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DEPARTMENT OF STATE
THE LEGAL ADVISER

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MEMORANDUM FOR THE ACTING SECRETARY

THROUGH: S/S *OK*

FROM : L - Carl F. Salans CFS *SOE 11-5*

SUBJECT: Proposal for a New International Convention
on Opium. BRIEFING MEMORANDUM

Attached is the proposal discussed with you July 6 for a new international convention to deal broadly with the opium problem and to multilateralize pressure on states like Turkey. The existing international instrument, the Single Convention on Narcotic Drugs, negotiated in 1961, relies on voluntary cooperation of states. The proposed new convention would (a) fix quotas for legal export that would be tied to world need and a country's success in controlling illegal diversion; (b) establish an opium control organization with significant power to gather information, fix quotas, and impose penalties; (c) establish a Diversification Fund capable of providing significant assistance to opium producing states desirous of limiting and eventually eradicating production.

In order to deal with another phase of the drug problem and to make strict controls more palatable for producing states, the proposal suggests the U.S. and other manufacturing states express a willingness to accept parallel regulations of manufacture and export of opium based and synthetic drugs and to explore the feasibility of similar regulation of the manufacture and export of all drugs.

We believe that consideration of this proposal now is propitious. The climate is more receptive than in 1961 for acceptance of meaningful international controls. A

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L. J. Greenwalk: seb

DECLASSIFIED
PA/HO, Department of State
E.O. 12958, as amended
June 22, 2004

11/17/70 FM: L-Salans
"Proposal for a New International Convention on Opium"
SOE 11-5

TOP SECRET

A Proposal for a New International Convention to Deal with
the Opium Problem

The Problem

Opium presents a grave menace to the health of the U.S. and other societies, but its production and export cannot be banned as long as it remains indispensable for legitimate medical purposes. Once some legal use for opium is conceded, it becomes difficult to determine what opium is intended for legal and what for illegal purposes. Likewise, it becomes difficult to convince one country which produces significant quantities of opium upon which a portion of its economy depends that it would not be discriminatory for it to forego production totally. Turkey is the estimated source of 80% of the heroin illicitly entering the U.S., but the illegal opium trade is so profitable that criminal elements would surely establish new supply lines elsewhere in the event that Turkey establishes better controls or eliminates production. The problem is multi-lateral rather than bi-lateral and should be dealt with in the broadest possible international context. The existing international

agreement, the Single Convention on Narcotic Drugs, International, drafted in 1961, lacks effective sanctions and is inadequate. What is needed is an international instrument that would 1) recommit nations to the limitation of opium production and export solely for medical and scientific requirements; 2) provide for a precise determination of such requirements and actual production; 3) contain some sticks (including world opinion, embargo, inspection, and loss of diversification assistance) and carrots (including quotas of the legal market and substantial diversification assistance) so that nations will feel a need to make greater efforts to eradicate excess production and diversion into the illicit market. The threat that this instrument might be adopted should encourage countries to enforce immediately their compliance with existing obligations.

The Single Convention of 1961

The Single Convention was drafted at a United Nations conference and makes use of the UN's Economic and Social Council, ECOSOC's Commission on Narcotic Drugs, and an

during negotiation of the Single Convention
International Narcotics Control Board. These international control organs possess, however, essentially only recommendatory powers. The Single Convention relies primarily on the character of cooperation received from individual states that remain largely free to make their own decisions. There is loose international supervision with dependence upon information supplied by states and virtually no effort to develop an international policy that would correlate a party's success in controlling illegal drug use with its right of access to the legal drug trade. There is also no effort in the Single Convention to encourage the development of situations in which parties will no longer require drugs and in which producing countries will be able to afford a decline in the market.

Objections to Stronger Control

The 1953 Protocol for Limiting and Regulating the Cultivation of the Poppy Plant actually had a number of stronger provisions than the Single Convention which largely superseded it. Objections to strong controls expressed

during negotiation of the Single Convention particularly by the Soviet Bloc and by newly independent countries included 1) dislike of open inspection; and 2) dislike of the principle of restricting legal production to a handful of long-established states and embargoing all other states. Producing countries have shown a tendency to oppose strong controls that fall only upon them. The atmosphere in 1970 may be more conducive to acceptance of strong measures. The magnitude of the problem is more apparent. Younger countries are more mature and perhaps more aware that there is no economic bonanza for them in opium. Various degrees of inspection have been accepted by the Soviet Union in other sensitive agreements (Outer Space, Antarctica, and Draft Seabeds Disarmament Treaties).

We can take additional steps to reduce opposition. The sensitivities of younger countries could be assuaged by a system that would give them at least the theoretical right to negotiate a legal production quota. They should thus be more willing to accept the principle of sanctions against a

country producing opium that is exported without a quota.

We can also develop a series of information gathering devices as fall backs between on-site inspection and the inadequate provisions of the Single Convention, including possible use of satellites or provisions for mandatory response to a range of informational requests. We can consider placing ourselves and other countries that manufacture drugs from opium bases or produce synthetic substitutes under an international supervision and control that parallels the supervision and control we propose for producing countries. This could be in itself a significant contribution to the drug problem, and it would at least signal to producing countries that we are serious and willing to submit to burdens ourselves. The latter point would be politically useful in getting the agreement of a number of sensitive producing countries.

Framework of a Stronger Opium Control

The Framework of a stronger opium control would include

- 1) an organization composed of all interested nations and

entrusted with substantial powers; 2) a quota system for legal export of opium tied to a country's success in preventing illegal diversion; 3) a system by which the controlling body would be able to obtain and verify full information relating to opium; 4) binding commitments by parties to take whatever action is necessary and supervision of these commitments by the organization; 5) a Diversification Fund to help parties limit and eventually eradicate opium production. An attempt could also be made to include in the Convention controls on manufacture and export of opium based drugs and synthetics and quotas and controls for production of opium intended only for domestic use. Many of the specific mechanisms are based on those already in operation in the International Coffee Agreement of 1968.

The new organization would have a governing body composed of interested nations including producers of opium as well as those with legal use interests and illegal consumption problems. This body should have extensive powers to

regulate the international flow of opium, and it should have full access to necessary statistical data, including obligatory receipt of all certification information relating to every international transfer of opium. It should have specific authority to require Members to furnish such information as it considers necessary for its operations and to question a member not supplying requested information within a reasonable time. In addition to material which the parties supply it, the opium body should also have investigatory powers such as those granted the International Coffee Council in Article 43(3) of the Coffee Agreement, which provides that:

"The Council shall, either directly or through an internationally recognized worldwide organization, take all necessary steps so that at any time it will be able to satisfy itself that Certificates of Origin and Certificates of Re-export are being issued and used correctly and to ascertain the quantities of coffee which have been exported by each Member."

The powers granted the opium body would reflect the need to ascertain the quantities of opium exported in any manner from each Member including quantities smuggled without the Member's knowledge.

With access to detailed and reliable information on need for opium, production capabilities, and export-import patterns, the body could fix specific quotas for the legal movement of opium. Basic quotas might be negotiated for each country and distributed voting on annual quota revisions and other matters geared to reflect the different interests of importers and exporters as well as compliance with the basic obligation to fulfill commitments and to act against illegal traffic.

Members of the body could undertake firm commitments and give to the body the powers included in Article 38 of the Coffee Agreement:

"1) Exporting Members subject to quotas shall adopt the measures required to ensure full compliance with all provisions of the Agreement relating to quotas. In addition to any measures it may itself take, the Council by a distributed two-thirds majority vote may require such Members to adopt additional measures for the effective implementation of the quota system provided for in the Agreement.

"2) Exporting Members shall not exceed the annual and quarterly export quotas allocated to them."

In addition, Article 38 provides that the Council may impose a graduated series of punishments including expulsion upon

members violating their quotas. The opium body would consider effective action to prevent smuggling as a function of a state's compliance with its quota.

A producing country would naturally seek to obtain as large a share of the legal trade as possible. The body would correlate quotas with the success of countries in reducing production to the bare minimum required for legal uses. Improved documentation would allow that bare minimum to be more precisely fixed, and access to information would provide an objective basis on which to make quota decisions. A country producing obviously more opium than it consumed and for which it had a quota would find its quota reduced accordingly. It would thus have considerable reason to take steps to reduce domestic production, and it would find it easier to take such steps since the impetus would be provided by international action rather than unilateral foreign pressure.

This trend would be enhanced if states could accept provisions similar to Article 48 of the Coffee Agreement by

"Each producing Member undertakes to adjust its production of coffee to a level not exceeding that needed for domestic consumption, permitted exports and stocks..."

That Article also provides that Members must obtain the approval of the Council for production goals, that the Council will have the power to review those production goals "and shall revise them to the extent necessary to ensure that the aggregate of the individual goals is consistent with estimated world requirements." Members "undertake to conform with the individual production goals established..." and to "apply whatever policies and procedures [they] deem(s) necessary for this purpose." The Council, moreover, is empowered to pass on the adequacy of these policies and procedures and if it finds insufficient compliance may suspend a member's voting rights, and "If, ... after the elapse of such additional period as the Council shall determine it is established that the Member concerned has not taken the steps necessary to implement a policy to conform with the objectives of this Article, the Council may require the withdrawal of such Member from the Organization...."

Certain other devices in the Coffee Agreement also have applications for opium. Article 46 has as its goal sponsorship by the Council of "the promotion of coffee consumption," an end which obviously would not be paralleled in an opium agreement. An opium agreement might well, however, contain a commitment by the controlling body to sponsor research on and development of opium substitutes, and to disseminate information on the harmful effects of drugs. Article 54 establishes "the Diversification Fund of the International Coffee Organization to further the objectives of limiting the production of coffee in order to bring supply into reasonable balance with world demand." A similar fund should be developed within the context of an opium agreement that would help producing countries over the difficulties of agricultural conversion. Participation in the Diversification Fund is compulsory for major coffee exporters and discretionary for importers and minor exporters, but different participation guidelines obviously could be structured to the opium situation. The psychological factor of the Fund's multilateral involvement and the concrete economic and technical aid it could offer would be major

inducements to producing countries to control their crops strictly and eventually to eliminate them. The Fund would also offer the U.S. an excellent forum in which to press for as rapid a cutback of production as feasible.

Possible Additional Elements and Negotiating Points

As a first and optimum proposal in negotiating this instrument, we could seek the right, patterned on that described in the Statute of the International Atomic Energy Agency, of on-site inspection within any contracting party by an international team representing the organization. The inspecting team might be empowered to destroy clearly illicit stocks, to issue immediate recommendations to the party, or merely to report to the organization. We might also explore the feasibility of observation by satellite or airplanes. The mandatory informational provisions described in the previous section would represent a feasible compromise between this and the system in effect under the Single Convention.

Producing countries would be interested in stringent controls on manufacturing countries. We might begin by offering the organization a parallel right of on-site inspection within manufacturing countries, and we could also

indicate a willingness to negotiate a quota system for export of manufactured and synthetic drugs paralleling the quota system for export of opium.

Ideally international control would extend substantially to opium intended only for domestic use, but this might be considered too great an incursion on sovereignty by many countries. Supervision of production goals like that provided in the Coffee Agreement would offer, however, significant control of domestic consumption and combined with the organization's power to reduce quotas of non-complying parties and to manage the Diversification Fund would offer guarantees against the possibility that a party would not act effectively to prevent diversion of opium produced ostensibly for domestic use. We should encourage producers to submit to more explicit controls over all production by agreeing to accept reciprocally equal regulation of all phases of manufacture and distribution of opium based drugs and synthetics as well as regulation of their export, and we should indicate a further willingness to explore the feasibility

of extending the regulatory system to the manufacture and export of all types of drugs.

This framework would provide the international community with more significant tools than it has ever possessed to fight the opium problem. Equally important, it would work on the will of countries to comply with their commitments. A country that refused to join would be branded an outcast, its production would offer an unequivocal target for international police work, and it would lose a legal source of income and the opportunity to receive assistance from the Diversification Fund. The same factors would apply proportionately to contracting parties whose performance or effort was deficient. Finally, although it would take some time to establish this framework by treaty, the fact that it was under active consideration and might soon be adopted should spur countries to improve their opium control procedures.

Method of Strengthening Opium Control.

The framework described above is sufficiently novel that it is properly the subject of a new Convention that would,

at least for opium, supplement the Single Convention between contracting parties. It should be developed within the U.N. system, however, for maximum effectiveness and acceptability. The initial proposal and preliminary discussions would logically be in ECOSOC and the Commission on Narcotic Drugs. ECOSOC could then call an international conference as it is empowered to do by Article 62(4) of the U.N. Charter "on matters falling within its competence." Procedural considerations, including advance consultations with a range of probable problem countries (e.g. the Soviet Union, Turkey, India) should receive careful study and planning in an effort to minimize potential opposition and hopefully to obtain broad co-sponsorship for a new convention.

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