Trade in and Use of Prepared Opium, 1925;
- The Convention for Limiting the Manufacture and Regulating the Distribution of Narcotic Drugs, 1931;
- The Agreement Concerning the Suppression of Opium Smoking , 1931; and
- The Convention for the Suppression of the Illicit Traffic in Dangerous Drugs 1936.

### **Development of drug control measures prior to the League of Nations**

The first international narcotics conference was held at Shanghai, China, in 1909 when, upon the initiative of Bishop Charles H. Brent and the President of the United States of America, Theodore Roosevelt, 13 countries participated in the International Opium Commission. The delegates had no power to sign a diplomatic treaty but agreed unanimously on nine resolutions. Some of these resolutions were addressed to Governments which had, as a consequence of the Opium Wars, concession territories in China, requesting them to regulate the trade, distribution and consumption of opium in conformity with Chinese national legislation. The other resolutions, concerning the desirability of the gradual suppression of opium smoking, restriction of the use of morphine to medical purposes and national control of morphine and other derivatives of opium, can be considered the first universal appeal to fight drug abuse and the first declaration of the principles of a future international narcotics control system.

The development of the international legal drug control regime has gone through several stages in the past century since the February 1909, Shanghai Conference , which was convened to discuss options for international controls on the opium trade. Opium consumption was at an all time high when the United States convened this Conference. Due to its relative lack of overseas possessions and a slim trading presence in Asia, the United States had no genuine interest in maintaining the global opium market<sup>1</sup>. Therefore the US approach emphasized that the total prohibition of opium was necessary, while the European countries were not ready to concede a total ban on opium trade. They preferred controlled trade

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<sup>1</sup> . For a detailed analysis of the events and motivation leading to the first opium conference see JULIA BUXTON, THE HISTORICAL FOUNDATIONS OF THE NARCOTIC DRUG CONTROL REGIME 6-12 (World Bank Policy Research Working Paper No. 4553, 2008).

over a complete prohibition. Owing to these discrepancies in strategic interests, no final agreement (besides a set of non-binding resolutions) was reached at the Shanghai conference. But, in retrospect, the conference proved to be crucial because it paved the way for a follow up conference in the Hague in 1911. These follow up negotiations resulted into the adoption of the first International Opium Convention in 1912<sup>2</sup>. In addition to opium and morphine, cocaine and heroin were also included as controlled substances and the main principles stipulated in the convention are still valid today. For example, the notion that the manufacture, trade and use of narcotic drugs should be limited to medical and scientific purposes only, governs the control system even today. Under the 1912 Opium Convention, national governments were required to enact laws to control the production and distribution of narcotic drugs<sup>3</sup>. Yet, due to the basic differences in strategic interests between the participating governments, the 1912 Opium Convention was only ratified by China, Norway, The Netherlands, the United States and Honduras before the outbreak of World War I. This changed when the Convention was imposed on the losing powers of the war by linking the ratification of the Opium Convention to the Versailles Peace Treaty of 1919<sup>4</sup>. Thus, by the mid-1920s close to 60 States became party to the 1912 Opium Convention. Furthermore, in the aftermath of World War I the League of Nations assumed responsibility for overseeing the Opium Convention<sup>5</sup> and specialized bodies, in particular the Advisory Committee on the Traffic in Opium and Other Dangerous Drugs, which were created under its auspices. This proved to be a strong foundation, on which a comprehensive international drug control system was successively established.

The first Hague Opium Convention, 1912 and the treaties negotiated subsequently in the League of Nations era were more regulatory than prohibitive in nature, aimed to control the excesses of an unregulated free trade regime, substantially regarding opium. The early series of conventions in effect established administrative import and export regulations for opiates, cocaine and later (from

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<sup>2</sup>. International Opium Convention, January 23, 1912, 8 L.N.T.S. 187 [hereinafter 1912 Opium Convention].

<sup>3</sup>. 1912 Opium Convention, Arts. 9 and 10.

<sup>4</sup>. Treaty of Peace between the Allied and Associated Powers and Germany, June 28, 1919, 225 C.T.S. 188.

<sup>5</sup>. According to Art. 23 (c) League Covenant (Covenant of the League of Nations, June 28, 1919, 225 C.T.S. 195), the Members of the League 'entrust the League with the general supervision over the execution of agreements with regard to the traffic in opium and other dangerous drugs'.

1925), cannabis, without criminalizing the substances, users or growers of the raw materials.

The International drug control system was born of a very real humanitarian emergency, a catastrophe that only happened because of the lack of global norms and standards dealing with drug trade. It proved that it is possible to agree to common terms on issues of common concern, and cooperate to ensure common security even when this might prove costly for individual interests. It set rules on the conduct of nations and so set the stage for many other international efforts to follow. Today's international drug control system is rooted in efforts made to address the largest substance abuse problem the world has ever faced, the Chinese opium epidemic. At the turn of the 20th century, millions of Chinese were addicted to opium, which was freely traded across borders at that time. China's attempts to unilaterally address the problem failed, and it was not until the first international agreements were reached that a solution became possible. The story of the Chinese opium problem and the international reaction it engendered represents the seminal chapter in global efforts to control substance abuse. The first international conference to discuss the world's narcotics problem, which was convened in February 1909 in Shanghai, established the 'First Opium Commission' which laid the ground work for the elaboration of the first international drug treaty, the International Opium Convention of The Hague(1912)<sup>6</sup>. Preparations for the Shanghai conference started in 1906. The original plan was to limit the conference to the situation in Asia, but a number of parties argued that the issue could not be properly discussed unless all the major producing, manufacturing and consuming nations attended. There was also concern about the degree to which delegates would be empowered to make agreements on behalf of their national governments. The invitation list was thus expanded, and it was agreed that the invited delegates would only act in an advisory capacity to their respective governments. This compromise allowed most of the colonial powers at the time to attend, including Great Britain, the USA, France, the Netherlands, Portugal, Germany, Austria, Hungary, Italy, Russia, Japan, China, Persia (Iran) and Siam

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<sup>6</sup> . United Nations International Drug Control Programme, *The United Nations and Drug Abuse Control*, 1992, p.64

(Thailand)<sup>7</sup>. Remarkably, the Commission appeared to be having an impact even before the delegates convened in Shanghai. The mere fact that a meeting of this sort was to take place prompted considerable reforms, implemented so that countries could show progress when the detailed statistics were laid on the table. These initiatives ranged from changes in the control regime to an outright ban of opium poppy cultivation. In the British controlled territories of Malaya, for example, a Commission on Opium was created in 1907, two years in advance of the International Commission. The opium farms in Singapore, Penang and Malacca were suspended as of 31 December 1909. The Government Monopolies Department then entered into possession of the premises and reopened them with a view to pursuing a policy of gradual suppression of opium-smoking in these territories<sup>8</sup>. The most important initiative made in advance of the Commission, however, was the bilateral agreement which bound Britain to gradually eliminate its opium sales to China between January 1908 to the end of 1917. China, in return, had to promise to have its opium poppy cultivation eliminated within the same ten year period<sup>9</sup>. Under the agreement, Britain would reduce its exports to China by 10% annually under the condition that China reduced its domestic cultivation at the same rate. To allay the fears that unreported domestic production might upset the scheme, British officials were given the right to undertake independent verification missions, starting three years after the start of the implementation of the agreement. The inspector, nominated by London, was given unlimited access to the interior of China. In order to demonstrate its seriousness to the British authorities, the Chinese Government started a major anti-drug campaign. This opium suppression campaign was later described as the most successful of all the Manchu reforms. The Chinese authorities also issued an edict in 1906, which, while not banning opium outright, set out a clear process by which both opium production and consumption would be reduced over the next decade. Thus, when the delegations at the first international drug conference in Shanghai convened in 1909, they could already report on major successes in reducing the opium problem. The Chinese delegation could report a strong decline of domestic opium

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<sup>7</sup>. Report of the International Opium Commission, Shanghai, China, February 1 to February 26, 1909, Vol. I, Report of the Proceedings, pp.3-6.

<sup>8</sup>. Victor Purcell, *The Chinese in Southeast Asia*, London 1965, p.275.

<sup>9</sup>. Joice A. Madancy, "Poppies, Patriotism, and the Public Sphere", in Brook and Wakabayashi, 2000, p.239.

production from 35,400 mt in 1906 to 22,200 mt in 1908. This process became even more pronounced after the Shanghai conference, as Chinese efforts to curb production resulted in a further 82% decline by the end of the imperial regime in 1911. In parallel, a large number of countries and territories reported significant declines in their opium imports and sales prior to 1909, including Formosa (Taiwan), French-Indochina, Siam (Thailand), Burma (Myanmar), and the Philippines, suggesting that the preparation of an international conference on the opium topic had already prompted the authorities of many countries to become more vigilant. At the Commission itself, for the first time, a detailed global overview of the world's drug situation was provided and the representatives from the various nations were able to engage in an open dialogue on this basis. Information was shared regarding the trade, consumption and financial aspects of the opiates market, and these data provide a basis for comparison with the situation today.

Total opium production was estimated at around 41,600 mt in 1906/07<sup>10</sup>, almost five times more than global illicit opium production a century later. Not surprisingly, China was revealed to lead the world in opium production, with about 35,000mt produced in 1906, around 85% of the world total. Despite this bumper crop, China still imported 12% of its national supply in 1908, mostly from India. The world's second largest opium producer was India, with about 12% of the world total. Total production in Bengal was reported to have amounted to more than 3,400mt of opium in 1906/06. About 1.5 million farmers made their living from opium production in Bengal alone<sup>11</sup>. The next largest producer was Persia, modern day Iran. Annual production in Persia was estimated at around 600 mt or 10% of the world total. Some 25% of this output was consumed domestically and 75% (i.e. 450mt) was destined for export. Persian opium was reported to have been next in quality after Indian opium<sup>12</sup>. While invited, Turkey did not attend the conference. However, the head of the US delegation reported later that estimates available to the US delegation suggested that Turkey produced some 2,300 'cases'

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<sup>10</sup>. International Opium Commission, *Report of the International Opium Commission, Shanghai, China*, February 1 to February 26, 1909, quoted in ODCCP Studies on Drugs and Crime, *Global Illicit Drug Trends 2001*, New York, 2001, p. 44.

<sup>11</sup>. Ibid, Memorandum on Opium in India, pp. 173-193

<sup>12</sup>. Ibid, Memorandum on Opium in Persia, p. 317. The head of the US delegation reported later that production estimates for Persia actually ranged from 450-900 mt and that domestic consumption amounted to 90-140 mt.

of opium in 1907. Assuming that the measurement of a 'case' was equivalent to that of a 'chest', the typical measure for opium at the time, Turkey would have produced around 150 mt of opium in 1907. The US delegation believed that this was exceptionally low and that in a normal year Turkey would produce between 5,000 and 6,000 cases (320- 380 mt) and in very good year up to 8,500 cases (540 mt)<sup>13</sup>. Turkish opium was characterized by a high morphine content and was thus widely used for export to Europe or America for medicinal purposes. Production in other countries was far more moderate. The French authorities estimated that, at most, Indochina might have produced 24 to 30mt annually. It was estimated that an additional 20 to 25 mt of opium were smuggled from Yunnan province (China) into French-Indochina<sup>14</sup>. Opium production was also reported by the British authorities to be taking place in the geographical area of present day Myanmar: in Kachin villages and in the Shan State, the main opium producing regions of Myanmar today<sup>15</sup>. Opium production in Afghanistan, today the world's largest opium producer, was not investigated at the Shanghai conference. This reflects the fact that all information available at the time suggested that opium production in this country was still very modest, largely restricted to the north-eastern parts of the country (Badakshan), and not for export<sup>16</sup>.

***Resolutions adopted by the Shanghai Conference,***

The following nine Resolutions were adopted by the Shanghai Conference, 1909:

***BE IT RESOLVED:***

1. That the International Opium Commission recognises the unswerving sincerity of the Government of China in their efforts to eradicate the production and consumption of Opium throughout the Empire; the increasing body of public opinion among their own subjects by which these efforts are being supported; and the real, though unequal, progress already made in a task which is one of the greatest magnitude.
2. That in view of the action taken by the Government of China in suppressing the practice of Opium smoking, and by other Governments to the same end, the International Opium Commission recommends that each Delegation concerned

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<sup>13</sup>. Ibid, p. 666.

<sup>14</sup>. International Opium Commission, *Report of the International Opium Commission*, Shanghai, China, February 1- 26, 1909, Vol. II, Reports of the Delegation, Indo-China, pp. 123-124.

<sup>15</sup>. Ibid. Memorandum on Opium in India, pp. 187-189.

<sup>16</sup>. Ibid, Report of the Committee on Trade Statistics, pp. 355-372.

move its own Government to take measures for the gradual suppression of the practice of Opium smoking in its own territories and possessions, with due regard to the varying circumstances of each country concerned.

3. That the International Opium Commission finds that the use of Opium in any form otherwise than for medical purposes is held by almost every participating country to be a matter for prohibition or for careful regulation ; and that each country in the administration of its system of regulation purports to be aiming, as opportunity offers, at progressively increasing stringency. In recording these conclusions the international Opium Commission recognizes the wide variations between the conditions prevailing in the different countries, but it would urge on the attention of the Governments concerned the desirability of a re-examination of their systems of regulation in the light of the experience of other countries dealing with the same problem.

4. That the International Opium Commission finds that each Government represented has strict laws which are aimed directly or indirectly to prevent the smuggling of Opium, its alkaloids, derivatives and preparations into their respective territories ; in the judgment of the International Opium Commission it is also the duty of all countries to adopt reasonable measures to prevent at ports of departure the Shipment of Opium, its alkaloids, derivatives and preparations, to any country which prohibits the entry of any Opium, its alkaloids, derivatives and preparations.

5. That the International Opium Commission finds that the unrestricted manufacture, sale and distribution of Morphine already constitute a grave danger, and that the Morphine habit shows signs of spreading :the International Opium Commission, therefore, desires to urge strongly on all Governments that it is highly important that drastic measures should be taken by each Government in its own territories and possessions to control the manufacture, sale and distribution of this drug, and also of such other derivatives of Opium as may appear on scientific enquiry to be liable to similar abuse and productive of like ill effects.

6. That as the International Opium Commission is not constituted in such a manner as to permit the investigation from a scientific point of view of Anti Opium remedies and of the properties and effects of Opium and its products, but deems such investigation to be of the highest importance, the International Opium Commission desires that each Delegation shall recommend this branch of the subject to its own Government for such action as that Government may think necessary.

7. That the International Opium Commission strongly urges all Governments possessing Concessions or Settlements in China, which have not yet taken effective action toward the closing of Opium divans in the said Concessions and Settlements, to take steps to that end, as soon as they may deem it possible, on the lines already adopted by several Governments.

8. That the International Opium Commission recommends strongly that each Delegation move its Government to enter into negotiations with the Chinese Government with a view to effective and prompt measures being taken in the various foreign Concessions and Settlements in China for the prohibition of the trade and manufacture of such Anti-Opium remedies as contain Opium or its derivatives.

9. That the International Opium Commission recommends that each Delegation move its Government to apply its pharmacy laws to its subjects in the Consular districts, Concessions and Settlements in China.

The Portuguese Delegation reserved its vote on these resolutions in every instance.

The Shanghai conference was convened to adopt the international measure to control drug abuse and dependence and to discuss the world's narcotics problems and make efforts to resolve it. Since the participants of the Commission did not have the necessary plenipotentiary powers to conclude a treaty, the result was simply fact finding and a set of non-binding recommendations. The focus of the Commission was on Chinese opium problems and the U.S. and Britain dominated the discussions. The U.S. was in favour of prohibition arguing that China needed assistance with its domestic opium problems. Britain was willing to protect its lucrative Indian opium trade, emphasizing that curbing such trade would be useless until China brought its domestic production under control<sup>17</sup>.

The negotiations during the Commission meetings set the stage for later conferences in which the U.S. tried to convince the colonial powers to support a strict definition of "legitimate use" of opium, whereby any non-medical or non-scientific use – according to Western medical and scientific standards – would be considered illicit<sup>18</sup>. The colonial powers argued for the legitimacy of a more lenient

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<sup>17</sup> .Jay Sinha, The History and Development of The Leading International Drug Control Conventions, Law and Government Division (Prepared For The Senate Special Committee On Illegal Drugs, Parliament of Canada ), 21 February 2001.

<sup>18</sup> .Ibid

quasi-medical use. In Resolution 3, the Commission concluded that the use of opium in any form otherwise than for medical purposes is held by almost every participating country to be a matter for prohibition or for careful regulation and that each country in the administration of its system or regulation purports to be aiming at progressively increasing stringency. It is noteworthy that underlying the hard-line stance of the U.S. delegation at the Shanghai meeting were key domestic political and economic goals that also influenced later negotiations.

The Shanghai Commission represents one of the first truly international efforts to confront a global problem. But the declaration of the Shanghai Commission was a non-binding document, negotiated by delegates lacking the power to commit on behalf of their states.

The most important consequence of the International Opium Commission was the organization at the Hague of the conference which led to the adoption of the first International Opium Convention in 1912. The significance of this Convention is twofold: (a) it established narcotics control as an institution of international law on a multilateral basis; and (b) it established, in rudimentary form, the present national narcotics control system. In 1912, there were 46 nominally sovereign States. The conference was attended by representatives of 12 countries and 34 countries were absent or not invited.

Since the recommendations of the Shanghai Conference were not legally binding instruments, the need was felt to adopt a binding convention. The Hague Convention was adopted in 1912 to fulfill this need. It was again the bishop of the Philippines, the Right Reverend Charles H. Brent, who lobbied for a follow-up conference, and argued that this time, the delegates should be allowed to commit on behalf of their governments. After having gained US support, he worked with anti-opium groups in Britain and beyond to secure the agreement of the other nations. The formal initiative came from the US State Department, and the government of the Netherlands agreed to host the conference and act as a secretariat. The conference took place in The Hague from 1 December 1911 to 23 January 1912 with the participation of representatives from China, France, Germany, Italy, Japan, the Netherlands, Persia, Portugal, Russia, Siam (Thailand), the UK and the British overseas territories (including British India), and the USA. Bishop Brent was again elected president. Following intensive discussions, the conference agreed on the world's first international drug control treaty. The first International Opium Convention consisted of six chapters and a total of 25 articles.

In addition to opium and morphine, which were already under extensive discussion at the Shanghai Conference, the Convention of The Hague also included two new substances that had become problematic: cocaine and heroin. Cocaine was first synthesized by the German chemist, Albert Niemann in 1860, and rapidly gained popularity in both medical and recreational use in the late 19th century<sup>19</sup>.

The outbreak of World War I prevented the implementation of the first international drug control treaty at the global level. The United States, China and the Netherlands (as the secretariat of the treaty), in addition to Norway and Honduras, however, adopted the Opium Convention among themselves. While this had little practical effect, it at least prevented the burial of the First International Opium Convention. World War I led to rapidly rising levels of drug use in several countries. Many of the countries that had been reluctant to implement the International Opium Convention changed their attitude in light of growing domestic substance abuse problems. Great Britain, for instance, used the *Defense of the Realm Act* to tighten domestic controls, focusing on punitive measures for cocaine and opium offences. Germany, Canada and other states instituted similar acts to restrict access to drugs and to deter smuggling while conserving vital medicinal resources (such as morphine), which were of particular importance during wartime. Many of these ad hoc wartime administrative arrangements were made permanent after 1918.

The International Opium Convention, which was signed at the Hague on January 23, 1912 became the first International drug control treaty. The Convention made provisions that "The contracting Powers shall use their best endeavours to control, or to cause to be controlled, all persons manufacturing, importing, selling, distributing, and exporting morphine, cocaine, and their respective salts, as well as the buildings in which these persons carry such an industry or trade." The Convention was implemented in 1915 by the United States, Netherlands, China, Honduras and Norway. It came into force globally in 1919 when it was incorporated into the Treaty of Versailles after the First World War. This Convention was designed to curb shipments of narcotic drugs that were not meant to be used for medical purposes, thus emerged as a truly international instrument. At the Shanghai meeting, the US had proposed a future conference to draft an international drug control treaty that would include the Shanghai resolutions in an expanded and

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<sup>19</sup> ." A Century of International Drug Control" UNODC (World Drug Report, 2008), p.49.

more stringent form. This proposal was initially contested by the other countries, however, in the following years the U.S. lobbied continually and forcefully around the world for a new conference. Addressing the opium problem directly, publicly and internationally was a way for the U.S. to achieve its domestic control objectives, to put an end to the profitable drug trade dominated by the colonial powers, and to favour the Chinese policy and thereby, hopefully, improve Sino-American economic relations. Eventually, 12 countries agreed to meet at the Hague on 1 December 1911 to draft a treaty.

Chapters I and II of the International Opium Convention, 1912, dealt with raw and prepared opium. For example, Article 1 required parties to enact effective laws or regulations for the control of the production and distribution of raw opium unless such laws were already in place. The Convention also further recognized the U.S. initiated principle of restricting opium use to medical and scientific purposes. Chapter III focused on licensing, manufacturing and distribution controls on synthetic drugs. Article 10 provides that the states shall make their best endeavours to implement these controls. Chapter IV was aimed at reducing drug trafficking in China. Article 15 provides that the contracting Powers having treaties with China shall, in conjunction with the Chinese Government, take the necessary measures to prevent the smuggling into Chinese territory, as well as into their Far-Eastern colonies and into the leased territories which they occupy in China, of raw and prepared opium, morphine, cocaine, and their respective salts, and the Chinese Government shall, on their part, take similar measures for the suppression of the smuggling of opium and of the other substances above referred to from China to the foreign colonies and leased territories<sup>20</sup>.

The Convention defines the raw opium as spontaneously coagulated juice obtained from the capsules of the poppy plants, and under its provisions the contracting powers agreed to enact effective laws or regulations for control of the production and distribution of raw opium<sup>21</sup>. The member states also agreed to limit the number of towns, ports, or other localities through which the export or import of raw opium shall be permitted<sup>22</sup>. The member states of the Convention are under an obligation to enact pharmacy laws or regulations to confine to medical and legitimate

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<sup>20</sup> .The Hague Opium Convention, 1912, Art. 15.

<sup>21</sup> . Ibid, Art. 1.

<sup>22</sup> . Ibid, Art. 2.

purposes the manufacture, sale, and use of morphine, cocaine, and their respective salts and to cooperate with one another to prevent the use of these drugs for any other purpose.

In the Hague Convention, the gradual suppression of opium smoking was agreed upon, the use of morphine, other opiates and cocaine was limited to medical and legitimate purposes, and their manufacture, trade and use were made subject to a system of permits and recording. Universal ratification of the Convention finally came about as the result of the treaties of Versailles, since every peace treaty (in 1919, with Germany, Austria and Bulgaria; in 1920, with Hungary and Turkey) contained provisions about the obligation of the High Contracting Parties to ratify and apply the 1912 Convention. Germany refused to sign the treaty until it was agreed that all countries would have to ratify the Convention before it came into force.

The Hague Convention, 1912 has defined the raw and prepared opium separately. While the raw opium has been defined as the spontaneously coagulated juice obtained from the capsules of poppy plants, the prepared opium has been defined as the product of raw opium obtained by a series of special operations, especially by dissolving, roasting and fermentation, designed to transform it into an extract suitable for consumption. Prepared opium includes dross and all other residues remaining when opium has been smoked<sup>23</sup>. Article 1 of the Convention provides for the obligation of the Contracting parties to enact effective laws and regulations for the control of the production and distribution of raw opium. According to Article 2 the contracting Powers shall limit the number of towns, ports, or other localities through which the export or import of raw opium shall be permitted. The member state agreed to take measures to prevent the export of raw opium to countries which shall have prohibited its entry, and to control the export of raw opium to countries which restrict its import<sup>24</sup>. The Convention provides for the requirement of marking the packets above five kilograms containing raw opium intended for export<sup>25</sup>. The export and import of raw opium was to be made by the duly authorised persons. The Contracting States were to take measures for the gradual

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<sup>23</sup>. Chapters I and II of the Hague Opium Convention, 1912.

<sup>24</sup>. Article 3. Ibid.

<sup>25</sup>. Article 4. Ibid.

and effective suppression of the manufacture of, internal trade in, and use of prepared opium and to prohibit the import and export of prepared opium<sup>26</sup>. Article 8 of the Convention provides that the contracting Powers which are not yet ready to prohibit immediately the export of prepared opium-

(a) Shall restrict the number of towns, ports, or other localities through which prepared opium may be exported;

(b) Shall prohibit the export of prepared opium to countries which now forbid, or which may afterwards forbid, the import thereof;

(c) Shall, in the meanwhile, prohibit the consignment of prepared opium to a country which is to restrict its entry, unless the exporter complies with the regulations of the importing country;

(d) Shall take measures to ensure that every package exported, containing prepared opium, has a special mark indicating the nature of its contents;

In addition, the medicinal opium has been defined in the Convention as the Raw opium which has been heated to 60° centigrade and contains not less than 10 percent of morphine, whether or not it be powdered or granulated or mixed with indifferent materials<sup>27</sup>. Under the Convention, by "morphine" is understood: the principal alkaloid of opium, having the chemical formula  $C_{17}H_{19}NO_3$ ; by "cocaine" is understood: the principal alkaloid of the leaves of *Erythroxylon Coca*, having the formula  $C_{17}H_{21}NO_4$ ; and by "heroin" is understood: Diacetyl-morphine, having the formula  $C_{12}H_{23}NO_5$ <sup>28</sup>. Under Article 9, the Convention provides that the contracting Powers shall enact pharmacy laws or regulations to confine to medical and legitimate purposes the manufacture, sale, and use of morphine, cocaine, and their respective salts. They shall co-operate with one another to prevent the use of these drugs for any other purpose. According to Article 10 the contracting Powers shall use their best endeavours to control, or to cause to be controlled, all persons manufacturing, importing, selling, distributing, and exporting morphine, cocaine, and their respective salts, as well as the buildings in which these persons carry on such industry or trade. With this object, the contracting Parties shall use their best endeavours to adopt, or cause to be adopted, the following measures-

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<sup>26</sup>. Articles 6 & 7 of the Hague Convention, 1912.

<sup>27</sup>. Chapter III, 1912 Opium Convention.

<sup>28</sup>. Ibid.

- (a) To confine the manufacture of morphine, cocaine, and their respective salts to those establishments and premises alone which have been licensed for the purpose, or to obtain information respecting the establishments and premises in which these drugs are manufactured and to keep a register of them;
- (b) To require that all persons engaged in the manufacture, import, sale, distribution or export of morphine, cocaine, and their respective salts shall be furnished with a licence or permit to engage in these operations, or shall make to the competent authorities and official declaration that they are so engaged;
- (c) To require that such persons shall enter in their books the quantities manufactured, import, sales, and all other distribution, and export of morphine, cocaine, and their respective salts. This rule shall not necessarily apply to medical prescription and to sales by duly authorised chemists.

The member States were required to take measures to prohibit, as regards their internal trade, the delivery of morphine, cocaine, and their respective salts to any unauthorised persons<sup>29</sup> and also the unauthorised persons were to be restricted from import of morphine, cocaine, and their respective salts<sup>30</sup>. The measures were to be adopted, under the Convention, to ensure that morphine, cocaine, and their respective salts would not be exported from their countries, possessions, colonies, and leased territories to the countries, possessions, colonies and leased territories of the other contracting Powers, except when consigned to persons furnished with the licences or permits provided for by the laws or regulations of the importing country<sup>31</sup>. The laws and regulations of the contracting powers respecting the manufacture, import, sale, or export of morphine, cocaine, and their respective salts were to be made applicable to medicinal opium, preparations containing morphine, heroin and to all new derivatives of morphine, of cocaine, or of their respective salts, and to every other alkaloid of opium, which may be shown by scientific research, generally recognised, to be liable to similar abuse and productive of like ill-effects<sup>32</sup>. In Chapter IV the Contracting States having treaties with China, agreed to take the necessary measures, in conjunction with the Chinese Government, to prevent the smuggling into Chinese territory. The Chinese government was also to take the similar measures for the suppression of the smuggling of opium and of

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<sup>29</sup> .Article 11,1912 Opium Convention

<sup>30</sup> .Article 12,ibid.

<sup>31</sup> .Article 13,ibid

<sup>32</sup> . Article 14,ibid.

other substances to those countries and territories<sup>33</sup>. Article 16 of the Convention provided "the Chinese Government shall promulgate pharmacy laws for their subjects, regulating the sale and distribution of morphine, cocaine, and their respective salts and shall communicate these laws to the Governments having treaties with China and if they find them acceptable, shall take the necessary measures to apply them to their nationals residing in China." These Contracting States also agreed to adopt the necessary measures to restrict and control the habit of smoking opium in their leased territories, settlements, and concessions in China, and to prohibit the use of opium in places of entertainment and brothels. The number of shops selling raw and prepared opium were to be reduced gradually and effective measures for the restriction and control of the retail trade in opium were to be adopted.<sup>34</sup> The provision was also made to restrict illegal narcotics import through posts.<sup>35</sup> The illegal possession of drugs was to be made penal offence, if possible.<sup>36</sup>

### **Measures under the League of Nations**

A further cornerstone in the field of international drug control was established with the adoption of the Geneva Opium Convention, 1925 and the Agreement Concerning the Manufacture of, Trade in, and Use of Prepared Opium, in the same year (1925). A new body was established under the Geneva Convention, 1925, known as the Permanent Central Opium Board (PCOB).<sup>37</sup> The member States of the Convention were required to annually submit to the Board statistics on the production of opium and coca leaves.<sup>38</sup> The obligatory control system included mandatory import certification and export authorisation by governments. But, unfortunately, the system failed to prevent legally manufactured drugs from seeping into the illegitimate market. The 1931 Convention for Limiting the manufacture and regulating the distribution of Narcotic Drugs tried to remedy this shortcoming by restricting the quantity of manufactured drugs available in each country to medical and scientific needs. The PCOB was given additional powers

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<sup>33</sup> . Article 15, Opium Convention, 1912.

<sup>34</sup> . Articles 16 & 17, *ibid*.

<sup>35</sup> . Article 19, *ibid*.

<sup>36</sup> . Article 20, *ibid*.

<sup>37</sup> . Geneva Opium Convention, Article 19.

<sup>38</sup> . *Ibid*. Article 21.

for controlling countries that exported or imported beyond their stated manufacturing volumes or consumption needs.

One more major drug control treaty was concluded in the inter-war period: the Convention for the Suppression of the Illicit Traffic in Dangerous Drugs in 1936. States Parties agreed to implement the provisions this Convention into their domestic laws on severe punishment, for, inter alia, the production, trafficking, and sale of illicit substances. Arts 7 to 10 introduced a further novelty by dealing in great detail with extradition for drug related crimes.<sup>39</sup> Overall, the inter-war drug control system achieved considerable success in limiting and screening the production and trade of narcotic drugs.

The peace treaties of 1919 also laid the foundation of the League of Nations. The creation of the League of Nations following World War I presented the international community with a centralized body for the administration of drug control. The first Assembly of the *League of Nations* set up the *Advisory Committee on the Traffic in Opium and Other Dangerous Drugs*, commonly known as the *Opium Advisory Committee* (OAC), the predecessor of the *Commission on Narcotic Drugs*, established within the framework of the *United Nations*. This decision was based on article 23 of the Covenant, which entrusted the League with general supervision over the execution of agreements with regard to the traffic in opium and other dangerous drugs. The *League Health Committee* – forerunner of the *UN World Health Organization* (WHO) – was also formed. Administration of the 1912 Hague Convention had originally been the responsibility of the Netherlands, but was transferred to the *Opium Control Board* (OCB) created by the OAC. With the creation of the League of Nations in 1920, it became obvious that an international convention, such as the Opium Convention, should not be overseen by an individual country (in this case, the Netherlands), but by the newly founded international organisation, which had 42 founding members. Thus, by a resolution of the League of Nations of 15 December 1920, the newly founded “*Advisory Committee on the Traffic in Opium and Other Dangerous Drugs*”, usually referred to as the “*Opium Advisory Committee*” (OAC) was authorized to take over the functions laid down in the Hague Opium Convention of 1912. Composed of governmental representatives the OAC initially met quarterly during its early years, and later annually. In addition, the League created an “*Opium and Social Questions Section*” (often referred to as

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<sup>39</sup>. Convention for the Suppression of the Illicit Traffic in Dangerous Drugs in 1936, Arts. 7-10.

the *Opium Section*) within its secretariat for administrative and executive support. The League Health Committee took responsibility for advising on medical matters. The new international drug control organs focused considerable initial efforts on gauging the extent of the problem. The OAC requested information about imports, ex-ports, re-exports, consumption, reserve stocks, etc. The staggering size of the world drug problem soon became apparent. Conservative estimates suggested that world production of opium and coca exceeded legitimate need (for medical and scientific purposes) by at least ten times, clearly indicating that the world had a long way to go to achieve a reasonable equilibrium. In addition, a substantial percentage of manufactured drugs were still sold for non-medicinal purposes in many countries. Against this background, the OAC urged states to adopt an import/export certification scheme modeled after the British system introduced during World War I. One specific problem in the initial years of international drug control was the fact that several key players – in particular the United States – did not join the League of Nations. Thus, a number of rather complex institutional solutions had to be found (some of which are still in existence) to mitigate the consequences and enable at least some collaboration in the international drug control area. Not being in the League, the USA could not lead international drug control efforts, as it did for the Shanghai Conference or the conference leading to The Hague Convention. This role was now increasingly taken over by the United Kingdom, which emerged in the inter war period as the lead nation promoting international drug control efforts.

As of 1920, international drug control became part of the tasks assumed by the League of Nations. The League of Nations began to consider demand side, socio-medical issues such as why individuals use drugs, what constitutes drug abuse, and what social factors affect abuse. But prohibition and supply-side issues soon took precedence once again as preparations began for new, again U.S. initiated, treaty talks in the mid 1920s. In general, the international regime has tended to separate the study of drug related medical and social problems, including etiological questions, from those of drug control.

One of the greatest achievements of the League was the creation, pursuant to the International Opium Convention of 1925, of the *Permanent Central Board* (first known as the Permanent Central Opium Board, and subsequently as the Permanent Central Narcotics Board), the predecessor of the International Narcotics Control

Board. This put an end to the large scale diversion of manufactured narcotic drugs from the legal trade into illicit channels.

Under the auspices of the League, three main conventions were developed (1925, 1931 and 1936 Conventions). These treaties provided the groundwork for the practical operations of the international drug control system, and, indeed, much progress was made in curtailing the illicit trade in narcotic drugs during this period.

### **The 1925 Geneva Opium Convention**

Renewed efforts to strengthen international cooperation and international drug control were made and between November 1924 and February 1925, two conferences were held and two separate treaties were concluded at Geneva. The first was concluded with an *Agreement Concerning the Manufacture of, Internal Trade in, and Use of Prepared Opium*, which was signed on 11 February 1925 and entered into force on 28 July 1926. It focused on opium producing nations and stated that the signatory nations were, “*fully determined to bring about the gradual and effective suppression of the manufacture of, internal trade in and use of prepared opium*”. Signatories were permitted to sell opium only through government run monopolies and were required to end the trade completely within 15 years. Article I required that, with the exception of retail sale, the importation, sale and distribution of opium be a government monopoly, which would have the exclusive right to import, sell, or distribute opium. Leasing, according, or delegating this right was specifically prohibited. Article II prohibited sale of opium to minors, and Article III prohibited minors from entering smoking divans. Article IV required governments to limit the number of opium retail shops and smoking divans as much as possible. Articles V and VI regulated the export and transport of opium and dross. Article VII required governments to discourage the use of opium through instruction in schools, literature, and other methods. This treaty was signed and ratified by seven major powers: Britain, India, France, Japan, The Netherlands (including the Netherlands Indies, Surinam and Curaçao), Portugal and Thailand.

The second Convention, the *International Opium Convention* (1925 Geneva Convention), was intended to impose global controls over a wider range of drugs, including, for the first time, cannabis, described as “Indian hemp” in Article 11 of the Convention. This Convention consists of Seven chapters and 39 articles. This Convention was adopted to make more effective provisions to prohibit contraband trade in and abuse of substances. Article 1 defines different types of narcotic substances which are the subject matter of the Convention. Contracting states are under

an obligation to enact effective laws to control the production, distribution and export of the raw opium. Provisions of requirement of separate import and export authorisation for each import and export of substances to which the Convention applies has been made. This Convention introduced a statistical control system to be supervised by a Permanent Central Opium Board, a body of the League of Nations. Articles 21-23 required Parties to provide annual statistics on drug stocks and consumption; the production of raw opium and coca; and the manufacture and distribution of heroin, morphine and cocaine. Chapter VI replaced the OCB with an eight person *Permanent Central Opium Board* (PCOB).

The Second Opium Convention (which was adopted at Geneva, on 19 February 1925), mainly expanded the provisions of The Hague Convention, 1912. It came into force three years later (in 1928) and was eventually signed and ratified by 56 countries. This included many of the key players in the drugs trade, both League of Nations members and non-members, including the British Empire, India, the Netherlands, France, Japan, the Soviet Union, Germany, Switzerland, Turkey, Portugal, Egypt, and Bolivia. However, the Convention was not signed and ratified by other key players such as the United States of America, China, Persia (signed but not ratified) and Peru. The main achievements of this Convention were to detail the content of the Hague Convention, to institutionalize the international control system and to extend the scope of control to cannabis. The British import/export authorisation model was formally adopted as the way forward to control the international trade (Chapter V).<sup>40</sup> This system is still in place today. The system of import certificates and export authorizations is to assure that every international transaction in narcotic substances is controlled from both ends by the competent authorities of the importing country as well as those of the exporting country. The 1925 Convention also provided details on the statistical reporting requirements under the Hague Convention 1912, spelling out the exact figures signatories were obliged to supply. Chapter II of the Convention dealt with internal control of raw opium and coca leaf. While states agreed to control production, the Convention still fell short of requiring them to limit production to medical and scientific needs. Thus the president of the conference, Sir Malcolm Delevingne (UK) concluded: "*The American principle for a limitation of production to medical and scientific purposes, though accepted as a principle both*

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<sup>40</sup> .Geneva Opium Convention, 1925, Arts. 12-18.

*by the Advisory Committee on the Traffic in Opium and the Assembly, has not been included in the Convention as a contractual obligation.”*

Due to the inability of the delegates to come to an agreement on reductions in opium production, the US delegation, followed by the Chinese delegation, withdrew from the conference and did not sign and ratify the 1925 Convention. In contrast, in Chapter III, dealing with the internal control of manufactured drugs, as opposed to cultivation of plant based drugs, the drafters were able to go a step further. Article 5 declares: *“The Contracting Parties shall enact effective laws or regulations to limit exclusively to medical and scientific purposes the manufacture, import, sale, distribution, export and use of the substances to which this Chapter applies....”* .

The 1925 Convention also established the Permanent Central Board (Chapter VI, Art. 19-27), the forerunner of the International Narcotics Control Board (INCB). The Permanent Central Board was set up as an impartial body whose members should not be Government representatives but should serve in a personal capacity, not holding any office which would put them in a position of direct dependence on their Governments. The main task of the Permanent Central Board, sometimes also referred to as Permanent Central Opium Board (PCOB), was to administer the statistical information sent by States Members to Geneva Convention and, according to Article 24, to watch the course of the international trade. If the information at its disposal leads the Board to conclude that excessive quantities of any substance covered by the present Convention are accumulating in any country, or that there is a danger of that country becoming a centre for the illicit traffic, the Board shall have the right to ask, through the Secretary-General of the League, for explanations from the country in question. The Board also established the system of import certificates and export authorizations for the licit international trade in narcotic drugs. The drafters of the convention might have chosen to create a new regulatory body, the Board, rather than use the existing Opium Section of the League of Nations, in order to include non-members, such as the United States and Germany, in the process. Another difficult issue was the degree to which the Board could or should control the production, manufacture of and trade in drugs. The original proposal of mid-1924 envisioned a Board with wide ranging powers, including the authority, after receiving estimates from governments, to authorise the amount of drugs to be manufactured each year. Imports and exports would then have been limited to the quantities specified in the estimates. The Board would

have had the power to fix estimates for countries that failed to submit their own estimates, and question estimates that seemed excessive. But in the final version of the Convention, the Board did not have the right to question the statistics submitted by governments. The Board could request an explanation only when there was deemed to be sufficient evidence that a country acted as a centre for the illicit traffic of drugs (Article 24), and then it could do so only through the Secretary General of the League of Nations. The Board had no power to levy sanctions against a state it declared to be a centre of illicit traffic; it could only bring the issue to the attention of the governments of the Contracting Parties and the Council of the League of Nations. Even with reduced powers, the installation of the Central Permanent Board proved to be useful in reducing the drug trade, especially as the cost of failing to adhere to inter-national rules rose over the years. Most countries did not want to run the risk of being singled out by the Board. By 1925, the Government of British India concluded that the political costs linked to continued opium exportation outweighed the economic advantages and thus revised its policy. It announced that it would end opium exports to any state or colony acting as a centre for the illicit traffic (such as Macao at the time), even if such a government were to produce any valid import certification. In 1926, the Government of British India declared a gradual reduction of all non-medicinal opium exports. Indian exports, therefore, dropped significantly in subsequent years.

Another new element of the 1925 Convention was the application of the international drug control system to cannabis. This followed a passionate speech by the head of the delegation from Egypt. As a consequence, the 1925 Convention had a separate chapter on Indian Hemp (Chapter IV). Article 11 (1) stated: *“In addition to the provisions of Chapter V (Control of International Trade) which shall apply to Indian hemp and the resin prepared from it, the Contracting Parties undertake:* (a) *To prohibit the export of the resin obtained from Indian hemp and the ordinary preparations of which the resin forms the base.. to countries which have prohibited their use, and in cases where export is permitted, to require the production of a special import certificate issued by the Government of the importing country stating that the importation is approved for the purposes specified in the certificate and that the resin or preparations will not be re-exported ... ”*

Article 11 (2) laid down the general rule:

*“The Contracting Parties shall exercise an effective control of such a nature as to prevent the illicit international traffic in Indian hemp and especially in the resin.”*

The Convention only dealt with the international dimension of the cannabis trade. It did not prohibit the production of cannabis; it did not request signatories to control domestic traffic in cannabis; it did not prescribe measures to reduce domestic consumption; and it did not ask governments to provide cannabis production estimates to the Board. Therefore, control of cannabis was far less comprehensive than control of opium/morphine/heroin or coca/cocaine.

The 1925 Convention came into force only in 1928, and the Permanent Central Board started its work in 1929. There is documented evidence that, in the intervening period between 1925 and 1929, at least 100 tonnes of manufactured alkaloids (opiates and cocaine) passed into illicit traffic. Owing, however, to the new export-import authorization system and its supervision by the Board, the diversion of opiates became very difficult and some unscrupulous manufacturers started to market and export new morphine derivatives. Benzyl-morphine is the best example and can be regarded as the first designer drug, because it is an analogue and substitute for morphine. But it is also a precursor because morphine can easily be recovered from it. In this context, it should be noted that the control of codeine (methyl-morphine) was motivated more by its convertibility into morphine than by its actual abuse or potential for abuse. Thus, although it is often stated that control of precursors was introduced by the 1988 Convention, in reality precursors of opiates (including thebaine) have been under international control since 1931, and ecgonine and all of its derivatives (e.g. all of the cocaine precursors) were put under International control in 1925.

The 1925 Convention contained provisions for the control of coca leaf exports from producing countries to countries in which the manufacture of cocaine took place. The same controls were applied to crude cocaine (e.g. extracts) and to ecgonine and its derivatives which had also been used since 1885 for cocaine manufacture in Europe.<sup>41</sup> During the League of Nations period, however, no international attempts were made to control the traditional use of cannabis, coca leaf chewing or opium eating. The provisions of the 1925 Convention instituted the international system of supervision of international drug trade by the *Permanent Central Board*, but it was realized that with no limitation placed on the

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supply of raw materials for the manufacture of opiates and cocaine and the supply of opium and manufactured alkaloids to consumer countries, it would be impossible to reduce their use to that required for medical purposes.

While the 1912 Hague Convention had focused on domestic controls, the Geneva Convention, 1925, was an attempt to improve transnational control. The U.S. had proposed strict adherence to the principle of only medical and scientific legitimate drug use, and stringent controls over the production of drugs at the source. When these proposals were flatly refused at the second conference, the U.S. delegation walked out of the conference and never signed the treaties. The Chinese delegation, as well, withdrew because no agreement could be reached on the suppression of opium smoking. Instead, both countries continued to focus on enforcement of the 1912 Hague Convention.

Despite a growing prohibition based control regime, the drug problem only seemed to get worse. William B. McAllister has summed up the international context at the end of the 1920s:<sup>42</sup>

"In addition to continued over production of opium inside China, statistical returns indicated that Chinese imports of manufactured drugs had skyrocketed. The European colonial powers continued to tolerate (and profit from) opium smoking through government monopolies. As western European governments pressured pharmaceutical companies to conform to more stringent control standards, unscrupulous operators moved to states that had not ratified the Geneva International Opium Convention. Traffickers became more sophisticated in their operations, colluding with political and/or military brokers to avoid prosecution. Drug abusers and their suppliers acted as inventively as the diplomats and bureaucrats; those wishing to circumvent the system altered their routes of acquisition to fit the new pattern."

The preamble of the 1925 Convention stated that although the application of the 1912 Hague Convention produced results of great value, the contraband trade in and abuse of the substances to which that Convention was applied, still continued on a great scale and more effective measures, control and supervision were required to limit and suppress the production or manufacture of and trade in these

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<sup>42</sup> . As quoted in Jay Sinha, *The History and Development of The Leading International Drug Control Conventions*, Law and Government Division (Prepared For The Senate Special Committee On Illegal Drugs, Parliament of Canada ), 21 February 2001.

substances. In addition to the definitions of opium, morphine, heroin and cocaine, the 1925 Convention also defined Indian hemp. According to Article 2 of the Convention the Contracting Parties undertake to enact laws and regulations to ensure the effective control of the production, distribution and export of raw opium and to review periodically, and to strengthen as required, the laws and regulations on the subject which they have enacted.<sup>43</sup> The provisions of the Geneva Convention were to be applied to medicinal opium, cocaine, morphine, heroin and Indian hemp and the laws were to be made to limit exclusively to medical and scientific purposes the manufacture, import, sale, distribution, export and use of these substances.<sup>44</sup> The Convention emphasised on the co-operation among the states in order to prevent the use of the substances for any other purposes. The provisions were made to require the member states to control all persons manufacturing, importing, selling, distributing or exporting the substances as well as the buildings in which these persons carry on such industry or trade. With this object, the Contracting agreed to:

- (a) Confine the manufacture of the substances to those establishments and premises alone which has been licensed for the purpose;
- (b) Require that all persons engaged in the manufacture, import, sale, distribution or export of the said substances shall obtain a licence or permit to engage in those operations;
- c) Require that such persons shall enter in their books the quantities manufactured, imports, exports, sales and all other distribution of the said substances. This requirement shall not necessarily apply either to supplies dispensed by medical practitioners or to sales by duly authorised chemists on medical prescriptions, provided in each case that the medical prescriptions are filed and preserved by the medical practitioner or chemist.<sup>45</sup>

If the WHO finds that any preparation containing any of the narcotic drugs cannot give rise to the drug habit then the provisions of the present Convention will not be applicable to the preparation concerned. Similarly, if WHO finds that any narcotic drug to which the present Convention does not apply is liable to

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<sup>43</sup> . Article 2, Geneva Opium Convention, 1925

<sup>44</sup> . Article 8 & 10, *ibid.*

<sup>45</sup> . Article 6, *ibid.*

similar abuse and productive of similar ill effects as the substances covered under the Convention, it may recommend that the provisions of the present Convention shall be applied to such drug.<sup>46</sup> According to Article 9, any Contracting Party may authorise the supply to the public or chemists, at their own discretion, as medicines, for immediate use in urgent cases, of the following opiate officinal preparations: tincture of opium, Sydenham laudanum and Dover powder. The maximum dose, however, which may be supplied in such cases must not contain more than 25 centigrams of officinal opium, and the chemist must enter in his books the quantities supplied.

Article 11 of the Convention provides for the control of Indian Hemp. According to it, the Contracting Parties undertake:

(a) To prohibit the export of the resin obtained from Indian hemp and the ordinary preparations of which the resin forms the base (such as hashish, and charas) to countries which have prohibited their use, and, in cases where export is permitted, to require the production of a special import certificate issued by the Government of the importing country stating that the importation is approved for the purposes specified in the certificate and that the resin or preparations will not be re-exported.

(b) Before issuing an export authorisation under Article 13 of the present Convention, in respect of Indian hemp, to require the production of a special import certificate issued by the Government of the importing country and stating that the importation is approved and is required exclusively for medical or scientific purposes.<sup>47</sup>

Article 12 provides for the import authorisation to be obtained for each importation of any of the substance with the details of the quantity to be imported, the name and address of the importer and address of the exporter.<sup>48</sup> Each Contracting Party to the Convention has to - (a) require a separate export authorisation to be obtained for each exportation of any of the substances. Such authorisation shall state the quantity to be exported, the name and address of the exporter, and the name and address of the importer; and (b) before issuing such export authorisation, require an import certificate, issued by the Government of the importing country and certifying that the importation is approved, to be produced by the person or establishment applying for the export authorisation. The export authorisation shall

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<sup>46</sup> . Article 8 & 10, *ibid.*

<sup>47</sup> .Article 11(1), *ibid.*

<sup>48</sup> . Article 11(1), *ibid.*

specify the period within which the exportation must be effected and state the number and date of import certificate and the authority by whom it has been issued.<sup>49</sup>

For the purpose of ensuring the full application and enforcement of the provisions of the present Convention in free ports and free zones, the Contracting Parties undertake to apply in free ports and free zones situated within their territories the same laws and regulations, and to exercise therein the same supervision and control, in respect of the substances covered by the said Convention, as in other parts of their territories. No consignment of any of the substances covered by the present Convention which is exported from one country to another country shall be permitted to pass through a third country, whether or not it is removed from the ship or conveyance in which it is being conveyed, unless the copy of the export authorisation (or the diversion certificate, if such a certificate has been issued in pursuance of the following paragraph) which accompanies the consignment, is produced to the competent authorities of that country.<sup>50</sup>

The competent authorities of any country through which the consignment of any of the substances is permitted to pass have to take all due measures to prevent the diversion of the consignment to a destination other than that named in the copy of the export authorisation (or the diversion certificate) which accompanies it, unless the Government of that country has authorised that diversion by means of a special diversion certificate. A diversion certificate shall only be issued after the receipt of an import certificate from the Government of the country to which it is proposed to divert the consignment, and shall contain the same particulars as to be stated in an export authorisation, together with the name of the country from which the consignment was originally exported. Further, the Government of the country authorising diversion of the consignment shall detain the copy of the original export authorisation (or diversion certificate) which accompanied the consignment on arrival in its territory, and shall return it to the Government which issued it, at the same time notifying the name of the country to which the diversion has been authorised.<sup>51</sup>

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<sup>49</sup> . Article 13 (1,2 & 3),ibid.

<sup>50</sup> . Article 14 & 15 (1),ibid.

<sup>51</sup> .Article 15 (2 & 3).ibid.

A consignment of any narcotic substances which is landed in the territory of any Contracting Party and placed in a bonded warehouse shall not be withdrawn from the bonded warehouse unless an import certificate, issued by the Government of the country of destination and certifying that the importation is approved, is produced to the authorities having jurisdiction over the bonded warehouse.<sup>52</sup> No consignment of the narcotic substances while passing in transit through the territories of any Contracting Party or whilst being stored there in a bonded warehouse may be subjected to any process which would alter the nature of the substances in question or, without the permission of the competent authorities, the packing.<sup>53</sup>

Chapter VI of the Convention provides for the establishment of the Permanent Central Board. According to Article 19 a Permanent Central Board was to be appointed, within three months from coming into force of the present Convention. It consisted of eight persons who, by their technical competence, impartiality and disinterestedness, would command general confidence. The members of the Central Board were to be appointed by the ECOSOC (earlier by the Council of the League). In making the appointment, consideration would be given to the persons possessing of a knowledge of the drug situation, both in the producing and manufacturing countries on the one hand and in the consuming countries on the other. The members of the Central Board could not hold any office which put them in a position of direct dependence on their Governments and they were appointed for a term of five years eligible for re-appointment. The Central Board elected its own President and was to settle its rules of procedure. At meetings of the Board, four members formed a quorum. Its decisions were taken by an absolute majority of the whole members of the Board.<sup>54</sup> The ECOSOC, in consultation with the Board, made the necessary arrangements for the organisation and working of the Board, with the object of assuring the full technical independence of the Board in carrying out its duties under the present Convention, while providing for the control of the staff in administrative matters by Secretary-General. The Secretary-General appointed the secretary and staff of the Board on the nomination of the Board and subject to the approval of the Council.<sup>55</sup> The member States were to send annually to the Permanent Central Board estimates of the quantities of each of

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<sup>52</sup> . Article 16, *ibid.*

<sup>53</sup> . Article 17, *ibid.*

<sup>54</sup> . Article 19, *ibid.*

<sup>55</sup> . Article 20, *ibid.*

the substances to be imported into their territory for internal consumption during the following year for medical, scientific and other purposes. These estimates are not to be regarded as binding on the Government concerned, but will be for the purpose of serving as a guide to the Central Board in the discharge of its duties.<sup>56</sup>

The Contracting Parties agreed to send annually to the Central Board, in a manner to be indicated by the Board, within three months after the end of the year, as complete and accurate statistics as possible relative to the preceding year, showing:

- (a) Production of raw opium and coca leaves;
- (b) Manufacture of the narcotic substances and the raw material used for such manufacture.
- (c) Stocks of the substances in the hands of wholesalers or held by the Government for consumption in the country for other than Government purposes;
- (d) Consumption other than for Government purposes, of narcotic substances.
- (e) Amounts of each of the substances which have been confiscated on account of illicit import or export; the manner in which the confiscated substances have been disposed of shall be stated, together with such other information as may be useful in regard to such confiscation and disposal.

The Contracting Parties agreed to forward to the Central Board, in a manner to be prescribed by the Board, within four weeks after the end of each period of three months, the statistics of their imports from and exports to each country of each of the substances during the preceding three months.<sup>57</sup>

The Convention provided that the Central Board has to continuously watch the course of the international trade. If the information at its disposal leads the Board to conclude that excessive quantities of any substance covered by the present Convention are accumulating in any country, or that there is a danger of that country becoming a centre of the illicit traffic, the Board had the right to ask, through the Secretary General of the UN for explanations from the country in question. If no explanation is given within a reasonable time or the explanation is unsatisfactory, the Central Board had the right to call the attention of the Governments of all the Contracting Parties and of ECOSOC(earlier League Council) to the matter, and to recommend that no further exports of the substances shall be made to the country concerned until the Board reports that it is satisfied as

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<sup>56</sup> . Article 21, *ibid.*

<sup>57</sup> . Article 22 (1 & 2), 1925 Geneva Opium Convention.

to the situation in that country in regard to the said substances.<sup>58</sup> The each Contracting State had right under the Convention to draw the attention of the Board to any matter which appears to it to require investigation.<sup>59</sup>

The Contracting States agreed that breaches of their laws or regulations by which the provisions of the present Convention are enforced would be punishable by adequate penalties and they would examine the possibility of taking legislative measures to render punishable acts committed within their jurisdiction for the purpose of procuring or assisting the commission in any place outside their jurisdiction of any act which constitutes an offence against the laws of that place.<sup>60</sup>

### **The Geneva Convention on Limitation of Manufacturing and Distribution of Narcotic Drugs, 1931,**

By the end of the 1920s, drug control efforts had achieved several objectives. The 1925 International Opium Convention enjoyed growing acceptance, and even countries which had not signed and ratified it, such as the USA, cooperated to a large degree with the international bodies of the League of Nations, including the Permanent Central Opium Board. Government statistical returns were increasingly received and provided a clearer picture of the supply and demand situation. Many states had strengthened their domestic enforcement efforts. There were signs that the controls in the USA started to show positive results. India, the world's main opium exporter, started to reduce its opium exports. The strong decline of the licit coca sector in the interwar period is reflected in coca leaf export data from Java and Peru, the two main coca leaf exporting areas. These exports declined by 88% between 1920 (2,130 mt) and 1933 (247 mt). Despite this progress, the opium problem was not, actually, solved. Persia and other states started to fill the void created by the Indian withdrawal from the quasi-medicinal market. In addition, there was still the problem of continuing over production of opium inside China. Statistical returns also indicated that imports of manufactured drugs into China had started to skyrocket. As European governments pressured pharmaceutical companies to conform to more stringent control standards, a number of operators moved their activities to other states that had not ratified the International Opium Convention.

Although the U.S. had chosen not to join the League of Nations, American influence in the field of international drug control did not wane. Worried by the 1912

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<sup>58</sup> . Article 24, *ibid.*

<sup>59</sup> . Article 25, *ibid.*

<sup>60</sup> . Articles 28 & 29, *ibid.*

Hague Convention's limited effect on the smuggling of opium and, increasingly, manufactured drugs in East Asia, the U.S. put pressure on the League to convene a new conference that was eventually convened at Geneva to draft a new convention. Fifty seven nations attended the *Conference on the Limitation of the Manufacture of Narcotic Drugs*, which met in Geneva from 27 May to 13 July 1931. Rather than attempting to limit agricultural production of narcotic substances, attention shifted to strengthening the control regime at the manufacturing level, i.e. to limit the manufacture of drugs to medical and scientific needs. Governments managed to agree on indirect limitations, while maintaining a high degree of free trade and competition. The *Convention for Limiting the Manufacture and Regulating the Distribution of Narcotic Drugs*, was established and signed on 13 July 1931 and entered into force in July 1933, once the requisite 40 states had ratified it. Finally 67 countries signed and ratified this convention, including all key drug manufacturers: the United States, Germany, Switzerland, the Netherlands, Great Britain and Northern Ireland, France, Canada, Australia and the Soviet Union.

The 1931 Convention introduced a compulsory estimates system aimed at limiting the world manufacture of drugs to the amounts needed for medical and scientific purposes and established a *Drug Supervisory Body* to monitor the operations of the system. The Convention was intended to “...supplement the Hague Convention of 1912 and the Geneva Convention of 1925...” Under the new control system, signatories were to submit estimates on the quantities needed for medical and scientific needs. States could revise the estimates in case of medical emergency. In order not to limit free trade, signatories did not have to designate in advance where they would buy their supplies. This allowed them to shop for the lowest price. The treaty also required countries to cease manufacture or imports when they exceeded their annual estimate. The Convention obliged countries to carefully monitor all manufacturing activities. Responsibility for monitoring the estimate system was given to a newly founded *Drug Supervisory Body* (abbreviated DSB or the Body). The Body was in charge of a comprehensive assessment of global drug requirements, including assessing the needs of countries not party to the treaty. States were obliged to report imports and exports of drugs to the Body after execution of the orders. The 1931 Convention also introduced what is known today as ‘drug scheduling’, applying different control measures for different drugs. Under the 1931 Convention, the degree of limitation and regulation varied according to two criteria: the first was the degree of danger presented by a particular drug, and the second was the extent

to which a drug was used by the medical profession. From these points of view, the drugs covered by the Convention fell into three groups. Drugs such as codeine and dionine, were subjected to the least stringent measures due to their medical utility and lower abuse potential. Heroin, in contrast, was banned for export, except under special conditions. Under the Convention, any heroin seized should either be destroyed or converted, rather than diverted to medical or scientific use, as was permitted for seizures of some other drugs. The import control system put in place by the 1925 Geneva Convention was only partially effective because drugs were simply trans-shipped through non-signatory countries. The 1931 Conference was convened by the League of Nations to place limits on the manufacture of cocaine, heroin and morphine, and to control their distribution. The *Convention for Limiting the Manufacture and Regulating the Distribution of Narcotic Drugs*, 1931, was adopted by the conference at Geneva for the limitation of the manufacture of narcotic drugs to the world's legitimate requirements for medical and scientific purposes,, therefore called as Limitation Convention. The Limitation Convention consists of seven chapters and 34 articles. This Convention introduced the system of estimates that has to be furnished annually by the contracting parties to the Permanent Central Board for each of the drugs they require.

Beginning in 1931, Canada shifted its stand from being essentially reactive to the international drug control efforts and began playing an active role in supporting U.S. efforts to expand control at the source. Colonel Charles Henry Ludovic Sharman was named Chief of the Narcotics Division and was the principal developer of Canadian domestic and international drug policy until the 1960s. Canada, through Sharman, was highly involved in the 1931 Limitation Convention negotiation process. A new player also emerged on the U.S. delegation: Harry J. Anslinger, first Commissioner of the newly created Federal Bureau of Narcotics. Utterly devoted to prohibition and the control of drug supplies at the source, Anslinger is widely recognized as having had one of the more powerful impacts on the development of U.S. drug policy, and, by extension, international drug control into the early 1970s.

The centrepiece of the 1931 Limitation Convention was the manufacturing limitation system set out in Chapters II and III. Parties were required to provide the PCOB with estimates of their national drug requirements, for domestic medical and scientific purposes, and based on these estimates the PCOB would calculate

manufacturing limits for each signatory. The *Drug Supervisory Body* (DSB) was created to administer the drug control system. One of the weaknesses of the Convention was that States did not assume any responsibilities under the Convention for their colonies. Article 15 required states to set up a national drug control "special administration," somewhat modelled on the U.S. domestic control apparatus. The Convention came into force quickly because various countries and the League of Nations thought it could provide a useful model for arms control negotiations. The League even prepared a report explaining how the principles set out in the 1925 Geneva Convention and the Limitation Convention 1931, could be applied to disarmament issues.

The Convention for Limiting the Manufacture and Regulating the Distribution of Narcotic Drugs, 1931 placed the drugs in two groups. In the first group mainly the plant based drugs are listed while in the second group the drugs are mainly synthetic. Chapter II of the Convention provided for the requirement of annual estimates. States had to furnish annually estimates to the Permanent Central Board for each of the drugs in respect of each of its territories.<sup>61</sup>

Article 4 of the Convention required that every estimate furnished, so far as it relates to any of the drugs required for domestic consumption in the country or territory in respect of which it is made, was to be based solely on the medical and scientific requirements of that country or territory. Every estimate would show for each country or territory for each year in respect of each of the drugs whether in the form of alkaloids or salts or of preparations of the alkaloids or salts:

- (a) The quantity necessary for use as such for medical and scientific needs, including the quantity required for the manufacture of preparations for the export of which export authorisations are not required, whether such preparations are intended for domestic consumption or for export;
- (b) The quantity necessary for the purpose of conversion, whether for domestic consumption or for export;
- (c) The amount of the reserve stocks which it is desired to maintain;
- (d) The quantity required for the establishment and maintenance of any Government stocks.

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<sup>61</sup>. Article 2, The Geneva Convention, 1931.

Every estimate would be accompanied by a statement explaining the method by which the several amounts shown in it have been calculated. If these amounts are calculated so as to include a margin allowing for possible fluctuations in demand, the estimates must indicate the extent of the margin so included. The estimates would be examined by a Supervisory Body consisted of the members appointed by the Council. It might require any further information or details, except as regards requirements for Government purposes, which it might consider necessary, in respect of any country or territory on behalf of which an estimate had been furnished in order to make the estimate complete.<sup>62</sup> The Convention also provided that there would not be manufactured in any country or territory in any one year a quantity of any of the drugs greater than the total of the following quantities:

- (a) The quantity required within the limits of the estimates for that country or territory for that year for use as such for its medical and scientific needs including the quantity required for the manufacture of preparations for the export of which export authorisations are not required, whether such preparations are intended for domestic consumption or for export;
- (b) The quantity required within the limits of the estimates for that country or territory for that year for conversion, whether for domestic consumption or for export;
- (c) Such quantity as may be required by that country or territory for the execution during the year of orders for export in accordance with the provisions of this Convention;
- (d) The quantity, if any, required by that country or territory for the purpose of maintaining the reserve stocks at the level specified in the estimates for that year;
- (e) The quantity, if any, required for the purpose of maintaining the Government stocks at the level specified in the estimates for that year.<sup>63</sup>

The Convention, in Article 8, provided that the full amount of any of the drugs imported into or manufactured in any country or territory for the purpose of conversion in accordance with the estimates for that country or territory would be utilised for that purpose within the period for which the estimate applied. In the event, however, of it being impossible to utilise the full amount for that purpose within the period in question, the portion remaining unused at the end of the year would be deducted from the estimates for that country or territory for the

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<sup>62</sup> . Article 5, *ibid.*

<sup>63</sup> . Article 6, *ibid.*

following year.<sup>64</sup>The Contracting States agreed to prohibit the export from their territories of diacetylmorphine ( heroin), its salts, and preparations containing diacetylmorphine, or its salts.However, on the receipt of a request from the Government of any country in which diacetylmorphine is not manufactured, any State Party might authorize the export to that country of such quantities of diacetylmorphine, its salts, and preparations containing diacetylmorphine or its salts, as are necessary for the medical and scientific needs of that country,provided that the request was accompanied by an import certificate and was consigned to the Government Department.<sup>65</sup>

Any trade in or manufacture for trade of any product obtained from any of the phenanthrene alkaloids of opium or from the ecgonine alkaloids of the coca leaf, not in use for medical or scientific purposes would not take place in any country or territory unless and until it had been ascertained to the satisfaction of the Government concerned that the product in question was of medical or scientific value.<sup>66</sup>

The Convention provides in Article 12(2) that the imports in any one year into any country or territory of any of the drugs would not exceed the total of the estimates and of the amount exported from that country or territory during the year, less the amount manufactured in that country or territory in that year. Article 14 (1) provided "any Government which has issued an authorisation for the export of any of the drugs which are or may be included in Group I to any country or territory to which neither this Convention nor the Geneva Convention applied shall immediately notify the Permanent Central Board of the issue of the authorisation; provided that,if the request for export amounts to 5 kilograms or more,the authorisation shall not be issued until the Government has ascertained from the Permanent Central Board that the export will not cause the estimates for the importing country or territory to be exceeded.If the Permanent Central Board sends a notification that such an excess would be caused, the Government will not authorise the export of any amount which would have that effect."

The States Parties to the Convention agreed to take all necessary legislative or other measures in order to give effect within their territories to the provisions of this Convention and to create a special administration for the purpose of:

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<sup>64</sup> . Article 8, *ibid.*

<sup>65</sup> . Article 10, *ibid.*

<sup>66</sup> . Article 11, *ibid.*

- (a) Applying the provisions of the present Convention
- (b) Regulating, supervising and controlling the trade in the drugs;
- (c) Organising the campaign against drug addiction, by taking all useful steps to prevent its development and to suppress the illicit traffic.<sup>67</sup>

The States were under an obligation to exercise a strict supervision over the manufacture, possession and disposal of the prohibited drugs and their preparations.<sup>68</sup>

It was undertaken by the member States that any of the drugs which are seized by them in the illicit traffic would be destroyed or converted into non-narcotic substances or appropriated for medical or scientific use, either by the Government or under its control, when these were no longer required for judicial proceedings or other action on the part of the authorities of the State. In all cases diacetylmorphine would either be destroyed or converted.<sup>69</sup> The Convention has made the provision that the labels under which any of the drugs, or preparations containing those drugs, are offered for sale, would show the percentage of the drugs as well as their name.

The States where drugs are manufactured or converted would notify the Secretary-General of the League of Nations indicating whether the manufacture or conversion of those drugs is for domestic needs only or also for export.<sup>70</sup>

One of the important provisions of the Convention of 1931 was the requirement of communication by the Parties to each other regarding the particulars of each case of illicit traffic discovered by them which might be of importance either because of the quantities involved or because of the light thrown on the sources from which drugs were obtained for the illicit traffic or the methods employed by illicit traffickers. The particulars given would indicate as far as possible:

- (a) The kind and quantity of drugs involved;
- (b) The origin of the drugs, their marks and labels;
- (c) The points at which the drugs were diverted into the illicit traffic;
- (d) The place from which the drugs were despatched, and the names of shipping or forwarding agents or consignors; the methods of consignment and the names and address of consignees, if known;

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<sup>67</sup> . Article 15, *ibid.*

<sup>68</sup> . Article 16, *ibid.*

<sup>69</sup> . Article 18, *ibid.*

<sup>70</sup> . Articles 19 & 20, *ibid.*

- (e) The methods and routes used by smugglers and names of ships, if any, in which the drugs have been shipped;
- (f) The action taken by the Government in regard to the persons involved, particularly those possessing authorisations or licences and the penalties imposed;
- (g) Any other information which would assist in the suppression of illicit traffic.<sup>71</sup>

The 1931 Convention can be considered a response to the prevailing situation of drug abuse and it is justified to call it the "Limitation Convention" because of the introduction of the system of estimates. Each Government was obliged to furnish annual estimates of its need for narcotic drugs for medical and scientific purposes. These estimates were examined by the *Drug Supervisory Body* which drew up an annual statement of the estimated world requirements. Compliance with the estimates was under the control of the *Permanent Central Board* which was authorized to intervene in any case in which the limits were not respected.

The other aspect of drug abused that was addressed by the League of Nations was the opium smoking. An Agreement concerning the Control of Opium Smoking, was signed at Bangkok in 1931. The League was, however, no longer functioning when prohibition was introduced by the colonial powers in their territories in the Far East.

### **1931 Bangkok Opium Smoking Agreement**

In late 1931, a further conference was held in Bangkok to address opium smoking in the Far East. The treaty produced was weak, primarily because the U.S. attended only as an observer and the European colonial powers were unwilling to implement effective controls on opium use while there was significant opium over production and trafficking. The fact that the U.S. strategy of absolute prohibition had made little impact on opium trafficking and use in the Philippines did not assist the U.S.

in pushing for the elimination of poppy cultivation. The key effect of the Bangkok conference was that it convinced the U.S. that a firmer approach was needed to combat raw material production and illicit drug trafficking.

### **The 1936 Geneva Trafficking Convention**

The Hague Convention of 1912, the International Opium Convention of 1925, and the 1931 Convention for Limiting the Manufacture and Regulating the Distribution of Narcotic Drugs provided a basis for controlling the licit trade in psycho-

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<sup>71</sup>.Article 23, *ibid*.

active substances. The Permanent Central Opium Board concluded that by 1934-35, legal manufacture of opiates and cocaine had dropped to approximately the level of legitimate demand. However, progress made in the licit production of drugs prompted the emergence of rising illegal activities and the increased involvement of international organised crime syndicates. To specifically address illicit drug activities, the League of Nations convened a conference in 1936 that drafted the *1936 Convention for the Suppression of the Illicit Traffic in Dangerous Drugs*, which was signed on 22 July 1936. This was the first treaty to focus explicitly on drug trafficking and the first to make certain drug offenses international crimes.

In Article 2 the Convention stated:

*“Each of the High Contracting Parties agrees to make the necessary legislative provisions for severely punishing, particularly by imprisonment or other penalties of deprivation of liberty, the following acts – namely :*

- (a) The manufacture, conversion, extraction, preparation, possession, offering, offering for sale, distribution, purchase, sale, delivery on any terms whatsoever, brokerage, despatch, despatch in transit, transport, importation and exportation of narcotic drugs, contrary to the provisions of the Conventions;*
- (b) Intentional participation in the offences specified in this Article;*
- (c) Conspiracy to commit any of the above-mentioned offences;*
- (d) Attempts and, subject to the conditions prescribed by national law, preparatory acts.*

For the first time the 1936 Convention dealt explicitly with the issues of drug related crimes committed abroad and the related questions of extradition. Once again, however, the practical importance of this Convention remained limited because a number of key countries did not sign and ratify it. Among these was the United States, and due to this the convention remained less effective and could not render punishable all non medical cultivation, production and distribution of drugs. In addition, by this time, countries such as Germany and Japan were no longer participating in international conferences of this sort. In total, only 13 countries signed and ratified the 1936 Convention. Moreover, it only became effective in October 1939, after World War II had started, and drug control was certainly not top priority for most countries during this time. It was not until five decades later that these topics were dealt with again at the international

level, within the framework of the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, 1988.

Based on initiatives of the *International Police Commission*, forerunner of the *International Criminal Police Organization* (INTERPOL), negotiations had begun in 1930 to develop a treaty to stem the illicit drug traffic and harshly punish traffickers through criminal sanctions because there was no platform for the establishment of closer cooperation among national police authorities in respect of drug offences. In 1936, the *Convention for the Suppression of the Illicit Traffic in Dangerous Drugs* (1936 Trafficking Convention) was concluded in Geneva. The first international provisions intended for the prosecution and extradition of traffickers and for direct police cooperation appeared in the 1936 Convention. The U.S., led by Anslinger, had attempted to include in the treaty the criminalization of all activities, cultivation, production, manufacture and distribution, related to the use of opium, coca (and its derivatives) and cannabis for non-medical and non-scientific purposes. Many countries opposed this and the focus remained on illicit trafficking. Article 2 of the Convention called upon signatory countries to use their national criminal law systems to severely punish, particularly by imprisonment or other penalties of deprivation of liberty, acts directly related to drug trafficking. The U.S. refused to sign the final version because it considered the Convention too weak, especially in relation to extradition, extra-territoriality and the confiscation of trafficking profits. The U.S. was also worried that if it signed, it might have to weaken its domestic criminal control system already in place in order to comply with the Convention. In effect, the Convention never gained wide-spread acceptance as most countries interested in targeting traffickers concluded their own bilateral treaties.

Illicit traffic during this period was considerably facilitated by the lack of cooperation among national authorities and by the differences between national criminal jurisdiction systems. Despite its minimal overall effect, the 1936 Trafficking Convention represented a turning point. All the previous treaties had dealt primarily with the regulation of legitimate drug activities, whereas the 1936 Trafficking Convention now made such activities an international crime subject to penal sanctions. The Convention followed, to a large extent, the International Convention for the Suppression of Counterfeiting Currency of 1929, and although its provisions were never properly implemented, its principles were used for the development of the 1961, 1971 and 1988 Conventions.

Article 1 of the Convention for the Suppression of the Illicit Traffic in Dangerous Drugs, 1936, states that "narcotic drugs" shall be deemed to mean the drugs and substances to which the provisions of the Hague Convention of January 23rd, 1912, and the Geneva Conventions of February 19th, 1925, and July 13th, 1931, are now or hereafter may be applicable. This Convention provided for the stringent actions against the drug offences. The Contracting States agreed to make the necessary legislative provisions for severely punishing, particularly by imprisonment or other penalties of deprivation of liberty, the following acts, namely :

- (a) The manufacture, conversion, extraction, preparation, possession, offering, offering for sale, distribution, purchase, sale, delivery on any terms whatsoever, brokage, despatch, despatch in transit, transport, importation and exportation of narcotic drugs, contrary to the provisions of the said Conventions;
- (b) Intentional participation in these drug offences.
- (c) Conspiracy to commit any of the abovementioned offences ;
- (d) Attempts and preparatory acts.

The States which possessed extra-territorial jurisdiction in the territory of another States undertook to enact the necessary legislative provisions for punishing such of their nationals as were guilty within that territory of any of the drug offence as severely as if the offence had been committed in their own territory.<sup>72</sup> The different acts constituting a drug offence if committed in different countries, be considered as a distinct offence. Every member State was required to enact severe laws to control the narcotic trafficking and the previous convictions were recognised under the Convention for the purpose of establishing habitual criminality.<sup>73</sup>

In countries where the principle of the extradition of nationals was not recognised, nationals who had returned to the territory of their own country, after the commission abroad of any of the drug offences, would be prosecuted and punished in the same manner as if the offence had been committed in the said territory. Foreigners who were in the territory of a High Contracting Party and who had committed abroad any of the drug offences would be prosecuted and punished as though the offence had been committed in that territory, if the following conditions were realised, namely, that:

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<sup>72</sup> . Articles 2 & 3, Convention for the Suppression of the Illicit Traffic in Dangerous Drugs, 1936.

<sup>73</sup> . Article 4 & 6, *ibid*.

- (a) Extradition has been requested and could not be granted for a reason independent of the offence itself;
- (b) The law of the country of refuge considers prosecution for offences committed abroad by foreigners admissible as a general rule.

The drug offences to which this Convention is applied would be included as extradition crimes in any extradition treaty which had been or might be concluded between any of the High Contracting Parties.<sup>74</sup>

According to Article 11 of the Convention each of the High Contracting Parties would set up, within the framework of its domestic law, a central office for the supervision and co-ordination of all operations necessary to prevent the drug offences and for ensuring that steps are taken to prosecute persons guilty of such offences.

This central office:

- (a) Would be in close contact with other official institutions or bodies dealing with narcotic drugs;
- (b) Would centralise all information of a nature to facilitate the investigation and prevention of the drug offences.
- (c) Would be in close contact with and may correspond directly with the central offices of other countries.

The central office shall co-operate with the central offices of foreign countries to the greatest extent possible, in order to facilitate the prevention and punishment of the drug offences.

The central office of a State would communicate to the central office of any other country which may be concerned :

- (a) Particulars which would make it possible to carry out any investigations or operations relating to any transactions in progress;
- (b) Particulars which it has been able to secure regarding the identity and the description of traffickers with a view to supervising their movements;
- (c) Discoveries of secret factories of narcotic drugs.<sup>75</sup>

Initially, the drug control efforts were aimed at limiting the licit international trade in narcotic drugs to medical requirements. In fact, the international drug control system was based on this fundamental objective. But later, the controls were expanded to cover manufacture and production of drugs and, as of the late 1930s, to trafficking in drugs. The scope of controlled substances was gradually expanded

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<sup>74</sup> . Articles 7 , 8 & 9, *ibid*.

<sup>75</sup> . Article 12 , *ibid*.

from opium and morphine (Recommendations of the Shanghai Conference, 1909) to cocaine (The Hague Convention, 1912), cannabis (1925 Convention), synthetic opiates (1948 Protocol), psychotropic substances (Convention on Psychotropic Substances, 1971) and precursor chemicals (1988 United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances).

Increasing political tensions in the late 1930s clearly weakened international co-operation. Germany, which had entered the League of Nations in 1926, left the organisation in 1933, after the National Socialists took power in that country. Japan left the League of Nations in 1933 after the League had voiced opposition to its invasion of the Chinese territory of Manchuria. Italy withdrew in 1937, when the League condemned its invasion of Ethiopia. The Soviet Union, which had only joined the League of Nations in 1934, left it in 1939, after discord arising out of its aggression against Finland. But despite the unfavourable political environment, international drug control continued to work rather satisfactorily until the outbreak of World War II. Most countries adhered to the conventions and even supplied statistics until 1939, some even during World War II. Many of the offices of the international drug control system were, as of 1940, gradually transferred to the United States, though the official seat (and some staff) remained in Geneva. The Opium Advisory Committee was moved to Princeton and the Central Permanent Board and the Drug Supervisory Body to Washington.