



**UNODC**

United Nations Office on Drugs and Crime



1909

1912

1914

1919/20

1920

1925

1931

1936

1946

1948

1953

1961

1971

1972

# A CENTURY OF INTERNATIONAL DRUG CONTROL



**100 YEARS**

## Acknowledgements

The present report is an extended version of Chapter 2 of the *World Drug Report 2008*.

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# Table of Contents

Drug Control 1909-2009: A Positive Balance Sheet - Preface by the Executive Director	3
Explanatory Notes	5
Executive Summary	7
Introduction	13
The Drug Situation Prior to the Establishment of an International Drug Control System	15
The Emergence of an International Drug Control Consensus	29
The Development of the Legal Framework and Codification of the International Control System	33
International Drug Control under the Auspices of the United Nations	59
Drug Trends over a Century of Drug Control	81
Achievements and unintended Consequences of the International Drug Control System	89





## Drug Control 1909-2009: A Positive Balance Sheet

For those who doubt the effectiveness of drug control, consider this. In 1906, 25 million people were using opium in the world (1.5% of the world population) compared with 16.5 opiate users today (0.25% of the world population). In 1906/07, the world produced around 41,000 tons of opium – five times the global level of illicit opium production in 2008. While opium used to be produced in a huge belt, stretching from China to Indochina, Burma, India, Persia, Turkey and the Balkan countries, the illegal production of opium is now concentrated in Afghanistan (92%).

Same for coca. Its leaves used to be cultivated not only in the Andean region but also in several Asian countries including Java (Indonesia), Formosa (Taiwan) and Ceylon (Sri Lanka). Today coca leaf production is concentrated in three Andean countries: Colombia, Peru and Bolivia.

International drug control can take some of the credit.

As this report points out, the first steps were taken grudgingly. Despite a major opium epidemic in China at the end of the 19th century, there was little interest in suppressing a business that was so profitable for opium merchants, shippers, bankers, insurance agencies and governments. Many national economies were as dependent on opium as the addicts themselves. Indeed, what Karl Marx described as “the free trade in poison” was such an important source of revenue for Great Powers that they fought for control of opium markets.

But by the beginning of the 20th century, the global trade in drugs was becoming a global problem which required a global solution. With the prodding of anti-opium activists, the first international conference on narcotic drugs was held in Shanghai in 1909, paving the way for the International Opium Convention of the Hague in 1912. Over the next fifty years, a multilateral system to control production, trafficking and abuse of drugs was developed. Three drug con-

trol conventions were adopted under the auspices of the United Nations (in 1961, 1971 and 1988). Adherence is now almost universal.

Illicit drug use (mostly on an occasional basis) has been contained to around 5 percent of the adult population or 3.2% of the world’s total population – a much lower prevalence than less regulated drugs like alcohol and tobacco. Deaths due to drugs are limited to perhaps 200,000 a year which is one tenth of those killed by alcohol and twenty times less than those killed by tobacco.

It makes no sense to unravel this achievement, that has been a century in the making, by loosening controls on drug use. Yet this progress can only be maintained by coming to terms with the unintended consequences of drug control, especially the massive criminal black market in drug trafficking.

It is therefore essential to reduce the vulnerability of people to drugs (through health and social services for prevention and treatment), the vulnerability of farmers (through development), and the vulnerability of societies to drugs and crime (by promoting economic growth and the rule of law, and by fighting crime and corruption).

The drug control centenary provides a golden opportunity to reflect on lessons learned and to ensure that drug control in the 21st century is fit for purpose.



Antonio Maria Costa  
Executive Director

United Nations Office on Drugs and Crime



## Explanatory Notes

The present report is an extended version of Chapter 2 of the *World Drug Report 2008*.

The designations employed and the presentation of the material in this publication do not imply the expression of any opinion whatsoever on the part of the Secretariat of the United Nations concerning the legal status of any country, territory, city or area or of its authorities, or concerning the delimitation of its frontiers or boundaries. Countries and areas are referred to by the names that were in official use at the time the relevant data were collected.

This publication has not been formally edited.

Maps: The boundaries and names shown and the designations used on maps do not imply official endorsement or acceptance by the United Nations.

Place names: This text covers a long historical period, during which many place names have changed. UNODC has made every effort to apply place names consistently and to associate them with the proper time period or current names. These attributions and equivalencies do not have official endorsement or acceptance by the United Nations.

The following abbreviations have been used in this report:

ARQ	annual reports questionnaire
ATS	amphetamine-type stimulants
BRQ	Biennial Reports Questionnaire
CICP	Centre for International Crime Prevention
CMO	Comprehensive Multidisciplinary outline for Future Activities
CND	Commission on Narcotic Drugs
DND	Division on Narcotic Drugs

DSB	Drug Supervisory Body
ECOSOC	Economic and Social Council
FATF	Financial Action Task Force
Govt.	Government
ICMP	UNODC Global Illicit Crop Monitoring Programme
IDU	Injecting drug use
INCB	International Narcotics Control Board
LSD	lysergic acid diethylamide
MDA	methylenedioxyamphetamine
MDMA	3,4-Methylenedioxy-N-methylamphetamine, known as “Ecstasy”
OAC	Opium Advisory Committee
PCOB	Permanent Central Opium Board
PCP	phencyclidine
THC	tetrahydrocannabinol
UNFDAC	United Nations Fund for Drug Abuse Control
UNGASS	United Nations General Assembly special Session, 1998
UNODC	United Nations Office on Drugs and Crime
WHO	World Health Organization

### Weights and measurements

u.	Unit
lt.	Litre
kg	Kilogram
ha	Hectare
mt	Metric ton





## Executive Summary

Nearly 100 years ago, the international community met in Shanghai to discuss the single largest drug problem the world has ever known: the Chinese opium epidemic. Prior to the 1909 Shanghai Opium Commission, national governments and state-sponsored monopolies played an active role in peddling opium across borders. The profits to be made were enormous, generating as much as half of the national revenues of some island states serving as redistribution centres. Even a country the size of British India derived 14% of state income from its opium monopoly in 1880.

At the peak of the opium trade, tens of millions of Chinese were addicted to the drug, and nearly a quarter of the adult male population used it annually. The massive opium imports which supplied consumers caused the country's formerly massive foreign reserves to dwindle. China had unsuccessfully fought two wars against the British Empire to stop opium importation. When forced at gunpoint to legalise the drug, China too began to cultivate. This brought currency outflows to a halt and created a huge source of tax revenue. At the time of the Shanghai Commission, China derived at least 14% of its income from the drug.

The trade's enormous revenues ensured that there were important political and economic interests vested in continuing the trade. Given this, the success of anti-opium trade campaigners in using multilateralism to confront the damage caused by the opium trade is remarkable. 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. Creating and enacting the

international law and normative instruments presently available to deal with the global drug problem would be done via numerous agreements and declarations issued, and would take roughly one hundred years.

### Codification of the Drug Control System

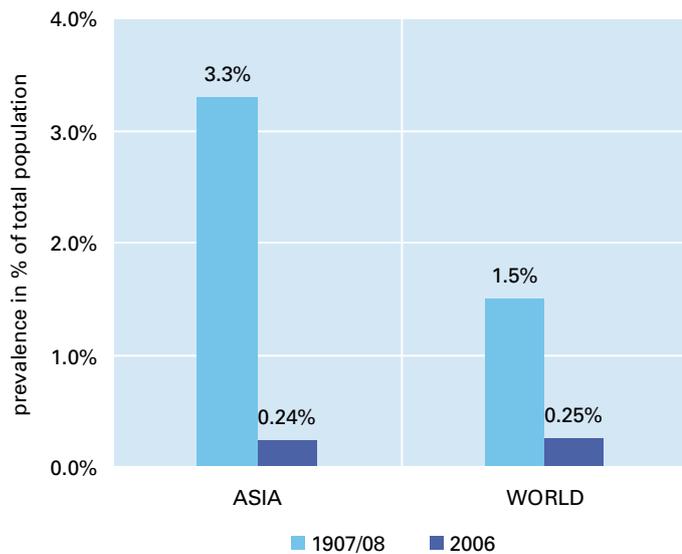
The first international drug convention, the International Opium Convention of The Hague, was signed in 1912 and entered into force in 1915. The peace treaty of Versailles contained a clause which required all its signatories to adhere to the provisions of the International Opium Convention of The Hague. The International Opium Convention of The Hague, designed to curb shipments of narcotic drugs that were not meant to be used for medical purposes, thus emerged as a truly international instrument.

As of 1920, international drug control became part of the tasks assumed by the League of Nations. Under its auspices, three main conventions were developed (1925 Convention, 1931 Convention and 1936 Convention). These provided the groundwork for the practical operations of the international drug control system, and, indeed, much progress was made in curtailing the licit trade in narcotic drugs during this period.

Following World War II, multilateral drug control came under the auspices of the United Nations. A number of protocols to improve the control system were established and signed in the post-war years, the most far reaching of which was the 1953 Opium Protocol.

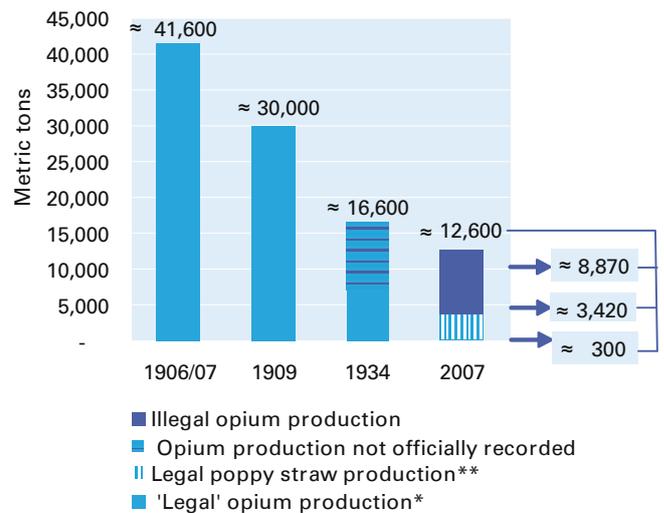
The next milestones - (i) the Single Convention on Narcotic Drugs, 1953 (which was subsequently amended by a Proto-

Estimates of annual prevalence of opiate use, 1907/08 and 2006



Sources: UNODC calculations based on International Opium Commission, Shanghai, February 1909, UNODC, *World Drug Report 2008*.

Global licit and illicit opium production, 1906/07 – 2007



\* Legal status of opium before 1912 must be differentiated from opium after 1964 (when the Single Convention came into force)  
 \*\* converted into opium equivalents

Sources: International Opium Commission, Shanghai, INCB, UNODC.

col in 1972), (ii) the Convention on Psychotropic Substances, 1971, and (iii) the 1988 United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances - each responded to specific new or unresolved developments, and, added new elements to the control regime.

It is often overlooked that the first international drug control efforts 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. Controls were then expanded to cover manufacture and production of drugs and as of the late 1930s trafficking in drugs. The scope of controlled substances was gradually expanded 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). In addition, the 1988 Convention was designed to hit drug traffickers where it hurts them most: by depriving them of financial gains and freedom of movement, extending the scope of control to measures to prevent money laundering and facilitate the tracing, freezing and confiscation of proceeds from drug trafficking. Moreover, it attempted to bar all havens to drug traffickers through its provisions for extradition of major drug traffickers and mutual legal assistance.

The international drug control system is sometimes criticized for not having given sufficient importance to demand

reduction— prevention and treatment. In fact, demand reduction has been, from the very start, a key component in tackling the drug problem. This began with the ‘recommendations’ put forward by the International Opium Commission in 1909 where each government was urged, “to take measures for the gradual suppression of the practice of opium smoking in its own territories.” The original Article 38, Para 1 of the 1961 Convention stated that, “The Parties shall give special attention to the provision of facilities for the medical treatment, care and rehabilitation of drug addicts.” Article 4 of the 1961 Convention (‘General obligations’) asks the parties to “take such legislative and administrative measures as may be necessary: (c) ...to limit exclusively to medical and scientific purposes the ... use ... of drugs .”

Although drug demand reduction developed as an integral part of the international drug control system, it was primarily seen as a national task, reflecting the views of the early framers of the conventions that national authorities are better aware of the specific abuse situations and contexts in their countries than any third party. The national authorities were also seen to be better equipped to devise drug demand reduction programs than any international bureaucracy. Nonetheless, demand reduction started to play an increasing role at the international level beginning in the 1970s. The Convention on Psychotropic Substances, 1971 included Article 20, Para 1 states that, “The Parties shall take all practicable measures for the prevention of abuse of psychotropic substances and for the early identification, treatment, education, after-care, rehabilitation and social reintegration of the persons involved, and shall co-ordinate their efforts to these end”. Similarly, the Protocol amending the 1961 Convention (1972), extended the scope of Art. 38 from ‘Treatment

of Drug Addicts' to "Measures Against the Abuse of Drugs" and states in Para 1: *"The Parties shall give special attention to and take all practicable measures for the prevention of abuse of drugs and for the early identification, treatment, education, after-care rehabilitation and social reintegration of the persons involved and shall co-ordinate their efforts to these ends."* Drug demand reduction also entered the 1988 United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances. There, governments agreed, inter alia, to eliminate or reduce illicit demand for narcotic drugs and psychotropic substances.

### International Drug Control and Institutions under the Auspices of the United Nations

Throughout the course of the elaboration of the legal instruments, a number drug control bodies were established. The main bodies under the League of Nations included the Advisory Committee on the Traffic on Opium and Other Dangerous Drugs, usually referred to as the Opium Advisory Committee (OAC), which can be seen as a forerunner of today's Commission on Narcotic Drugs (CND). In addition the League designated an Opium and Social Questions Section within its secretariat for administrative and executive support. The League Health Committee (forerunner to the World Health Organisation) was responsible for advising on medical matters. In 1925 the Permanent Central Opium Board (PCOB) was set up to administer statistical information sent by member states to the league of nations, and, in 1931, the Drug Supervisory Body (DSB) was formed and charged with providing comprehensive assessments of global drug requirements. Following the second World War the functions of the League of Nations' Opium Advisory Committee were transferred to the United Nations Commission on Narcotic Drugs (CND), established in 1946 as a functional commission of the Economic and Social Council (ECOSOC). The functions of the previous Opium Section were taken over by the Division on Narcotic Drugs (DND). In order to improve technical assistance for lower income countries, the United Nations Fund for Drug Abuse Control (UNFDAC) was created in 1972. Its main task was to raise funds to implement technical assistance activities.

The Permanent Central Board and the Drug Supervisory Body, were authorized to continue performing their functions under the aegis of the United Nations after World War II. Following the 1961 Convention the entities merged and were re-named the International Narcotics Control Board (INCB). In 1979 the international drug control bodies, DND, UNFDAC and INCB moved to their new, and present, headquarters in Vienna, Austria.

A decade later (1991), the three drug control bodies, DND, UNFDAC and INCB Secretariat, were incorporated under the umbrella of the newly named United Nations International Drug Control Programme (UNDCP). This created important synergies and prevented costly redundancy and

overlap in activities. UNDCP served as a secretariat for both the Commission on Narcotic Drugs (CND) and the INCB. The INCB continued to operate as an independent and quasi-judicial control and regulatory body charged with monitoring the implementation of the United Nations drug control conventions. An effective "division of labour" emerged over the years with the INCB primarily regulating legal drug markets in order to prevent diversions from licit to illicit channels, and UNDCP concentrating its work on the illicit drug markets - assisting governments in the areas of alternative development, police cooperation, forensic assistance, demand reduction, and anti-money laundering (in order to reduce the profitability and size of the illegal drug markets).

The secretariats of the United Nations International Drug Control Program (UNDCP) and of the Centre for International Crime Prevention (CICP) were unified in 1997. This was done in recognition of the inextricable relationship between crime, drugs and terrorism, notably in areas of drug trafficking, organized crime and corruption. In 2002, the new office was renamed the United Nations Office on Drugs and Crime (UNODC).

Today, the international drug control conventions enjoy near universal adherence – with over 180 states parties. This level of consensus is impressive given the highly contentious nature of the subject matter. Also, the international drug control situation is in a constant state of evolution and, for this and other reasons, the international drug control system is not without its critics. Fortunately, the multilateral system itself contains many fora through which member states can effect change and adjustment. The system itself remains a work in progress, continually adapting to address changing global circumstances. While this is a positive aspect of the system it has produced some unintended consequences.

The first and most significant of these is the creation of a lucrative and violent black market. Secondly, the focus on law enforcement may have drawn away resources from health approaches to what, ultimately, is a public health problem. Thirdly, enforcement efforts in one geographic area have often resulted in diversion of the problem into other areas. Fourthly, pressure on the market for one particular substance has, on occasion, inadvertently promoted the use of an alternate drug. Finally, use of the criminal justice system against drug consumers, who often come from marginal groups, has in many instances increased their marginalisation, diminishing capacity to offer treatment to those who need it most.

These unintended consequences represent serious challenges as the international drug control system faces its next century, but they should not overshadow its significant achievements. Under the current system of controls, it is highly unlikely that the world will ever face a drug problem like the one that confronted China 100 years ago.

TIMELINE

The first international conference about drugs, the Opium Commission, meets in Shanghai.

1909



The world's first international drug control treaty, the International Opium Convention, is passed in the Hague.

1912



World War I leads to rapidly rising levels of drug use in several countries.

1914

The International Opium Convention becomes part of the World War I peace treaties, spurring its ratification by many countries.

1919/20



The League of Nations is established. The League becomes the custodian of the Opium Convention.

1920

An upgraded International Opium Convention is passed, extending its scope to cannabis.

1925



The Convention for Limiting the Manufacture and Regulating the Distribution of Narcotic Drugs aims to restrict the supply of narcotic drugs to amounts needed for medical and scientific purposes.

1931

The Convention for the Suppression of the Illicit Traffic in Dangerous Drugs becomes the first international instrument to make certain drug offences international crimes.

1936



International drug control transferred from the League of Nations to the newly created United Nations (UN). The UN Economic and Social Council establishes the Commission on Narcotic Drugs (CND) as the central policy-making body of the UN in drug-related matters.

1946

The Synthetic Narcotics Protocol comes into force, placing a series of new substances under international control.

1948



The Convention on Psychotropic Substances is passed in response to increased use of these drugs in several countries.

The Single Convention is amended by a Protocol to underscore the need to provide adequate prevention, treatment and rehabilitation services.



Special Session of the United Nations General Assembly (UNGASS) to strengthen Member States' efforts to reduce demand and supply of drugs.

The United Nations Office on Drugs and Crime (UNODC) adopts its current name.

Review of the progress made towards meeting UNGASS objectives.

- 1953 The Opium Protocol is signed, limiting opium production and trade to medical and scientific needs.
- 1961 The cornerstone of today's international drug control regime, the Single Convention on Narcotic Drugs is adopted, merging existing drug control agreements. The Single Convention lists all controlled substances and creates the International Narcotics Control Board (INCB).
- 1971 
- 1972 The Single Convention is amended by a Protocol to underscore the need to provide adequate prevention, treatment and rehabilitation services.
- 1988 The Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances is passed to cope with the security threat posed by drug trafficking in a number of regions.
- 1991 The United Nations International Drug Control Programme (UNDCP) is established in Vienna.
- 1998 
- 2002 The United Nations Office on Drugs and Crime (UNODC) adopts its current name.
- 2003 The United Nations Convention against Transnational Organized Crime comes into force, strengthening international capacity to counter organized crime, including drug trafficking.
- 2008 Review of the progress made towards meeting UNGASS objectives.





## Introduction

The international drug control system is one of the oldest consensus-based multilateral systems in existence. Its antecedents pre-date the League of Nations, and, taking the Shanghai Conference of the Opium Commission (1909) as a starting point, its key objectives and principles have been the subject of mutual international agreement for a century.

While the use of psychoactive substances itself extends back many centuries, today's international drug control system is rooted in efforts made a century ago to address the largest substance abuse problem the world has ever faced: the Chinese opium epidemic. At the turn of the century, tens of millions of Chinese were addicted to opium, which was freely traded across borders at the 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 emergent and increasingly codified multilateral system provided a vehicle for this and, in this respect, the history of the development of international drug control traces and reflects the history of modern multilateralism itself.

In its early stages, in the absence of our present day established and overarching multilateral system, the call for international drug control and eventually an international drug control system emerged from grass-roots opposition. The anti-drug movement at the end of the 19<sup>th</sup> century shared some characteristics with the anti-slavery movement. Both were driven by pressure emanating from civil society against large corporate, political and diplomatic interests. One of the historical characteristics of both movements was that they both eventually led to the internationally accepted principles which formed the basis of twentieth century international agreements.

Many of these principles are now taken for granted and it is often forgotten that, at the turn of the century, many countries relied on income from drug production and trade to cover state finances and trade shortfalls, and/or tolerated the unregulated consumption of narcotic substances. It took the best part of five decades to influence health and safety and trade regulations and for governments to begin to codify the basic principles of the international drug control system into international law. Changes were not entirely due to the parallel development of the modern multilateral system, but the system definitely helped to achieve them.

These two positive century long developments, (i) the establishment of an international consensus on the regulation of psychoactive substances, and (ii) the development of a set of normative instruments and multilateral bodies and systems under which to help countries to adjudicate and implement them, had a number of unintended consequences. The most serious of which, the emergence of a large and violent illicit drug industry, has spared few countries on this earth.

Despite the recognition of universality and multilateral consensus, and the fortunate coincidence of occurring parallel to the development of a modern, powerful United Nations, moving the issue of drug control to the international agenda also resulted from special windows of opportunities and dedicated individuals. The history is rich and varied enough to fill a larger volume. The present volume is not a diplomatic history, it aims only to present the basic historical development of the modern drug control system: why and how it arose, how it impacted drug production and consumption and its legacy for present and future international drug control efforts.



## The Drug Situation Prior to the Establishment of an International Drug Control System

The use of psychoactive substances has occurred since ancient times and is the subject of a fairly well documented social history. There are indications that cannabis was used as early as 4000 B.C. in Central Asia and north-western China, with written evidence going back to 2700 B.C. in the pharmacopeia of emperor Chen-Nong. It then gradually spread across the globe, to India (some 1500 B.C., also mentioned in *Altharva Veda*, one of four holy books about 1400 B.C.<sup>1</sup>), the Near and Middle East (some 900 B.C.), Europe (some 800 B.C.), various parts of South-East Asia (2<sup>nd</sup> century A.D.), Africa (as of the 11<sup>th</sup> century A.D.) to the Americas (19<sup>th</sup> century) and the rest of the world.<sup>2</sup>

Cultivation and use of the coca leaf was historically concentrated in the Andean region and used as early as 3000 B.C.<sup>3</sup> By the time the Spanish conquistadores arrived in America in the 16<sup>th</sup> century<sup>4</sup> coca leaf cultivation and use had spread from the Andean region in the North to Central America (up to Nicaragua), the Caribbean ('Hispaniola' i.e. the territories of today's Dominican Republic/Haiti) and along the Atlantic coast to Venezuela and Guyana. Even in these early times the concentration of coca cultivation was in Peru and Bolivia.<sup>5</sup>

Cultivation and use of opium seems to go even further back in history. There is evidence for the existence of opium poppy in Europe as long ago as 4,200 B.C. and even earlier<sup>a</sup>.

a Poppy seeds and poppy capsules, dated around 4,200 B.C., were found in the caves of Albuñol, close to Grenada (Spain). Before, traces of poppy seeds could be identified in lake dwellings in Switzerland, Italy and Germany going back to the XI. millennium B.C.. Other traces of opium poppy were subsequently also identified in various other locations across Europe during the Iron age, including in England and Poland (Observatoire Géopolitique des Drogues, *Atlas Mondial des Drogues*, Paris 1996).

There are also references towards opium use in ancient Greece, starting around 1,500 B.C. during the Minoan culture, with various references in the 7<sup>th</sup> century B.C. (*Iliad* and *Odyssey*) and during the reign of Alexander the Great (4<sup>th</sup> century B.C.) whose troops and medical doctors apparently introduced opium to Central Asia and India.<sup>b</sup> In Asia, opium was already produced and used by the Sumerians earlier than 3000 B.C. in Mesopotamia (today's Iraq)<sup>c</sup> from where the know-how was passed on to the Assyrians, the Babylonians, the Egyptians (1,300 B.C.) and other peoples in the region<sup>6</sup>. China got acquainted to opium via Arab merchants, with dates given in the literature ranging from around 4<sup>th</sup><sup>7</sup> to the 8<sup>th</sup> century A.D.<sup>8</sup>

Drugs (notably opium) were used for medical purposes and/or as part of religious rites (cannabis, coca and several plants with hallucinogenic properties). In general it appears that their use was limited to specific sectors of society. For instance, during the time of the Incas, although coca was a privilege reserved for a small elite of the ruling class, priests and vital couriers, it remained a taboo for the general population, including women.<sup>9</sup> Cannabis use in India and other Asian countries was basically limited to religious ceremonies. In Europe during the Middle Ages recreational drug use was often associated with witchcraft and strongly

b References to opium are found in the Minoan civilization (-1500 B.C.), in several ancient Greek myths, which can be dated back to around 800 B.C and opium was later also mentioned as an ingredient to medicinal preparations by Hippocrates (460-377 B.C.) and Aristoteles, one of the teachers of Alexander the Great who used it for his troops. (Observatoire Géopolitique des Drogues, *Atlas Mondial des Drogues*, Paris 1996).

c One of the earliest written references towards opium, by the Sumerians, was found written on a clay tablet in Mesopotamia (at 'Niffer'), which historians date back to around 3000 B.C. (Observatoire Géopolitique des Drogues, *Atlas Mondial des Drogues*, Paris 1996).

opposed by the influential Catholic church. Where opium consumption occurred, it was mainly limited to medical use in the form of *laudanum*, an alcoholic tincture of opium, prepared by Paracelsus (1490-1541) to treat pain. Similarly, opium use in many Asian countries, including China, was largely limited to medical use until the 18<sup>th</sup> century. With some exceptions, these religious and social norms seem to have largely controlled drug use for centuries.

## Cannabis

Traditional social controls apparently failed to work in the Arab countries when drugs - in this case cannabis - were used and promoted for political motives: to attract young men after “having seen a glimpse of paradise” to fight for the *Hashishiyin* or *Hashishiyah* (1090-1272 A.D.). This was a militant religious sect (originating in Persia) operating in present day territories of Iraq and Syria. The sect fought Christian crusaders and later the local Sunnite authorities, often by means of suicide attacks under the influence of cannabis and other drugs.<sup>10</sup> During the same period, recreational use of cannabis spread across the region.

The ongoing spread of cannabis consumption across society prompted the Sunnite authorities of Iraq at the end of the 12<sup>th</sup> century to explicitly prohibit the use of cannabis. This had only limited success.<sup>11</sup> Smoking of cannabis became even more popular in the Arab world following the Mongol invasions of the Middle East in the 13<sup>th</sup> and 14<sup>th</sup> century and contributed to its further spread. The cannabis resin produced and consumed in the Arab countries during this period had a higher potency than the cannabis herb consumed in other parts of the world and its habit forming properties probably contributed to its wider and more entrenched consumption. Areas of present day Egypt were particularly affected by large-scale cannabis abuse since the 13<sup>th</sup> century, prompting a number of drug control interventions to curtail production and consumption.<sup>12</sup> As these restrictions failed to achieve the anticipated results, they were eventually lifted, resulting in even stronger growth of cannabis consumption in the 15<sup>th</sup> and 16<sup>th</sup> century and a subsequent spread of cannabis across the Ottoman empire to Morocco (16<sup>th</sup> century).<sup>13</sup>

As trade and commerce expanded globally, attempts to re-introduce supply and demand control measures at the national level often failed as foreign traders - in this case often from Europe (notably Greek traders) - filled the gap by importing cannabis from other countries. Lebanon and India, where production was still licit, were exporters in the late 19<sup>th</sup> and early 20<sup>th</sup> century. Due to its long standing domestic consumption issues, Egypt took a leadership role in putting political pressure on the main powers to add international trade in cannabis to the list of controlled activities under the 1925 Geneva Convention.<sup>14</sup> Other

nations eventually agreed to this after attempts to control the cannabis trade under the Hague Convention (1912) failed.

Following the growth of trade and imperial colonies, from ancient to modern times, the habit of cannabis consumption spread to most parts of the world and was common in most of the colonies. The trade in cannabis however, did not, and by the beginning of the 20<sup>th</sup> century herb and resin were mainly locally produced and consumed and international trade remained limited.

## Coca / cocaine

After the end of the Inca empire the colonial regimes in the Americas brought an end to most coca cultivation outside Peru and Bolivia. The Catholic church pressured Spanish authorities to completely eliminate coca cultivation and consumption in Bolivia and Peru in the belief that coca was closely linked to the religious beliefs of the indigenous Indian population. At a bishop's conference, held in Lima in 1569, the widely held perception of cocaine increasing the strength of Indians was denounced as pernicious and a delusion, and work of the devil.<sup>14</sup> The economic interests of the new colonial empires changed this thinking. The new rulers quickly found out that the performance of the indigenous peoples in the silver, gold, copper and tin mines could be significantly enhanced, and caloric requirements significantly reduced, when labourers were given coca leaf to chew.<sup>15</sup>

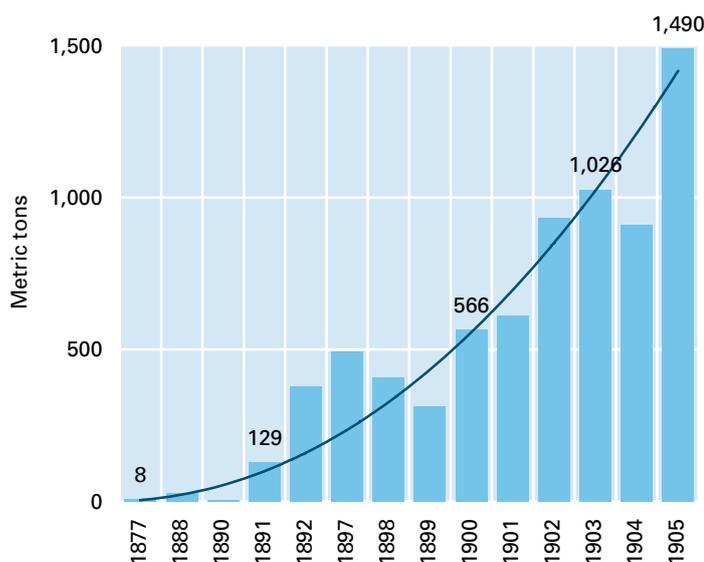
The use of coca leaf to such an end was particularly valued at high altitudes, where many of the mines were located. Coca helped prevent altitude sickness and enabled work under extreme conditions of serious oxygen shortage. But perhaps equally important was the observation that coca, through its hunger suppressant and altitude conquering properties, prevented labour action amongst the indigenous people. The long-term health effects on labourers of chewing coca was not taken into consideration by commercial or government leaders. Many indigenous mine workers died at a very young age, notably in the silver mines. Tragically, these deaths, combined with a massive increase in morbidity due to imported diseases, led to the death of almost half of the native Indian “labour force” between 1540 and 1620.<sup>16</sup>

During this period coca cultivation expanded in the Andean region, notably in the Yungas area (Bolivia) where specialized coca farms (*haciendas cocaleras*) emerged, often on land

<sup>10</sup> Abuse of cannabis resin had been so widespread that it seriously affected

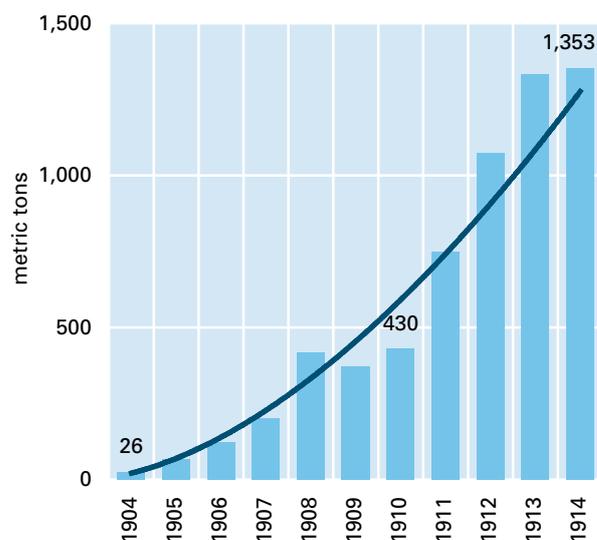
society at large. Following a report by an Egyptian medical doctor in 1868 on the effects and accidents caused by hashish, cultivation of cannabis had been forbidden in 1884. Nonetheless, Egyptian authorities reported that 30 to 60 percent of all insanity cases in their country remained related to hashish abuse. The shortfall in domestic production had been largely substituted by illegal imports from Lebanon and India, often organized by European drug traffickers. Egypt was thus strongly behind the proposal to bring trade in cannabis under international control. (League of Nations, Records of the Second opium Conference, Geneva, November 17th, 1924 -February 19th, 1925, Volume I, Plenary Meetings; Text of the Debates (Hashish: Proposal of the Egyptian Delegation that hashish should be included in the list of narcotics with which the conference has to deal), Geneva 1925, p. 13.)

## Coca leaf exports from Peru, 1877-1905



Source: David. F. Musto, "International Traffic in Coca Through the Early 20<sup>th</sup>-Century," *Drug and Alcohol Dependence*, 49, 1998, Table 6, p. 153.

## Coca leaf exports from Java (Indonesia), 1904-1914



Source: David. F. Musto, "International Traffic in Coca Through the Early 20<sup>th</sup>-Century," *Drug and Alcohol Dependence*, 49, 1998, Table 6, p. 153.

owned or claimed by Spanish colonists. By the time Pizarro arrived in South America (1627), contemporaries reported that coca leaves were chewed by almost all Indian mine workers and coca had emerged as an important agricultural plant. Cultivation was treated more or less like other agricultural production with farmers required to pay a tithe for land under coca.

At the end of the 17<sup>th</sup> century, the leaders levied a tax of an additional 5% on trade in coca. This was higher than the tax on trade in other agricultural products (2%). Seasonal coca workers were paid partly in kind, while permanent workers on the big haciendas were given the right to use small parcels to grow their own coca.<sup>17</sup> However entrenched coca leaf production and consumption remained in the Andean region, it made little impact outside the region for the next few centuries. The coca leaf is perishable and not amenable to long transport, therefore, as in the case of cannabis, the leaf itself did not lead to a large scale international trade.

This situation changed dramatically following the discovery of the cocaine alkaloid. Isolation of pure cocaine from coca leaves is generally attributed to the German chemist Albert Niemann, in 1859/1860.<sup>18</sup> This development was decisive to the (now illicit) trade in cocaine as it enabled the industrial manufacture of cocaine. This began in earnest first in Europe (notably in Germany and later in the Netherlands and Switzerland), and then in North America (notably in the USA) and manufacture spread to South America (notably Peru, assisted by German scientists) and Japan. As the market for coca grew on this discovery, coca production itself expanded to a number of Asian territories, notably Ceylon (then a British colony), Java (then a Dutch colony)

and Taiwan (then a Japanese colony).

The popularity of cocaine in western societies increased dramatically following the publication of a paper by the Austrian doctor, Sigmund Freud who experimented with cocaine and wrote a widely publicized paper entitled *Über Coca* in 1884.<sup>19</sup> The paper extolled the many beneficial properties of cocaine, presenting the drug as a medical panacea, with practically no side effects or dangers of addiction. Shortly after, in 1885, the medical community further increased its demand for the drug after discovering the effects of cocaine as a local anaesthetic.<sup>20</sup>

Between the turn of the century and 1912 Peru and the Dutch colony of Java emerged as the world's largest producers and exporters of coca leaf. Peru's exports of coca leaf, which amounted to 8 tons in 1877, rose to 610 tons by 1901. More than half of this went to the USA. In addition, 160 metric tons were used for local production of crude cocaine for North American and European markets (10.7 tons in 1901 up from 0.9 tons in 1890). Peru's total production of coca leaf in 1901 was estimated at around 2,100 tons.<sup>21</sup> By 1905, coca leaf exports from Peru peaked at 1,490 tons, up from 566 tons in 1900, tripling in just five-years.

Declines of coca leaf exports from Peru were reported for subsequent years, linked, *inter alia*, to the introduction of new control legislation in the USA (state law and the federal *Pure Food and Drug Act*, 1906). The *Pure Food and Drug Act* mandated the federal Food and Drug Administration to label and regulate potentially harmful drugs and additives in consumer medicines. Cocaine fell into the category of potentially harmful and this served to mitigate some of the false claims of the beneficial effects of cocaine. The reduc-

tion of coca exports from Peru were offset by rapidly growing coca leaf exports from Java which grew from 26 tons in 1904 to 1,353 tons in 1914. Java's exports supplied European and later Japanese cocaine manufacturers. Coca exports from Peru were destined for the USA and Europe, mainly Germany.

Exports of coca leaf from Peru, used for the production of cocaine in the USA, doubled in the 1890s. Total import of coca leaf into the USA for the manufacture of cocaine reached a peak at around 1,300 tons in 1906. In addition to domestic manufacture, the USA also imported large quantities of cocaine from abroad, thus emerging as the world's largest cocaine market.<sup>22</sup>

The analysis of import data by the Committee on the Acquirement of the Drug Habit revealed a 40 percent rise in cocaine imports into the USA over just a four year period (1898-1902).<sup>23</sup> Following a rapidly growing popularity of cocaine use in the 1880s and 1890s, the USA experienced its first cocaine epidemic at the turn of the century.<sup>e</sup> Cocaine achieved popularity in the USA as a palliative tonic for sinusitis and hay fever, as an alleged cure for opium, morphine and alcohol addiction and as an anaesthetic. It was also used recreationally. Bars began putting cocaine into whiskey and it was frequently an added ingredient to popular soft drinks, the best known example of this is Coca Cola.<sup>f</sup>

Questionnaires sent to a thousand physicians and pharmacists in major towns by the Committee on the Acquirement of the Drug Habit suggested that the number of so-called "drug habitués" of cocaine and morphine, increased to more than 200,000 in 1902.<sup>24</sup> Other estimates put the number at close to 400,000 persons, possibly taking the purchase of cocaine from drug peddlers into account.<sup>g</sup> Musto estimates 250,000 addicts.<sup>25</sup> Whether high or low end estimates are used, a substantial increase in both cocaine and morphine addiction is observable during last two decades of the 19<sup>th</sup> century in the USA. The number of cocaine and morphine addicts was equivalent to 0.5% of the total population age 15 and above (range: 0.4% - 0.8%) at the beginning of the 20<sup>th</sup> century.

The negative side effects of cocaine abuse became apparent towards the end of the 19<sup>th</sup> century as the use of cocaine became ever more widespread in urban areas and amongst the country's impoverished African American population. Prejudiced popular literature and fear mongering media concentrated excessively on the threat of possible violence or

even rebellion among the country's black population under the influence of cocaine. As cocaine became increasingly associated with anti-social and *louche* lifestyles, gangs and prostitution, and as some negative health consequences began to be more extensively known, it became clear that the lack of regulation could endanger public health and order.

Starting from the state of Oregon in 1887, a number of states started to introduce regulatory regimes in the 1890s and the first decade of the 20<sup>th</sup> century. By 1914 all 48 states had adopted some sort of drug control legislation.<sup>26</sup> Most of these required cocaine and morphine to be ordered on a physician's prescription which was then subject to inspection for up to one year. These laws alone were not sufficient to control either trade or consumption, and there were many ways to get around them. For instance, the patent medicine manufacturers repeatedly obtained exemptions for certain quantities of narcotics in proprietary medicines which were then sold freely. Also, the system did not work if cocaine and morphine could be freely bought in neighbouring states. Corrupt doctors could purchase drugs in large quantities by mail from another state and then dispensed them to their 'patients', thereby bypassing the state laws which relied on proper diagnosis, prescription and pharmacies to monitor drug use. Federal control over narcotics use was still considered unconstitutional in the USA at this time so states had little recourse to close these geographical and systemic gaps in legislation and control.<sup>27</sup>

The emerging cocaine epidemic in the USA and the spread of cocaine among artistic circles in European capitals, notably Paris and London, were not sufficient to move the emergent international community toward the establishment of an international drug control system at the beginning of the 20<sup>th</sup> century. As with cannabis, cocaine abuse and its negative consequences were still limited geographically.

## Opium/heroin

The main impetus for the creation of an international drug control system arose from large-scale trade of opium in the 19<sup>th</sup> century from India to China, rising domestic production in China and the emergence in China of the world's largest drug abuse problem. Though opium had been known for several thousand years and had been traded across continents for centuries, the dimensions of this trade in the 19<sup>th</sup> century, and the resulting health and social problems put it firmly on the agenda of international trade and diplomatic fora.

The use of opium for medicinal and recreational use is documented in antiquity. The Sumerians referred to it as 'Gil Hul' or 'joy plant' as early as 3000 B.C.<sup>28</sup> Techniques of opium production were passed to the Babylonians from where it spread to other countries in the Near and Middle East. Opium production shifted from Mesopotamia to

e This was the second drug problem of the era. A morphine addiction problem had begun during the civil war (1861-65) with the provision of morphine to soldiers, and continued to the turn of the century.

f In 1903 the added ingredient of cocaine was replaced with caffeine.

g Drugs were peddled door to door in some areas during this time. The previous survey counted pharmacy purchases, arriving at a total of "five per pharmacy," and presumably did not count purchases via peddlers.

Egypt around 1500 B.C., to Persia probably around 900 B.C.,<sup>29</sup> and to Asia Minor around 500 B.C.<sup>30</sup>

Opium, brought by Arab merchants and doctors, gained importance in India around 800-900 A.D. By the turn of the first millennium, there are already indications that opium was considered a popular household medicinal remedy in India and it was cultivated, eaten and drunk throughout the country. Opium is documented in the country's literature as being used by its rulers as an indulgence and given to soldiers to increase their courage.<sup>31</sup> Around 1200 A.D. opium entered 'official' Indian medical literature.<sup>h</sup> Though expanding within the country, opium production in India remained limited and supplied only the domestic market over the next few centuries.

Much of the initial international trade in opium was done by Arab merchants. Exports to China went by sea, typically via India to Canton (Guangzhou), and by land via Central Asia to Kashgar (located in Western China). From Kashgar Chinese merchants transported opium throughout mainland China. The exact date that opium was introduced to China is unknown, but there seems to have been some domestic production as early as the 11<sup>th</sup> century A.D.<sup>32</sup>

Before the 19<sup>th</sup> century, though, China imported most of its opium. Until the 16<sup>th</sup> century, opium was expensive and its use limited. This gradually started to change after opium production gained in importance in India under the Mogul empire.<sup>33</sup> As use began to spread,<sup>34</sup> opium production and distribution became a lucrative business activity in India. Given the growing importance of opium, the Mogul emperor, Akbar the Great - who consolidated political power and reigned between 1556-1605<sup>35</sup> - created a state monopoly for the production and distribution of opium.<sup>36</sup> This continued under his immediate successors and was resurrected by the British East India Company in Bengal and Bihar, the country's two main opium producing states, in 1750.<sup>37</sup>

The market for Indian opiate production remained largely domestic throughout the 16<sup>th</sup> century. There are, however, reports of exports of Indian opium to Burma as well as to Melaka (Malaysia, south of Kuala Lumpur) and other parts of Southeast Asia. Significantly, there were also reports of India exporting opium to China.<sup>38</sup> Transportation was undertaken by Indian, Arab and Chinese merchants. After 1500 Portuguese traders emerged as the dominant group in the international trade of merchandise from India to China.<sup>39</sup> As of 1589, opium was officially listed as an item subject to tariffs in China.<sup>40</sup> The main production centres of opium at the time were located in western India around

Malwa and in eastern India in the state of Bengal around Patna.<sup>41</sup> Overall, sales of opium were low and relatively unimportant compared to the trade in other goods.

According to some sources, the smoking of opium was introduced by Portuguese traders while trading opium along the East China Sea.<sup>42</sup> According to others, the Spanish introduced tobacco smoking to the Philippines where it spread to countries in East and South-East Asia. Dutch merchants are then thought to have introduced a tobacco/opium mixture to Formosa (Taiwan) and other Dutch possessions in South-East Asia as a way to combat the effects of malaria. The use of tobacco/opium mixtures spread quickly among the local population and its use became increasingly recreational in nature, and, importantly, began to contain less and less tobacco.<sup>43</sup>

By the end of the 17<sup>th</sup> century the practice of smoking opium had become widespread.<sup>44</sup> With its instantaneous effects smoking emerged as the preferred mode of consumption amongst recreational opium users across East and South-East Asia. The path to addiction was also shortened by the instantaneous and potent nature of smoking, and this is one explanation for the extremely rapid growth of the consumer market in China and South-East Asia. Historical literature reveals also that many South-East Asians and Chinese knew that although the path to addiction was shortened by smoking, the risk of death by overdose was much lower than by eating or drinking the drug. A person smoking opium would, in general, pass out, fall asleep or otherwise lose his consciousness before overdosing and killing himself.<sup>45</sup>

As of the beginning of the 17<sup>th</sup> century, the international opium trade in Asia was increasingly led by Dutch merchants. In 1602 the newly established Dutch East Indian Company took over the previously Portuguese trading posts in India. The Dutch East Indian company centralized opium production in Dutch controlled opium farms in Bengal and sold opium from these farms across South-East Asia. As of 1677, the Dutch had the monopoly to sell opium to Java and increasingly supplied Formosa and the southern Chinese provinces of Fujian and Guangdong. The 'success' of the Dutch merchants in promoting their merchandise led to the gradual spread of opium abuse along the Chinese coast and the first reports of large-scale opium addiction around the port of Amoy (Xiamen) in Formosa (Taiwan) in 1683.<sup>46</sup>

Around 200 chests per year or 12.7 tons of opium (around 63.5 kg of opium per chest) entered China during this period.<sup>47</sup> The increase in opium abuse, led the Chinese emperor, Yongzheng, to issue a decree in 1729 banning the import and sale of opium. Foreign companies violating the decree would have their ships confiscated. Initially, the ban was vigorously enforced and its impact on prices probably limited the spread of opium abuse for a few decades. From this

<sup>h</sup> The Indian medical treatises *The Shodal Gadanigrah and Sharangdhara Samahita* described, for instance, the use of opium for diarrhoea and sexual debility. The *Dhanvantri Nighantu* described the medical properties of opium. (See Martin Booth Simon & Schuster, *A Brief History of Opium*, 1996, <http://opioids.com/timeline/index.html>).

period onwards, opiates were increasingly smuggled into China by Dutch and other European merchants.

The smuggling of opium into China increased towards the end of the 18<sup>th</sup> century, with illegal imports into China doubling as compared to six decades earlier.<sup>48</sup> This prompted Chinese emperor Jiaqing to attempt to re-invigorate the ban and, in 1796-1800, once again outlaw the smoking of opium and its importation.<sup>49</sup> Opium was banned in several other South-East Asian countries by the beginning of the 19<sup>th</sup> century, including Siam (Thailand), Burma and Vietnam as well as in parts of Java and Sumatra (Indonesia).<sup>50</sup> The practical impact of these bans remained limited as European companies were vigilant in applying pressure on China and other countries to re-open the opium trade.

The British East India Company was instrumental in expanding the opium trade towards the end of the 18<sup>th</sup> century. Founded in 1600, the British East India company was given monopoly on trade with the East Indies by the British Crown. The English arrived in China in 1637 and in 1715 were allowed to open a trading station in Canton (Guangzhou).<sup>51</sup> The importance of the British East India company increased as it established a growing number of trading posts along the Indian coast.<sup>52</sup> Its significance rose further following the Battle of Plassey in 1757 when it gained the Indian state of Bengal. Subsequent to this, the Company developed into an almost state-like actor.<sup>53</sup> Its rule over India which began via the trade dominance of the British East India company lasted until 1858. In 1859 leadership in trade and administrative matters was replaced by a mandate for direct rule under the British Crown until India's independence in 1947.<sup>54</sup>

Critical to the opium trade was the British East India Company's trade monopoly in Bengal and Bihar. Bengal and Bihar were already important producers of opium when the Company took over and starting in 1773 the British East India Company resurrected the old Mogul monopoly on the opium trade. The monopoly aimed at maximising profits from opium.<sup>55</sup> These profits were to be used to finance state expenditures, specifically military operations which were intended to facilitate the Company's conquering the rest of India over the following six decades. In 1781, the British East India Company took over the purchase of all opium produced on its territories in India with a view to putting the administration of India on a more stable financial footing. With British government funds increasingly getting scarce due to the country's ongoing war against its colonies in North America, opium revenues were increasingly vital.

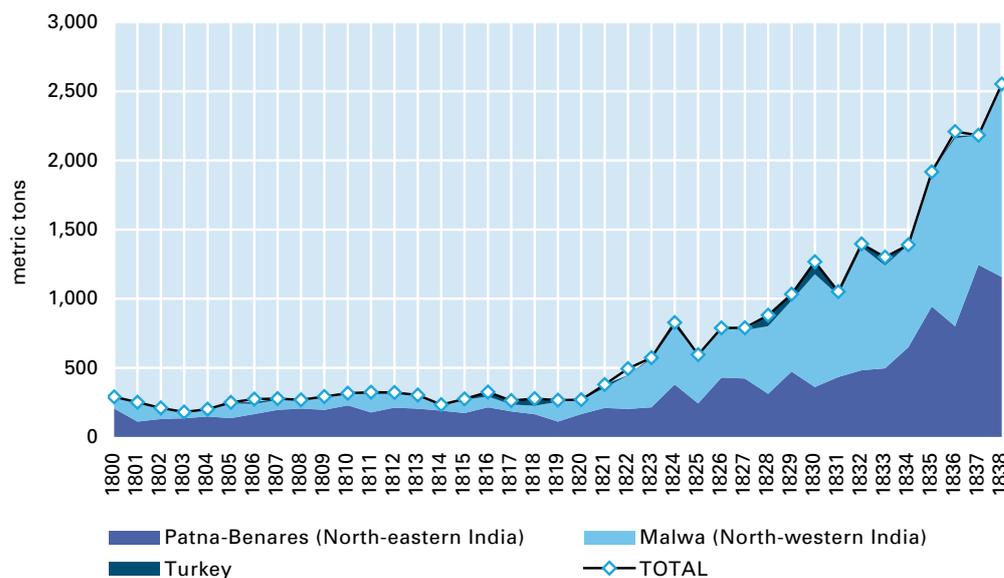
Politically, this was not without controversy. Because opium was still contraband in China the opium trade was criticized in London for jeopardizing a rapidly expanding, legal Sino-British trade in legitimate goods. Thus, a new *modus operandi* was invented after 1784, which remained in place for the next decades.<sup>56</sup> This process sold British East India

Company (EIC) opium at auctions in Calcutta to private merchants working under an EIC licence. The private merchants then shipped the opium to British-owned warehouses in Canton (Guangzhou) from where the opium was smuggled by Chinese traders – often with the help of corrupt customs officers – outside the British zone and to the rest of the country. (Canton was designated in 1757 by the Chinese imperial government as the only port open to European traffic.)<sup>57</sup> The British East India Company was thus able to repudiate the opium trade and retain its other trading rights.<sup>58</sup>

By the beginning of the 19<sup>th</sup> century, India was by far the world's largest opium producer. Production was concentrated around Patna and Benares in Bengal (north-eastern India) supplying the market of Calcutta as well as around Malwa (central India) feeding the market of Bombay. While the agencies at Patna and Benares were under the monopoly established in 1773, Malwa opium was grown in so called "native states" without any direct restrictions by the British Indian government. Control by the British Indian government was limited to imposing the routes to the port of Bombay and the collection of a transit tax as it passed from the "native states" to British Indian territory.<sup>59</sup> The East India Company originally held only the monopoly over opium production and trade in Bengal.<sup>60</sup> Only as of 1830, did it also gain the monopoly on opium distribution in Bombay.<sup>61</sup> By the end of the 18<sup>th</sup> century, nearly a third of Bengal's opium production was exported to South-east Asia and China.<sup>62</sup> Whereas in 1729 around 200 chests (12.7 tons) were exported to China, 1,813 chests (115.1 tons) were exported to the country in 1798.<sup>63</sup> The critical expansion of the opium trade occurred later, when, over a period starting in 1813 and ending in 1834, the British East India Company slowly began to lose its monopoly position in the opium trade. This changed the opium trade fundamentally, causing a decline in opium prices and an increase in the demand for opium in China.

The monopoly meant that it made sense, from a purely economic point of view, to limit production in order to keep prices high. Once the monopoly disappeared, the profits of merchants could be increased by increasing production. In order to prevent potential competition from Turkey and Persia – both of which tried to conquer the Chinese market with the help of US merchants - production of opium in India was drastically increased. The area under opium poppy cultivation in Bengal, for example, was increased from 90,000 acres ( $\approx$ 36,400 ha) in 1830 to 500,000 acres ( $\approx$ 200,000 ha) by 1900.<sup>64</sup> Opium prices fell dramatically. Expressed in Spanish silver dollars, the price of a chest of opium from Patna (Bengal) fell from \$2,500 in 1822 to \$585 in 1838. This enabled a larger proportion of the Chinese population to purchase opium easily for recreation. Opium sales increased from \$2.4 million Spanish silver dollars in 1800 to \$13.8 million in 1832, growing further over

## Imports of opium\* into China (port of Canton), 1800/01 – 1838/39



\* Original data converted into metric tons using 1 chest = 140 lbs = 63.5 kg.

Source: Michael Greenberg, *British Trade and the Opening of China, 1800-1842*, Cambridge 1951, p. 220-21 quoted in Carl A. Trocki, *Opium, Empire and the Global Political Economy, A Study of the Asian Opium Trade, 1750-1950*, p. 95

the subsequent decades.<sup>65</sup> Adjusted for inflation, opium sales in 1832 would be worth around \$335 million in current US\$ or US\$3.2 bn if the adjustment were based on unskilled wage rates.<sup>i</sup>

Opium exports from India to China rose from just 75 metric tons in 1775 to more than 2,500 tons in 1839. The opium trade became so important that the traditional ships were no longer sufficient. They were replaced in the 1830s by specially designed 'opium clippers' which were heavily armed to protect their high-value cargo. They were much faster than traditional ships, reducing the time of the journeys by two thirds. Instead of one trip from India to China and return per year, the new ships would make three trips from either side of India, and were able to transport ever larger quantities of Patna and Malwa opium to China.<sup>66</sup>

The opium business turned out to be highly lucrative, and not exclusively for the British East India Company. From close to negligible amounts, the proportion of opium in total Chinese imports rose to around 50% in the first decade of the 19<sup>th</sup> century<sup>67</sup> and remained at that level or higher for most of the rest of the 19<sup>th</sup> century. The British authorities

generated between 1/6<sup>th</sup> and 1/7<sup>th</sup><sup>68</sup> of their total revenues in India from opium production and sales. This increased from around 15% of total government revenue for British India in the 1820s<sup>69</sup> to 1/3<sup>rd</sup> of total income in some years (34% in 1838).<sup>70</sup>

Similar or even larger proportions (though smaller in absolute values) were reported from a number of other countries/territories in South-East Asia. In the Netherlands East-Indies (Indonesia), so-called 'opium farms' contributed to about 35% of the total tax revenue (1816-1925).<sup>71</sup> Similarly, opium farms in French Indochina (encompassing Laos, Vietnam and Cambodia) contributed to around 30% of the total colonial revenues (1861-1882). The British authorities of Singapore collected between 40% and 60% of their revenue from taxes on such opium farms, the highest proportion found in any territory.<sup>72</sup> In Hong-Kong, opium farms accounted for between 4% and 22% of total colonial revenue over the first four decades of Hong-Kong's status as a British colony<sup>73</sup> (i.e. 1842-1882). Also countries that were not colonies, adopted this financially lucrative system. Siamese (Thai) opium farms contributed to around 1/7<sup>th</sup> to the total government revenues in 1901, rising to around 20% by 1905/06.<sup>74</sup>

Triangular in nature, opium trade patterns were distinctive for the era. Indian opium, exported by British merchants to China, generated the funds for the importation of tea which was, in turn, sold in Europe and British industrial goods were supplied to India. For some time previously, the constant stream of Asian imports into European markets from the 16<sup>th</sup> to the 18<sup>th</sup> century caused a permanent drain of gold and silver from Europe towards Asia, notably China. This

i A Spanish silver dollar was a legal tender in the USA until 1857. The first dollar coins issued by the United States Mint were in fact of the same size and composition as the Spanish silver dollar and even after the American Revolutionary War the Spanish and U.S. silver dollars circulated side by side in the U.S. <http://www.coinace.com/Silver-Denominations-Rare-Coins.aspx> This allows direct comparison of the Spanish silver dollar with the US dollar. The purchasing power – based on the concept of a consumer price index – of \$1 of 1832 is equivalent to \$24.3 of 2006; based on a comparison of unskilled labour costs, the payment of \$1 in 1832 would, however, be equivalent to the payment of \$238 in 2006. (Lawrence H. Officer, "The Annual Consumer Price Index for the United States, 1774-2007 and Samuel H. Williamson, "The Relative Cost of Unskilled Labour in the United States, 1774-2004, <http://www.measuringworth.com/uscompare/>)

new triangular trade helped to mitigate the partial deadlock resulting from the accumulation of gold and silver in China and China's mercantilist policies.

The net trade deficit of the Dutch trade in Asia alone totalled some 590 million Dutch silver guilders between 1570 and 1780, (equivalent to an approximate modern amount of between US\$10 bn<sup>j</sup> and US\$20 bn<sup>k</sup>). Similarly, Spanish shipments of silver guilders from Acapulco to Manila totalled around 400 million over three centuries<sup>75</sup> and substantial trade deficits were also suffered by Portugal and England. As a consequence, China had accumulated huge amounts of silver from the 16<sup>th</sup> to the beginning of the 19<sup>th</sup> century. Although it was a rich country<sup>76</sup> with a potentially lucrative market European merchants had not really found the right mix of products for the market. Additionally, the manufacture of many luxury goods in China was still superior to production in Europe.

All of this changed with the intensified trade in opium. The opium sold illegally in China created more than sufficient flows of silver for the British traders who used it to purchase Chinese products. Tea was top on the list of imports, followed by a large number of luxury goods. Tea imports from China to Britain had already increased from 50 tons in 1700<sup>77</sup> to 9,000 tons in the 1820s and almost 13,500 tons in the 1830s.<sup>78</sup>

In order to limit the drain of silver to China, the UK authorities were forced to levy high duties on tea. The British East India Company exported most of the tea from China to Britain and the British colonies in North America. But tea smuggling was common, notably in colonies of North America. Temporary privileges given by London to the British East India Company with regard to the tea duty in North America endangered the business interests of several of these tea smugglers and the colonists objected to having to pay high tea duties in the absence of appropriate representation in the London parliament. This formed the background to the infamous 'Boston tea party' in 1773, a catalyst for the American Revolutionary War that led to the United States declaration of independence in 1776.

The subsequent overhaul of economic policy in Britain led

j At the time 25 litres of wheat cost 5 to 7 *sous tournois* in Paris; 20 sous were equivalent to 1 *livre tournois* which was similar in value to a Dutch silver Guilder. Thus, a litre of wheat cost at the time around 0.12 Dutch silver Guilders. In August 2007 the price of wheat amounted to US\$7.44 per bushel (35.24 litres) in the USA, equivalent to US\$ 0.211 per litre. This would result in an exchange rate – based on the purchasing power of the two currencies in terms of wheat – of around US\$17.6 for 1 Dutch silver guilder in 2007. Thus 590 million silver guilders would be worth around US\$ 10 bn. It goes without saying that such transformations are only indicative of likely orders of magnitude in today's currencies. (Sources: *Maten, gewichten, tijd en geld in de 17de eeuw* [http://www.phys.uu.nl/~huygens/conversion\\_nl.htm](http://www.phys.uu.nl/~huygens/conversion_nl.htm) and 'BBC-News', 24 August 2007, <http://news.bbc.co.uk/1/hi/business/6962211.stm>)

k According to other sources, the exchange rate, based on cost of living concept, would be around US\$ 36 per Dutch Guilder in the 17th century (Francis Turner, 'Money and exchange rates in 1632', <http://1632.org/1632slush/1632money.rtf>).

to a deep reduction of the tea duty in 1784. This, in turn, resulted in a massive increase in the demand for tea in Europe and provided the British empire with much needed finances to recover from its unsuccessful military operations in North America. The rapid expansion in tea imports and the resulting increase of revenue to the Crown after 1784 would not have been possible without the growing income generated from the sale of opium in China. By 1789, the British East India company still ran an annual trade deficit of around £20 million in trade with China<sup>79</sup> (more than US\$2.8 bn in 2006 dollars).<sup>l</sup> The easiest and most practical solution to balance the trade deficit while benefiting from rising tea imports was the promotion of Indian opium exports to China. This enabled the levying of duties on opium and helped the operations of the British East India company in India; it also enabled it to gain valuable income from tea imports. The duty levied on tea brought at least £3 million per year (equivalent to some \$420 million today based on consumer prices or \$4.6 bn based on unskilled labour rates<sup>m</sup>) to the exchequer in London. Moreover, by the 1830's, rising opium exports earned the UK a significant trade surplus.<sup>80</sup>

As Britain's trade problems were disappearing, China's social and economic woes were increasing with each passing year. The Chinese authorities attempted to react to this by issuing ever stricter laws banning opium imports. Following the first edicts of 1729 and 1799, the Chinese Emperor decreed even stricter laws against the importation and sale of opium in both 1814 and 1831.<sup>81</sup> Unfortunately none of these really achieved its objective. Reports that ever larger sections of society were addicted to opium, including many of the country's decision makers and high-ranking military officers, increased. Corruption was rampant during this period.

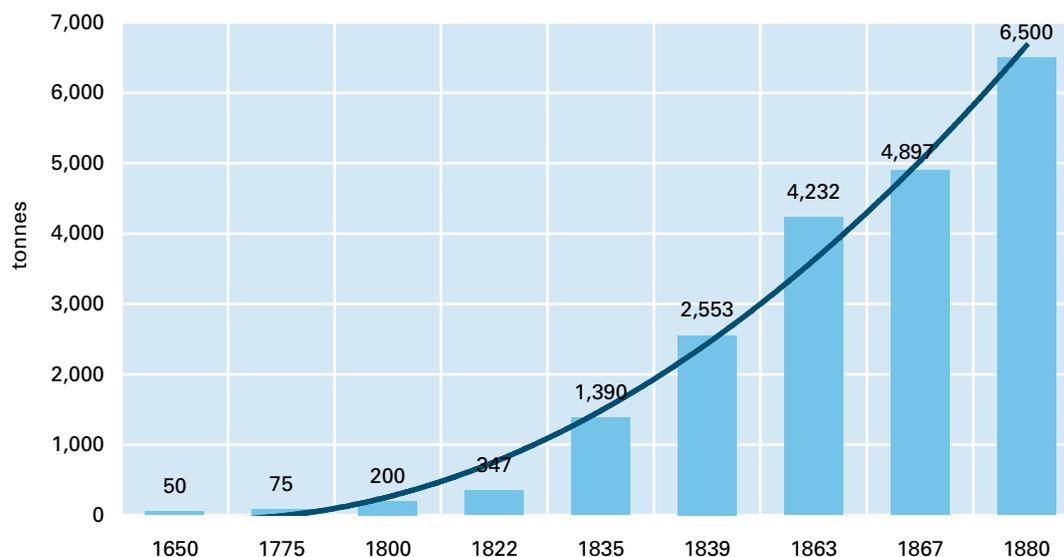
China attempted to prevent these opium imports by decisively going after the opium smugglers, resulting in two so-called 'opium wars', 1839-42 and 1856-60, in which China was defeated. By the end of the second, suffering severe humiliation and occupation by foreign forces, China lifted the remaining restrictions on opium imports.<sup>82</sup>

Increasingly vexed, two possible strategies to resolve the situation were discussed by the Chinese authorities, (i) a full legalization of domestic opium production as a substitute for opium imports and (ii) a far stricter policy towards the foreign merchants who did not adhere to the opium import ban. The second approach prevailed. Thus, in 1839 the Imperial High Commissioner, Lin Tse-hsu was sent by the Chinese emperor to Canton where he issued, on behalf of

l This is based on the value of a British Pound in 1830 and subsequent changes in consumer prices (thus assuming no changes in value between 1799 and 1830). <http://www.measuringworth.com/uscompare/>

m 1 British Pound in 1830 was reported to be worth, using the retail price index, £70 in 2006 (US\$140) or £772.8 (US\$ 1,546) using average earnings of unskilled labor. Using per capita GDP, it would be even worth £1,058.3 (US\$ 2,117). <http://www.measuringworth.com/ukcompare/>

## Opium Imports\* into China, 1650-1880



\* Original data converted into metric tons using 1 chest = 140 lbs = 63.5 kg; 1 picul = 60.453 kg

Sources: Thomas D. Reins, "The Opium Suppression Movement in China", *Modern Asian Studies*, 25 (1), 1991; Greenberg, *British Trade and the Opening of China, 1800-1842*, UK 1979; Fred W. Mc.Coy, *The Politics of Heroin*, New York 1991.

the emperor, an edict which required all opium cargoes, including those held by foreign merchants, to be handed over to the Chinese authorities. As a direct result of this edict, the Chinese authorities seized (and subsequently emptied into the sea) 20,283 chests of opium<sup>83</sup> (around 1,300 tons<sup>n</sup>) from British traders in Canton without compensation. For comparison, annual imports of opium into England amounted to less than 300 chests<sup>84</sup>.

In response to what was perceived to have been a highly humiliating treatment of British citizens, London sent the British navy to China. The navy took Canton as well as various other towns while sailing up the Yangtze river. This prompted the Chinese authorities to negotiate the Treaty of Nanking (1842) in which China ceded Hong Kong, agreed to open five ports, and pay indemnity.<sup>85</sup> Opium remained illegal and interestingly was not part of the treaty.<sup>86</sup>

With the authorities increasingly viewing opium as a foreign poison threatening the cohesion and survival of Chinese society, government efforts at ever tighter controls continued. Unfortunately their lack of success also continued, especially as Chinese smugglers discovered the loopholes inherent in having their ships registered in Hong Kong as British ships. In 1856, the Chinese crew of *The Arrow*, a Chinese vessel sailing under the flag of England was arrested by the Chinese authorities and the English flag was torn down. The retaliation by the British navy and French troops led to another round of Anglo-Chinese hostilities which culminated in the seminal treaty of Tientsin (1858). The treaty was ratified by China in 1860 (at the Convention of

Peking) after Beijing had been conquered and the imperial summer palace set on fire. In this treaty China was finally forced to fully legalize the importation of opium.<sup>87</sup> Opium imports from India rose to 6,500 tons by 1880.<sup>88</sup>

The legalization of opium imports proved devastating for China. With steeply rising imports leading to an equally steep decline in China's silver reserves opium was impoverishing the nation.

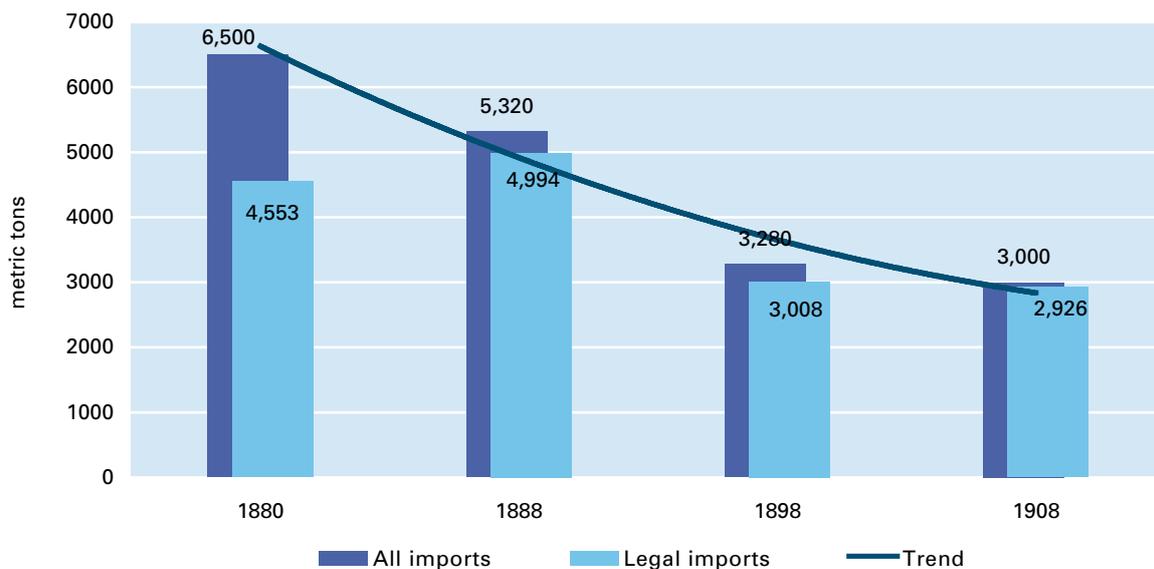
The Chinese trade account eroded quickly under the pressure of the legalisation of opium imports and rising demand for opium in China. This impact was not reversed until Chinese authorities gradually allowed domestic farmers to grow opium poppy (after 1880). Provincial authorities did this despite the fact that cultivation would – officially – remain illegal in China until its formal legalization at the national level in 1890.<sup>89</sup>

This policy was successful in reducing China's trade deficit. After 1880, rising levels of domestic production helped to curb opium imports and thus reduced the outflow of silver. Overall opium imports were halved between 1880 and 1908 and legal opium imports declined by more than one third.<sup>o</sup>

<sup>o</sup> According to data supplied by the Chinese delegation to the International Opium Commission in 1909, the decline between 1880 and 1908 amounted to 36% (from 75,308 piculs to 48,397 piculs, i.e. from 4,553 tons to 2,921 tons). (See: International Opium Commission, *Report of the International Opium Commission*, Shanghai, China, February 1 to February 26, 1909, Vol. II, Reports of the Delegation, China, Memorandum on Opium from China, p. 51.). Other sources, however, indicate that there was, in addition to 'legal imports' a significant amount of 'illegal imports' in 1880 in the sense that the import duties were not properly paid and imports were thus not registered. Such 'illegal imports' however, seem to have largely disappeared by the beginning of the 20<sup>th</sup> century, so that it seems fair to say that overall opium imports into China declined by about half between 1880 and 1908.

<sup>n</sup> 1 chest = 60-65 kg

Opium imports into China, 1880-1908



Sources: International Opium Commission, *Report of the International Opium Commission*, Shanghai, China, February 1 to February 26, 1909, Vol. II, Reports of the Delegation, Memorandum on Opium in China, pp. 46-47, Observatoire Géopolitique des Drogues, *Atlas Mondial Des Drogues*, Paris 1996, p. 27 and Thomas D. Reins, “The Opium Suppression Movement in China and the Anglo-American Influence, 1900-1908”, *Modern Asian Studies*, 25 (1), 1991, p. 114.

As a consequence, British India’s opium related income fell from 14% of aggregate income in 1880 to 7% in 1905. Between 1894 and 1905, opium related income of British India declined from around £5 million to £3 million<sup>90</sup>. These were large losses by any measure.

In China the opposite was happening. Duties on opium imports and transit taxes on foreign opium in China amounted to at least 5.5 million *taels* a year over the 1887-1905 period, equivalent to about 5-7% of the central government’s total revenue.<sup>91</sup> After the Chinese Government levied a consolidated tax on both foreign and domestic opium in 1906, income almost tripled to 14 million *taels*, equivalent to around 14% of the annual central Government income of then about 100 million *taels*.<sup>92</sup>

Whereas the post-1880 *de-facto* legalization of opium poppy cultivation at the provincial level had led to a gradual increase in production, the official legalization of opium poppy cultivation in 1890 led to a skyrocketing of opium production. Domestic opium production had existed in China throughout the 19<sup>th</sup> century but it occurred on a very small scale. Total production in the 1830s was estimated at around 5,000 chests (≈ 300 tons).<sup>93</sup> By 1880, domestic production was reported to have slightly exceeded imports. Twenty six years later, opium production in China exploded, peaking in 1906 to a record high of 584,800 piculs, more than 35,000 tons, according to information provided by the Chinese delegation to the International Opium Commission of Shanghai (1909).<sup>p</sup> These are enormous amounts by today’s

standards – equivalent to four times the global level of illicit opium production in 2007. For comparison, British-India produced 70,000 chests (≈4,445 tons) in 1905 of which 51,000 chests (≈3,240 tons) were exported to China.<sup>94</sup>

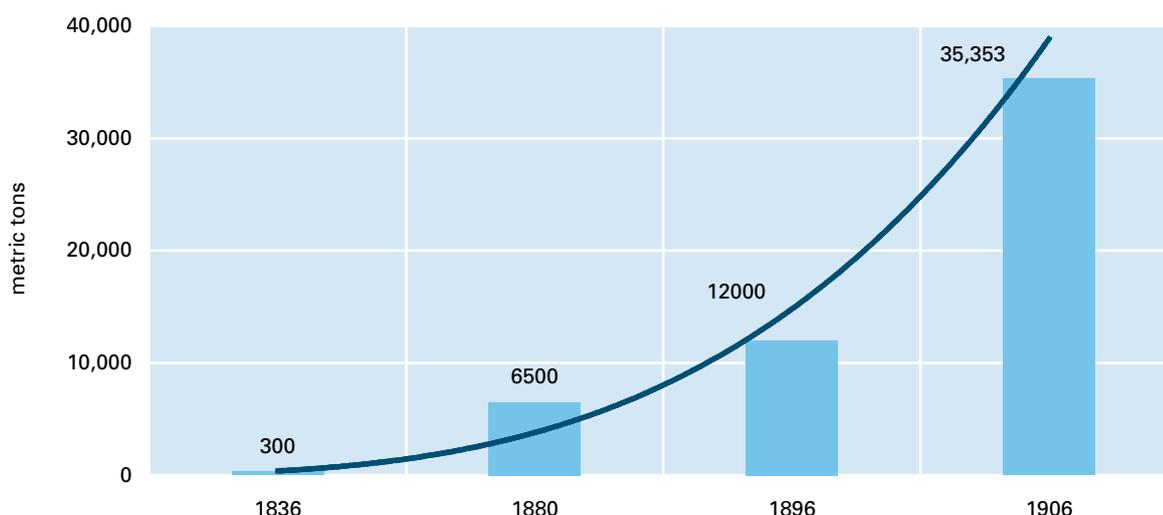
Production became pervasive and was reported from 20 Chinese provinces. More than 40% of the total production (238,000 piculs or 14,400 tons, i.e. almost twice the current opium production in Afghanistan) took place in the province of Szechwan, followed by Yunnan (78,000 piculs or 4,700 tons). Yunnan province is located in southern China, bordering Myanmar and Szechwan province is located north of Yunnan. In other words, more than half of China’s opium production took place slightly to the North of the geographical area which would become known as Golden Triangle (Myanmar, Laos and Thailand).

As domestic production increased, the prevalence rate of opium consumption in China skyrocketed. The country’s opium smoking population rose from 3 million in the 1830s<sup>95</sup>, to 15 million or 3% of the total population by 1890<sup>96</sup>. According to the Chinese delegation to the International Opium Commission of Shanghai (1909) the number

367,250 piculs in 1908 (decline of 37%) . This showed a significant decline of production over the 1906 – 1908 period.) The UK delegation to the 1907/08 Shanghai proceedings was critical of Chinese 1906/07 production figures. UK estimates by Morse (1905), based on a rapid assessment of the situation, suggested a total production of 376,000 piculs in 1905. UK estimates by Leech (1907), based on another rapid assessment, estimated Chinese production at 331,000 piculs in 1907 (a decline of 12%). This estimate was forwarded by the British legation in Peking to the British Foreign Office in London. (Using the lower decline (UK figures) would have meant less of a reduction of British opium exports from India to China.) The official Chinese figures have been used here because they became the accepted figures and were generally accepted and used during the proceedings which elaborated the 1912 Hague Convention.

<sup>p</sup> The official Chinese production estimate for 1906 (584,800 piculs) was derived from customs levies reports. (In 1908, using a similar customs levies-based methodology, the Chinese authorities estimated production at

### Domestic opium production in China, 1836-1906



Sources: Carl A. Trocki, *Opium Empire and the Global Political Economy*, New York 1999, p. 96, Observatoire Géopolitique des Drogues, *Atlas Mondial Des Drogues*, Paris 1996, p. 27 and *Report of the International Opium Commission*, Shanghai, China, Feb.1-Feb. 26, 1909, p. 119.

of addicts increased to between 21.5<sup>97</sup> and 25 million (or 5.4% to 6.3% of the total population) by 1906.<sup>98</sup> Some estimates put the number of opium users in 1890 at 40 million people or 10% of the total population.<sup>99</sup> All estimates suggest that China was consuming 85 to 95% of the global opium supply at the beginning of the 20<sup>th</sup> century. In every Chinese city opium dens were amongst the most important retail businesses, sometimes numbering in the thousands. In Shanghai alone, opium dens increased from 1,700 in 1872 to several thousands towards the end of the century, even exceeding the number of rice stores.<sup>100</sup>

According to official Chinese domestic production and import based estimates, opium addiction affected 23.3% of the male adult population and 3.5% of the female adult population in 1906.<sup>101</sup> Similar figures were also reported directly by governors to central authorities. Other estimates ranged from 13% (UK delegation estimates)<sup>102</sup> to 27% for the male adult population of the country (Chinese estimates based on production figures).<sup>103</sup> To put this in some sort of perspective, current global opiate (opium, heroin, morphine) consumption amounts to 0.4% of the adult population (15-64) or 0.25 of the total population.

Opium use also affected Chinese populations outside China. In the USA, for instance, estimates suggested that 30% of adult males of Chinese origin were addicted to opium smoking.<sup>104</sup> Even higher proportions were reported for adult males of Chinese origin living in South-East Asian countries.

### Opium production in China in 1906 (based on Chinese Custom's Reports)

	Piculs	Metric tons	in %
Szechwan	238,000	14,388	40.7%
Yunnan	78,000	4,715	13.3%
Shensi	50,000	3,023	8.5%
Kweichow	48,000	2,902	8.2%
Kansu	34,000	2,055	5.8%
Shansi	30,000	1,814	5.1%
Shantung	18,000	1,088	3.1%
Kiangsu	16,000	967	2.7%
Manchuria	15,000	907	2.6%
Honan	15,000	907	2.6%
Chekiang	14,000	846	2.4%
Chihli	12,000	725	2.1%
Anhwei	6,000	363	1.0%
Fukien	5,000	302	0.9%
Hupen	3,000	181	0.5%
Hunan	1,000	60	0.2%
Kwangtung	500	30	0.1%
Kwangsi	500	30	0.1%
New Territory	500	30	0.1%
Kiangsi	300	18	0.1%
<b>Total</b>	<b>584,800</b>	<b>35,353</b>	<b>100%</b>

Source: Conférence Internationale de l'Opium, La Haye, 1 décembre 1911 – 23 janvier 1912, p. 57

Opium production in 1906/07 in India, Indochina and China (by province) in kg



Sources: Opium production data from International Opium Commission, 1909; historical boundaries of China from CHGIS, Version 4, Cambridge: Harvard Yenching Institute, January 2007. Note: The boundaries and names shown and the designations used on this map do not imply official endorsement or acceptance by the United Nations.

## Opium use in China in 1909 - governors' estimates

Location	% of total population	% of adult male population
MANCHURIA	2%	10%
CHIHLI		20% - 30%
SHANTUNG		33% (of which 5% smokers)
KIANGSU		
Shanghai area		20% (urban)
		4% - 5% (rural)
Chinkiang		10% (urban)
		1%-2%
Nanking		20% (in 1906)
CHEKIANG		
Hangchow	5%	
Ningpo	2%	6% - 8%
Wenchow and Chuchow		20% (urban)
		10% (rural)
FUKIEN		
Amoy	25%	
Ch'uanchow	1% - 3%	
Yungch'un		10%
Foochow	4%	20%
KWANGTUNG		
Canton		33% (in 1906)
Kongmoon	2½ %	
Sanshui	< 10%	
Pakhoi		very high
Swatow	25-30% (urban)	
	5% (rural)	
HUNAN		
Changsha	1 ½ % (addicts)	40-50% (incl. occasional users)
Yochow		20%
HUPEH		20%
Hangkow	20%	
Siangyanfu	15% (rural, small towns)	
	45%-60% (big cities)	
Shashi	22%	
Ichang		33%
KIANGSI		
Kiukiang		40% (1906)
ANHWEI		
Wuhu		50%
HONAN		15% (urban)
SHENSU, KANSU, KWEICHOW		2% (rural)
Chungking		20%
SZECHWAN		34%
YUNNAN		
Mengtsz		50% (1906)
Szema		50% (1901)
Tengyuch	30%	
KWANGSI		33%
Northern and western prefectures		50% - 60%
Wuchow		20%
Nanning	10%	18%
UNWEIGHTED AVERAGE of governors' estimates	-	24%
CHINESE ESTIMATE (derived from production and import data)	5.4%	23.3%

Source: International Opium Commission, *Report of the International Opium Commission*, Shanghai, China, February 1 to February 26, 1909, Vol. II, Reports of the Delegation, Memorandum on Opium in China, pp. 62-66.



## The Emergence of an International Drug Control Consensus

The century long opium trade was devastating for China, from both a health and a social point of view. Opium merchants, shippers, bankers, insurance agencies and governments profited greatly but the social and economic costs of a growing number of drug addicts in China and across East and South-East Asia became untenable relatively quickly.

The cost of addiction was experienced to a lesser extent throughout much of Asia, especially in countries where opium monopolies ('opium farms') were created. These kept the price for opium high thus limiting consumption while contributing, via licence fees, to the financing of local budgets. Nonetheless, such systems were far from optimal.<sup>105</sup> Even in countries or territories where such opium monopolies existed, illegal shipments of opium from neighbouring countries forced prices down. The resultant price declines led to expansions in consumption and addiction.

The strongest voice against the rising tide of addiction came from nationalist circles in mainland China itself, which feared the opium trade would cause a decline in the self-esteem of the Chinese people and which saw the opium trade as directly threatening China's ability to resist foreign influence and aggression.

As news of the devastating impact large scale opium addiction was having on China, religious and ethically-minded groups within the UK and other western countries (notably the USA) began calling for withdrawal from direct involvement in the trade. Christian churches protested on moral grounds, and, as the opium traffic also hampered missionary efforts to spread the faith in China, were particularly vocal

and active in their criticism.<sup>106</sup> Groups<sup>q</sup> involved in temperance movements (who opposed substance abuse in general), anti-slavery and human rights activists,<sup>r</sup> already organised and experienced in protest, lent their voice to the pressure on governments and commerce to withdraw from what they saw as a parasitic, immoral and greedy trade. Commercial exporters of manufactured goods were also protesting as they saw their import market compromised due to the outflow of silver for opium. At the same time, far left politicians throughout the world saw in the opium trade the worst manifestation of uncontrolled capitalism. Karl Marx, for instance, decried the "*flagrant self-contradiction of the Christianity-canting and civilization-mongering British Government*" for its energetic pursuit of what he called the "*free trade in poison.*"<sup>107</sup>

q Including feminist groups, a common alliance during this period.

r In fact, a number of anti-slavery activists later became later strong anti-opium activists. One example here was Benjamin Broomhall, secretary of the Anti-Slavery Association and, subsequently, an active opponent of the opium trade. He wrote two books to promote the banning of opium smoking: "Truth about Opium Smoking" and "The Chinese Opium Smoker". In 1888, Broomhall formed and became secretary of the <http://www.measuringworth.com/uscompare/> and editor of its periodical, "National Righteousness". He lobbied the British Parliament to stop the opium trade. He also appealed to the London Missionary Conference of 1888 and the Edinburgh Missionary Conference of 1910 to condemn the continuation of the trade. (See Gerald H. Anderson, *Biographical Dictionary of Christian Missions*, Connecticut, 1999, p. 93).

The far-left also campaigned against slavery and opium and linked this to the fight against capitalism. In the view of Karl Marx, for instance, the East India Company deliberately encouraged opium addiction among the Chinese population purely for financial gain. The ruling class in Britain and the British government were turning a blind eye by promoting unconditional free trade. Marx compared this to the British textile industry which depended heavily on American cotton, leading the British ruling classes to repeatedly turn a blind eye to the conditions of slavery in the American South while preaching to the world the virtues of free trade. (See Marx Tribune articles, <http://archives.econ.utah.edu/archives/marxism/2007w42/msg00127.htm>)

Amongst these disparate groups, the strongest anti-opium pressure groups emerged from the religious circles. In 1874 a group of Quaker reformers in London formed the extremely effective UK pressure group, the “Society for the Suppression for the Opium Trade”.<sup>108</sup> Methodists, Baptists, Presbyterians, Unitarians and other dissenting churches adopted the cause. Parishes and convocations held meetings and submitted numerous mass petitions in support of the so-called ‘anti-opiumists’. Between 1875 and 1890, anti-opium Members of Parliament also introduced five ‘society-inspired’ resolutions to the House of Commons calling for the abolition of the opium trade and its prohibition in British India. Although they were defeated, the Society won a momentous victory in the House of Commons in 1891, whereby the British-Indian Government’s reliance on revenues gained from selling opium to the Chinese was condemned as ‘morally indefensible’.<sup>109</sup>

Against this background the British Government began to study the opium problem in more detail. In 1893, a *Royal Commission on Opium* was formed to inquire whether poppy growing and the sale of opium should be, except for medical purposes, prohibited in India. The Commission was to consider three issues: the cost of prohibition for India; the effect of opium use on the moral and physical condition of the people; and the opinion of Indians about prohibition.

The Royal Commission on Opium issued its report in 1895 and concluded that prohibiting the non-medical use of opium was neither necessary nor wanted by Indians and that the British Government should not interfere with opium production and consumption in India. It also argued that India could not afford to give up opium revenues as, “*the finances of India are not in a position to bear the charges or compensation, the cost of necessary preventive measures and the loss of revenues*”. Moreover, consumption of opium by the people of India was found not to cause, “*extensive moral or physical degradation*” and that distinguishing medical from non-medical use was not practical.<sup>110</sup>

The findings of the Royal Commission on Opium were heavily criticized by anti-opium reformers who claimed that the set up of the Commission had been biased and favoured the economic interests of the Government of British-India,<sup>111</sup> thus whitewashing the Indian opium question<sup>112</sup> and defending the status quo.<sup>113</sup> The report was criticized again, more than a decade after its issuance, by the head of the US delegation to the Shanghai conference for not having helped to reduce India’s opium traffic to China. The head of delegation argued that it, “*exalted the Indian opium revenue to a position from which it did not seem likely to be dethroned*”.<sup>114</sup>

Despite the bias of the composition of the Royal Opium Commission (only two out of seven members were ‘anti-opium reformers’), it collected valuable information on opium from a broad range of key informants (723 ‘witnesses’), including: medical doctors, police officials, military

officers, representatives from local governments, various officials from the opium producing states, lawyers, journalists, landowners, planters, merchants and missionaries.<sup>115</sup> The view expressed by the Commission, that opium consumption in India did not constitute any dramatic abuse problem in India, was largely supported by the data it had collected. The only dissenting views came from missionaries and circles close to the temperance societies. One bishop of the Methodist Episcopal Church in India claimed that, “*at least half of the opium users took it in excess with ruinous effects on their health, their morals and their finances*.”<sup>116</sup>

The information collected from other sources showed a less dramatic picture. While use was widespread in India, individual consumption levels were low, mitigating negative health and social consequences. Opium use was found to be a habit of mainly middle-aged and older men. Opium was found to be used more commonly in states where it was cheap and abundant (e.g. Rajput states) and less commonly in states where it was more expensive. Based on interviews, the Commission calculated that daily dosages varied, for about one-fifth of the users, from just 2 to 5 grains (0.13 - 0.32 grams) and, for only one-tenth of the users, exceed 40 grains per day (> 2.59 grams).<sup>117</sup> Annually therefore, the bulk of Indian opium users (70%) consumed between 188 and 945 grams a year and only a small proportion (10%) consumed more than 945 grams a year. A study of 4,000 cases of opium eaters in Rajputana, presented to the Royal Commission, reported an average daily dose of 21½ grains (1.4 grams per day or 0.5kg per year). (Later studies from Calcutta found a daily dose of 26 ½ grains equal to 1.7 grams or 0.6kg per year). Indian average daily doses were thus far more moderate than consumption patterns reported from other countries. For example, official estimates by the Chinese authorities a decade later, claimed that Chinese opium users consumed between 0.84 kg<sup>s</sup> and 2.2 kg<sup>t</sup> of opium per year, with daily consumption levels ranging from around 1 mace (3.78 grams) to 4 maces (15.1 grams).<sup>118</sup>

The overall perception arising from the report was that the consequences of opium consumption in India were not that different (or perhaps even less severe) than the serious alcohol abuse problem faced by the UK at the time. The high price of opium and the mode of administration probably both contributed to the relatively low per capita consump-

<sup>s</sup> This estimate is derived from the amount of 491,133 piculs (29,637 tons) available for consumption in 1906 and an estimate of 25 million opium users. (See: International Opium Commission, *Report of the International Opium Commission*, Shanghai, China, February 1 to February 26, 1909, Vol. I, Minutes of the Proceedings, p. 68. and International Opium Commission, *Report of the International Opium Commission*, Shanghai, China, February 1 to February 26, 1909, Vol. II, Reports of the Delegation, China, Memorandum on Opium from China, p. 66.)

<sup>t</sup> This estimate is derived from the amount of 491,133 piculs (29,637 tons) available for consumption in 1906 and an estimate of 13.46 million opium smokers in China in 1906. (See International Opium Commission, *Report of the International Opium Commission*, Shanghai, China, February 1 to February 26, 1909, Vol. II, Reports of the Delegation, China, Memorandum on Opium from China, p. 66.)

tion levels (half the levels in China).<sup>119</sup> The report's implicit conclusion, that opium production was not that dangerous, also had to do with its terms of reference<sup>120</sup> which had asked the Commission to investigate the consequences of opium consumption in India but not the impact of Indian opium production on consumers outside the country. This was a crucial distinction as the bulk of Indian production was destined for export markets.

Once the US assumed control of the Philippines (1898), the international discussion on the relative public impact of opium addiction was reinvigorated parallel to the US Governor of the Philippines' proposal to revive the Spanish tax farming system (1903). Under Spanish rule, the opium trade was undertaken by state-licensed opium monopolists. These taxes generated a substantial portion of the Government's revenues. The opium users were mainly Chinese living in the Philippines.

The Governor's proposal was within two weeks of final adoption when it was derailed by a last-minute campaign by Manila's missionaries who contacted the International Reform Bureau, a prohibitionist missionary lobby in Washington. Two thousand telegraphic petitions, calling on President Roosevelt to block the proposal,<sup>121</sup> were immediately dispatched to prominent supporters. President Roosevelt, impressed by this outburst of public moral indignation, ordered the Philippine Government to withdraw the legislation for further study.

In 1903 an Opium Committee was convened. It included the Episcopal Bishop of Manila, Reverend Charles Brent, a native Canadian who had been in the Philippines since 1901. The committee began its work by investigating the experiences of various other Asian countries/territories, including Hong-Kong, Shanghai, Formosa, Japan, Saigon, Burma, Java, Singapore as well various Philippine islands.<sup>122</sup> A number of approaches to the regulation of opium were considered. The most prominent were regulatory regimes involving high tariffs, high license fees, government monopoly and/or total prohibition. The Committee argued that the first two approaches would prove to be ineffective in deterring trafficking and consumption as they had failed in other Asian countries. Although such schemes may have increased the cost of opium for consumers and raise government revenue, the higher prices would also serve as an incentive to smugglers. Total and immediate prohibition was rejected on the grounds that it would be unduly harsh on addicts. The Committee concluded that progressive prohibition by a government monopoly offered the best chance of bringing opium under control.

Under the Committee's proposal, the government monopoly would last three years. During this time the cultivation of opium in the Philippines would be made illegal, opium dens would be outlawed, and the use of opium by persons under the age of 21 would be prohibited. The gradual

detoxification of addicts would be accomplished through strict government control of the opium supplies.<sup>123</sup> The report was finished in 1904 and in 1905 the US Congress adopted its recommendations, passing; "*An act to revise and amend the tariff laws of the Philippine Islands,*" empowering the Philippine colonial government to "*prohibit absolutely the importation or sale of opium, or to limit or restrict its importation and sale, or adopt such other measures as may be required for the suppression of the evils resulting from the sale and use of the drug.*" The Act also provided that, after March 1, 1908, it would be unlawful for any non-Governmental entity to import any form of opium into the Philippine Islands.<sup>124</sup> Although the US policy was very clear, and probably well enforced, it quickly became apparent that unilateral action would not lead to success. Opium was still plentiful throughout Asia.

In fact, the futility of unilateral action had been demonstrated earlier in the century when China's attempts to ban opium poppy failed in the face of Indian supply and merchants willing to ship to China. At that time, it was recognized that the ban on cultivation in China was of only limited use as long as opium imports could not be prevented. British authorities, in particular, repeatedly pointed out that a reduction of opium production in India would have no positive impact on the situation in China as long as domestic production in China was increasing and Turkey, Persia and other countries could fill supply shortfalls if India left the market. Moreover, there were many European and Japanese merchants "waiting in the wings."

Eventually, it was the simple logic of global supply and demand which pointed to the need for the establishment of a global drug control system. Unfortunately, concerned states had little clue as to how to go about achieving an 'anti-opium lobby' that would be strong (in support) and broad (in influence) enough to override business interests at the international level. This changed in the first decade of the 20<sup>th</sup> century. Some key personalities within the 'anti-opium lobby' succeeded to influence the authorities by means of modern mass communications. Strategic interests of a number of key players also changed, resulting in the emergence of a broad consensus in favour of drug control at the international level.

A much needed geopolitical window of opportunity opened after 1906, following the victory of the Liberal Party over the Conservatives in the UK. Since the mid-19<sup>th</sup> century, the Liberals had opposed the UK's involvement in the opium trade on moral grounds, and once gaining control of the House of Commons, the Liberals passed a resolution calling for the end of the Indo-Chinese opium trade.<sup>125</sup> This was also facilitated by changes in overall British business interests. The expansion of opium production within China had already started to reduce export revenues (and tax income), while British manufacturing companies complained about

limited market successes due to the rising importance of opium in total expenditure by Chinese consumers.

The USA joined the control lobby at roughly the same time. The USA, having just defeated the Spanish forces and taken over the Philippines as a colony (1898), was suddenly faced with an opium problem of its own it needed to solve. The US authorities found that Manila alone had some 190 opium dens retailing a total of 130 tons of opium per year. They worried that this could eventually lead to a further spread of opium use within the USA. Consequently, between 1906 and 1908, the USA banned opium smoking in the Philippines.<sup>126</sup> Moreover, the USA had a strong geo-political interest in improving relations with China. Following some cases of racial discrimination and murders of Chinese railroad workers in the USA, China was considering a boycott of US products. Joining efforts with China to curb opium exports actually represented an opportunity to improve strained relations. Also, US manufacturers blamed the opium trade on declining Chinese demand for US manufactured exports.

Curbing opium exports was also important to other Asian countries. While opium imports into China were declining, there were reports of Chinese opium exports to neighbouring territories of British Burma and French Indochina. It was thought to be only a matter of time until the world's largest opium producer would also emerge as the world's largest opium exporter.

China itself had changed its political approach from confrontation to quiet diplomacy, which in the end was far more successful. In the wake of the Boxer Rebellion (1900), Beijing slowly and cautiously worked on getting Western help to restrict foreign drug activities in China. In September 1900, the Chinese authorities requested that France take steps to monitor the smuggling of opium, morphine and drug paraphernalia from the French Concession at Shanghai in China. In a commercial treaty with the UK, London agreed to, "*the prohibition of the general importation of morphia into China ...*," and the United States adopted a similar prohibition in 1903. The following year, China concluded an agreement with Germany that sought to control the traffic of opium between the German Shantung leasehold and China. A nearly identical provision, aimed at halting opium smuggling between Macao and China and limiting morphine imports to the medical needs of China, was adopted in a Sino-Portuguese treaty in 1904.<sup>127</sup> The most important initiative was the agreement between Britain and China, negotiated over 1906-07, which bound Britain to gradually eliminate its opium sales to China over a ten year period from January 1908 to the end of 1917. China, in return, had to promise to eliminate opium poppy cultivation within a ten year period. (See endnote 188.)

Against this background, Reverend Charles Henry Brent successfully lobbied the US State Department for an inter-

national conference to discuss the possibilities for ending the global (non-medical) opium trade.<sup>128</sup> China was also convinced of the merits of such an international conference, and the UK did not want to see other nations filling the void resulting from the reduction of opium exports from British-India to China. By mid-1906, the US State Department had entered into negotiations to convene the first international conference on the opium question. This eventually took place in February 1909 in Shanghai.

## The Development of the Legal Framework and Codification of the International Control System

The international conference on narcotic drugs convened in Shanghai represented the first time the actual situation related to the main producing and consuming countries was analysed in detail. In addition, the first attempts were made to come to an agreement on limiting shipments of narcotic drugs.<sup>129</sup> It can thus legitimately be considered the starting point of the international drug control system. The sections which follow detail the evolution of the central concept of this system: individual States enacting, within the limits of their jurisdiction, national policies, legislation and resources, in compliance with the provision of the international drug treaties.<sup>130</sup>

### The Shanghai Opium Commission, 1909

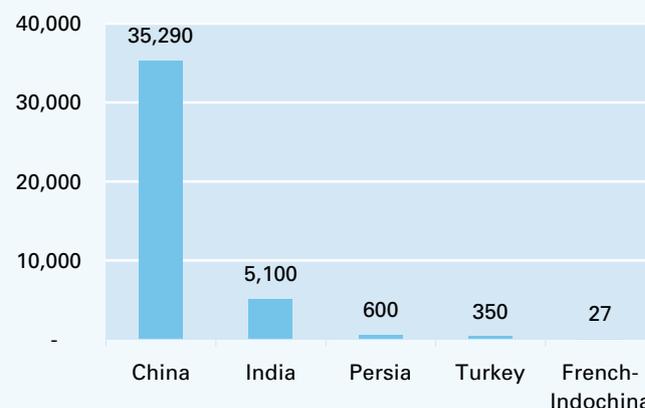
The first international conference to discuss the world's narcotics problem was convened in February 1909 in Shanghai. This forum became known as the Opium Commission and it laid the groundwork for the elaboration of the first international drug treaty, the International Opium Convention of The Hague (1912).<sup>131</sup> The bishop of the Philippines, the Right Reverend Charles H. Brent was elected President of the Commission.

The original plan for the conference was to limit discussions to the topic of ending the opium trade in Asia, notably to China. In the run-up to the conference, several governments expressed interest in participating and others registered reservations. Most reservations centred around the feeling that the issue could not be properly discussed unless all major producing, manufacturing and consuming nations attended. Several governments were opposed to giving the conference any plenipotentiary powers. In the end, feedback from nation states was largely taken into account and not only was the initial invitation list expanded, it was also agreed

that the invited delegates would act in an advisory capacity only.<sup>132</sup> This compromise virtually guaranteed the participation of most colonial powers, i.e. Great Britain, the USA, France, the Netherlands, Portugal, Germany, Austria-Hungary, Italy, Russia and Japan, as well as China, Persia (Iran) and Siam (Thailand).<sup>133</sup> The only country that was invited but did not attend was Turkey.<sup>134</sup>

The Commission was impressively dedicated to providing an evidence base on the opiates trade for delegations and collected a large amount of data on cultivation, production and consumption. Based on data collected for the Shanghai Conference, total opium production was found to have been around 41,600 metric tons in 1906/07.<sup>135</sup>

### Opium production estimates for 1906/07 (in metric tons)



Source: International Opium Commission, *Report of the International Opium Commission*, Shanghai, China, February 1 to February 26, 1909, Vol. II, Reports of the Delegations and Hamilton Wright, "The International Opium Commission", *The American Journal of International Law*, Vol. 3, No. 3, July 1909, pp. 648-673.

The conference revealed that China was the world's largest opium producer at the beginning of the 20<sup>th</sup> century, producing 85% of global opiates: 584,800 piculs ( $\approx$ 35,300 tons). Chinese domestic production accounted for 88% and imports for 12% of total domestic demand in 1908. The bulk of opium imports came from India. Out of the total imports of 1908, 43% came from Patna (eastern India), 32% from Malwa (central India) and 22% from Benares (eastern India). The rest accounted for just 3% and mostly came from Persia.<sup>136</sup>

The world's second largest opium producer was India, where production amounted to more than 5,100 metric tons, about 12% of the world total.<sup>137</sup> Total production in Bengal was over 3,400 tons of opium in 1906/07, with about 1.5 million farmers involved in cultivation; and total production of opium in Malwa was over 1,700 tons. The total area under poppy cultivation in India amounted to 328,000 hectares in 1906/07.<sup>138</sup>

The next largest producer was Persia, modern day Iran. Annual production in Persia was estimated at around 600 tons or 1.5% of the world total. Some 25% was consumed domestically and 75% ( $\approx$ 450 tons) was destined for export. The quality of Persian opium was second only to that of Indian opium.<sup>139</sup> The head of the US delegation reported later that production in Persia ranged from 450-900 tons and that domestic consumption amounted to 90-140 tons.<sup>140</sup>

Turkey did not attend the conference. However, the head of the US delegation reported later that estimates available to the US authorities suggested that Turkey produced some 2,300 'cases' 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 tons of opium in 1907. The US delegation believed that this was exceptionally low and that in a normal year Turkey was more likely to have produced between 5,000 and 6,000 cases (320-380 tons), and, in a very good year, up to 8,500 cases (540 tons).<sup>141</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 reported that opium production took place at low levels in northern Laos, around Tran-Ninh (close to Vietnam) and in northern Vietnam, around Dong-Van in Upper-Tonkin. Production from the areas known for opium in Laos amounted to around 1.2 tons and in northern Vietnam to around 3 tons. The French authorities estimated that Indochina, in total, produced a maximum of between 24 to 30 tons annually. Imports of opium amounted to 138 tons in 1907. An additional 20 to 25 tons of opium were reported to have been smuggled from Yunnan province (China) into French-Indochina.<sup>142</sup>

The British authorities reported opium production in the regions including the remote hills of modern-day Myanmar (Kachin villages and Shan States). While cultivation in Upper Burma (i.e., the Shan States) was allowed, it was prohibited in Lower Burma. As Upper Burma was only under *indirect* British rule, the authorities did not provide estimates.<sup>143</sup> It was reported, however, that the demand for opium had increased following the country's incorporation into British India (1824).<sup>144</sup>

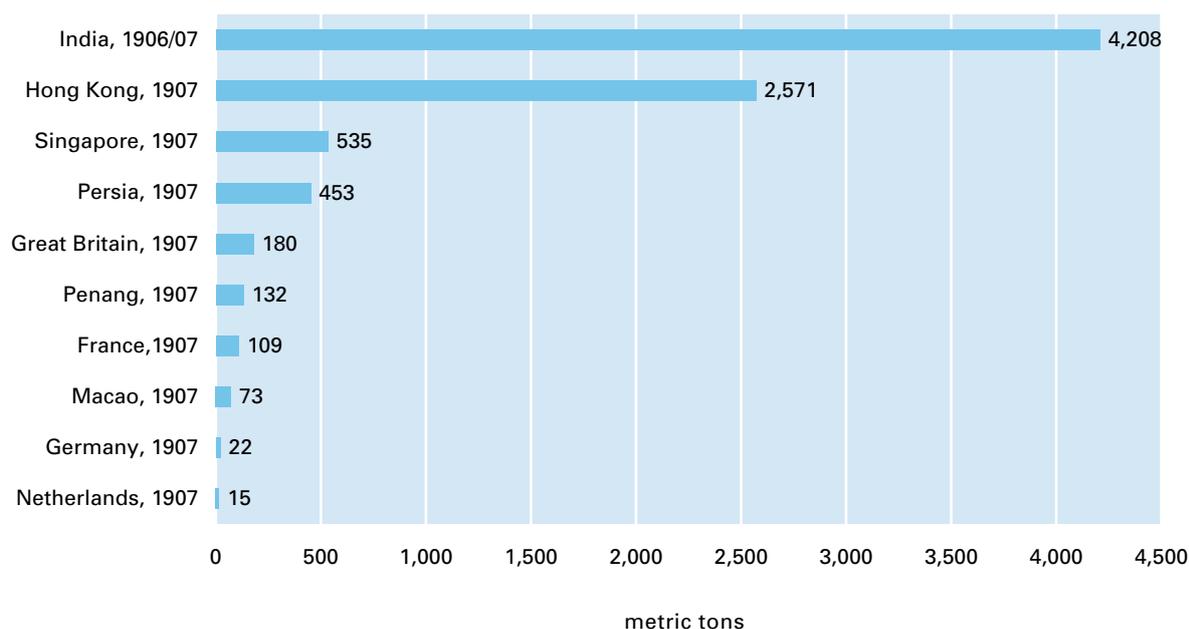
Opium production in Afghanistan was not investigated at the Shanghai conference. Opium production was thought to be low and restricted to the north-eastern parts of the country (Badakshan). Other countries reporting low or no production included:<sup>145</sup>

- USA: no opium was produced; some experimental poppy was harvested in 1908 with a weight of 9000 lbs or 4082 kg;
- Japan: only small scale production of opium for medicinal use; average annual yield was around 40 kg;
- Netherlands: poppy cultivated only for seed and oil;
- Netherlands-India (Indonesia): cultivation of opium prohibited;
- Siam (Thailand): no production of opium;
- Portugal and her colonies: although Macao was an important opium trading centre, no production existed in this colony;
- Austria-Hungary: reported insignificant cultivation;
- France: poppy was cultivated only for its seed-oil;
- Italy: insignificant cultivation with poppy capsules sometimes used for medical purposes.

In addition to assessing overall amounts, the Shanghai conference also analyzed flows (through trade statistics). The largest opium exporter at the time (1906/07) was India. India exported 82% of its total production, primarily to: China (76%, either directly or via Hong Kong), and the Strait Settlements (Singapore, Malacca, Penang, Din ding) (20%). The remainder (4%) went to Java (930 chests), French Indochina (580 chests), the UK (315 chests), Australia (249 chests), Ceylon (194 chests), Mauritius (24 chests), and Eastern Africa (16 chests).<sup>146</sup>

The second and third largest exporters were Hong-Kong and Singapore, both of which re-exported opium imported from India. Hong Kong's exports went primarily to ports across China (86%). Out of total exports of more than 2,500 tons in 1907, the largest portions went to Shanghai (29%) and to Canton (21%). Shipments to destinations outside China accounted for 14% of the total and went mainly to Macao (8%). Smaller amounts went also to London, Victoria, the Straits Settlements, Vancouver, Panama and New York.

## Raw opium exports\* (from domestic production and imports), 1907



\* original data converted into metric ton equivalents.

Source: International Opium Commission, *Report of the International Opium Commission*, Shanghai, China, February 1 to February 26, 1909, Vol. II, Reports of the Delegations.

The second largest exporter of locally produced opiates was Persia, shipping some 450 tons to markets abroad. Most of the exports went to the Straits Settlements, Hong Kong, and the UK.<sup>147</sup>

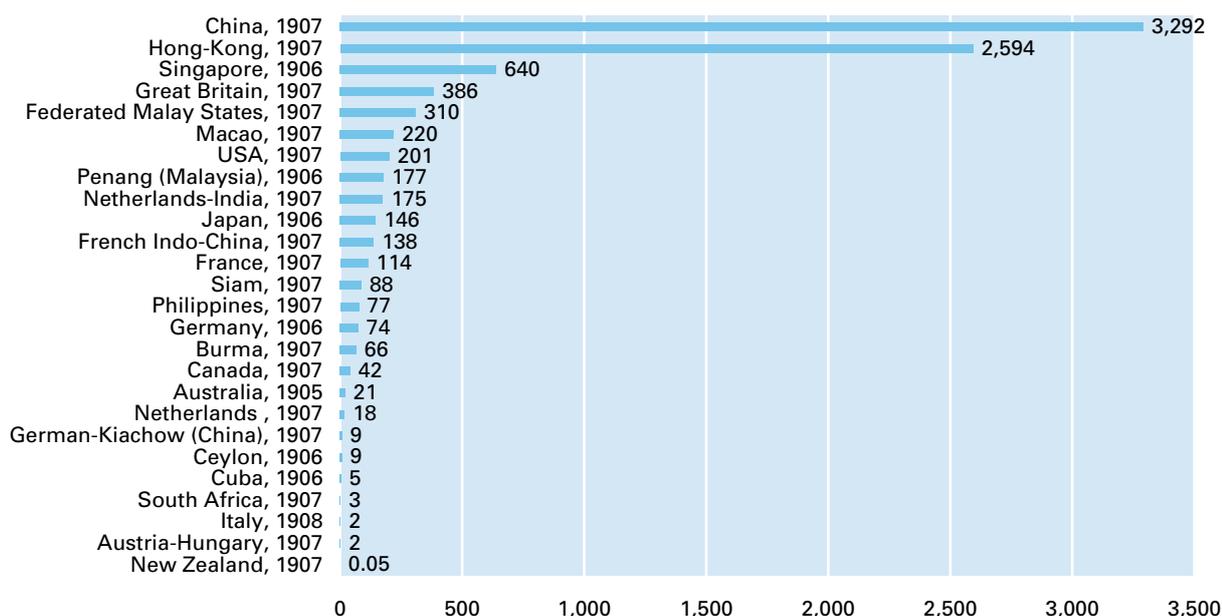
The next largest exporter was Turkey. The US delegation estimated that approximately 350 tons of opium may have been available for export, out of an estimated production of typically produced 5,000 to 6,000 cases of opium (320-380 tons), and that domestic consumption was low. The head of the US delegation reported, in addition, that Turkish opium exports yielded 730,000 Turkish pounds in 1905.<sup>148</sup> This would have been equivalent to 608,000 British pounds (GBP).<sup>t</sup> If this revenue is compared with receipts reported by British India (GBP7.1mn received for the export of 4,246 tons of opium in 1904/05), data suggest that Turkish opium exports could have amounted to some 360 tons in 1905. Import statistics from other countries do not contradict such magnitudes. The USA, Canada and most European countries reported that the bulk of their opium imports came from Turkey.<sup>149</sup>

Trade statistics were more complete for imports than for exports. Of the total reported imports of 8,800 tons:

- China imported 3,300 tons annually, followed by Hong Kong (2,600 tons) and Singapore (some 640 tons);
- The largest European importer of opium was the UK (386 tons);
- Imports of between 200 and 350 tons were reported by the Federated Malay States, Macao and the USA;
- Imports of between 100 tons and 200 tons were reported by Penang, Netherlands-India, Japan, French Indochina and France;
- Imports of between 50 and 100 tons were recorded by Siam, the Philippines, Germany and Burma;
- Imports of between 10 and 50 tons went to Canada, Australia and the Netherlands;
- Imports of less than 10 tons went to Ceylon, Cuba, South Africa, Italy, Austria-Hungary and New Zealand.

<sup>t</sup> In contrast to other currencies, no systematic exchange rates for the Turkish Pound to other currencies are readily available. There were 240 pennies for a British Pound. It was reported that 1 Turkish piaster was equivalent to about 2 British pennies, which means that a British Pound would have been worth around 120 piaster or 1.2 Turkish Pounds. <http://www.treasurerealm.com/coinpapers/dictionary/P.html>

Raw opium imports (including for re-export)\*, 1907



\* original data converted into metric ton equivalents.

Source: International Opium Commission, *Report of the International Opium Commission*, Shanghai, China, February 1 to February 26, 1909, Vol. II, Reports of the Delegations.

Opium Consumption Estimates: statistical review by country

The Commission needed some kind of evidence base to inform its deliberations and consequently set about to systematically collect data on the amount of opiates consumed in various countries. These amounts available for consumption were established as follows: domestic opium production plus imports less exports. In addition, losses in transforming raw opium into processed opium were taken into account.<sup>u</sup> The International Opium Commission's data sets are fairly

<sup>u</sup> The consumption data, in combination with estimates on the average per capita consumption among opium users (kg per year), derived from observations from key informants, studies among opium users and opium registration systems, were used to derive estimates on the likely number of opium users and on the opium prevalence rates (expressed as the number of opium users shown as a proportion of a country's total population). [ Two simple formulas are used for this: 1) Total amount of opium available for consumption / per capita consumption of opium = number of opium users. 2) Number of opium users / population = prevalence rate of opium use among the total population. Note: prevalence rates are nowadays typically represented as a proportion of the population age 15-64; however, for many countries no detailed age-breakdowns were available for 1906/07. So, they are shown here as a proportion of the total population (including babies and old-age persons). ] Attempts to measure prevalence of opium use were made by the Chinese delegation for mainland China and by the Japanese delegation for Formosa (Taiwan). The same approach is also used in this paper to arrive at prevalence estimates for the other countries present at the Shanghai Conference, based on information contained in the Report of the International Opium Commission (Shanghai, 1909). The advantage of using this indicator – prevalence of opium use – is that the results can be directly compared with current prevalence rates. The disadvantage is that for some of the smaller countries the prevalence estimates are based on assumptions (and not on hard scientific data) concerning average per capita consumption rates among opium users.

Thus, an additional indicator is used in this report to measure the severity of the opium problem: per capita consumption of opium use among the general population (in grams per person per year). The advantage of this simple indicator is that it is readily available and does not require any additional assumptions. The disadvantage is that the results are not directly comparable with currently available data on the opiate abuse problem in the countries concerned.

rich in detail and, in sum, indicate that opium consumption levels in most countries of East and South-East Asia were alarmingly high at the beginning of the 20<sup>th</sup> century.

The largest number of opium users, by far, were found in China. Estimates of opium users in mainland China, presented at the conference ranged from a very conservative estimate of 13.5<sup>150</sup> to 25 million, equivalent to between 3.4% and 6.3% of China's total then 400 million population. Taking scientific data on per capita consumption in the Chinese province of Formosa into account, the original low end estimate was revised to a figure of 21.5 million users, equivalent to 5.4% of China's population.

The original estimate of the number of opium users was based on the amounts available for opium consumption (domestic production and imports), losses in the preparation of processed opium and an estimate of per capita consumption among opium users. The latter estimate was based on a plausible assumption of an ordinary Chinese opium user consuming about 1 mace a day (i.e. 1.4 kg a year). However the other assumption, provided by the Chinese delegation, that half of the opium users in China consumed 4 mace a day (i.e. 5.5 kg a year) was likely an exaggeration. This does not mean that there were no opium users who may have consumed 5.5 kg of opium per year, but it is very unlikely that half of all opium users in China consumed such huge quantities. Combining data for casual and heavy use, the original Chinese estimate would have shown an annual consumption of 2.2 kg per year per opium user, far higher than reported from any other country. This resulted in a very conservative estimate (13.5 million) of the total number of opium users in China. The original per capita

**Original minimum estimate of opium smokers for mainland China, (1906)**

Total consumption of raw opium 1906 (domestic production and imports):	613,917 Piculs
Less 40% loss in the preparation of opium:	- 368,350 Piculs
Plus one-third for dross and adulteration:	+ 122,783 Piculs
Total amount of prepared opium available for consumption:	491,133 Piculs = 26,690.5 tons
	<i>Estimated number of persons</i>
One-half of this divided by the daily rate of 1 mace (3.778 grams) for ordinary smokers :	10,764,559
One half of this divided by the daily rate of 4 mace (15.113 grams) for heavy smokers:	<u>2,691,140</u>
<i>Total number of opium smokers (minimum):</i>	<i>13,455,699</i>

estimates, put forward by the Chinese delegation, were based on expert opinion. They may have been influenced by the misery which Chinese medical doctors saw when dealing with severe opium addicts, who often used big quantities. But, given a clearly established figure for total opium available for consumption an exaggerated average per capita consumption rate among opium users had to result in an under-estimate of the total number of opium users.

In contrast, the Japanese authorities, who ruled Formosa, had detailed consumption records from their 'licensed smokers' in Formosa (Taiwan) for the 1897 to 1907 period. These records revealed major differences between light smokers (from three to four 'fun', i.e. 1.1 to 1.5 grams a day) and heavy smokers (typically seven to ten 'momme', i.e. 26.3 to 37.6 grams a day). The Japanese records yielded an overall average daily consumption rate across all opium users of 3.534 gram per day or 1.29 kg per year per smoker over the 1897 to 1907 period.<sup>151</sup> This was in line with results found in several other countries.

After reviewing the Japanese report on the situation in Formosa, the Chinese delegation re-adjusted their official estimate of the number of opium smokers in their country. The new Chinese estimate assumed an average consumption of

1 mace per day per user (3.778 grams or 1.4 kg per year), which was similar to the 'Formosa formula' (3.523 grams or 1.3 kg per year). This was then used to estimate the total number of users at 21.5 million or 5.4% of the total population. The proportion of male opium users amounted to 87%, clearly exceeding the proportion of female opium users (13%). Per capita consumption among the total population (including non-opium users) amounted to 74 grams of opium per person per year: very high compared to other countries.

Very high levels of opium use were also found in the various Chinese territories administered by other countries. This showed that the opium problem went far beyond the political boundaries of imperial China, severely affecting many countries and territories with a Chinese population. Many countries feared that the high levels of opium use would spill over to the local population and/or affect the population of the colonial powers which controlled the territories. A number of measures were thus taken to reduce opium use.

One of the most widely discussed models were the measures taken by the Japanese authorities in Formosa (Taiwan), following their take-over of the island in 1895. The Japanese authorities pursued a policy of gradual suppression of opium

**Revised consumption estimate for mainland China, (1906)**

Total amount of prepared opium available for consumption average consumption of 1 mace per day (3.778 grams per day)	491,133 Piculs = 26,690.5 tons
<i>Total number of opium smokers in China:</i>	<i>21,529,699</i>
<i>In % of total population</i>	<i>5.4%</i>
incl. male users	18,730,333
incl. female users	2,798,785
annual per capita consumption among total population	74 grams

use, fearing that an immediate total prohibition (as in Japan) would have stirred up anti-Japanese feelings among the local population. The private importation of raw opium and the private processing into opium paste were prohibited. Opium imports and the processing into opium paste were organized by a Monopoly Office which also earned significant income for the Japanese authorities. In fact, the opium related revenues accounted for 27.9% of total revenue of the Formosan Government in 1898/99. But they fell to 12.6% of total revenue in 1908-09. Public health considerations played a role. Licences for the private purchase of opium were only granted to an opium addict after he had applied for it and after he had been examined by an official physician to ascertain that he was a chronic opium smoker. Thus, the number of opium smokers was declining as older users underwent treatment or died while ever lower numbers of new users got registered.<sup>152</sup> The number of licensed opium smokers in Japanese administered Formosa amounted to 169,064 in 1900 or 6.3% of the total population, more than in mainland China, but it was falling to 113,165 or 3.7% of the total population in 1907, a decline of 33% over a seven year period. The number of opium abuse related deaths declined from a peak of 13,942 in 1902 to 7,338 in 1907 (of which 89% were male and 11% female). Per capita consumption among the general population fell from 75 grams in 1900 (a similar figure as for mainland China) to 46 grams in 1907. There was also some reduction in the per capita consumption among opium users, from an average daily consumption of 4.662 grams (1.7 kg per year) in 1899/90 to 3.647 grams (1.3 kg per year) in 1907 as the control system was tightened. The average daily consumption over the 1897-1907 period amounted to 3.534 grams (1.29 kg per year).<sup>153</sup>

Consumption estimates for Formosa (Taiwan)			
	1900	1905	1907
Number of registered opium smokers	169,064	130,476	113,165
in % of total population	6.3%	4.2%	3.7%
annual per capita consumption	75 grams	51 grams	46 grams

British authorities reporting for Hong Kong stated that 725 chests of opium were ‘boiled’ for domestic consumption in 1907 and 864 in 1908. Given a population of 325,000 in 1907 and 330,000 in 1908, this was equivalent to a per capita consumption of 142 grams of opium in 1907 and 166 grams in 1908, more than twice the average consumption in mainland China. No per capita consumption estimates among opium users were provided. But, an assumption can be made that per capita use levels may have been similar to those found in Formosa or in neighbouring Macao.

Applying the reported use levels from Macao (2 mace a day or 2.76 kg a year) would have resulted in an estimate of 16,700 opium users in 1907 or 5.1% of the total population. Using the ‘Formosa estimates’ of average opium consumption (3.534 grams per day or 1.29 kg per year) would have resulted in an estimate of 35,700 opium users in 1907, or 11% of the total population, about twice the prevalence rate calculated for mainland China.

Consumption estimates for Hong-Kong, (1907)	
Total amount of prepared opium a available for consumption	725 Chests = 46 tons
a) average consumption of 2 mace (7.56 grams) per day or 2.76 kg per year (Macao est.) <i>Total number of opium smokers: In % of total population:</i>	16,691 5.1%
b) average consumption of 3.534 grams per day or 1.29 kg per year (Formosa est.) <i>Total number of opium smokers: in % of total population:</i>	35,690 11.0%
Mid-point estimates <i>Total number of opium smokers In % of total population</i>	26,200 8.1%
Annual per capita consumption among total population	142 grams

Consumption estimates for Macao, (1907)	
Total amount of prepared opium a available for consumption	72,740 balls 29.4 tons (raw) 14.8 tons (prepared)
a) average consumption of 2 mace (7.556 grams per day) (Macao estimate) <i>Total number of opium smokers: In % of total population:</i>	5,375 5.4%
b) average consumption of 3.534 grams per day (Formosa) <i>Total number of opium smokers: In % of total population</i>	11,494 11.5%
Mid-point estimates <i>Total number of opium smokers: In % of total population:</i>	8,430 8.4%
Annual per capita consumption among total population	148 grams

Official estimates for Macao claimed that less than 5% of the total population was smoking opium. A recalculation<sup>v</sup>

<sup>v</sup> The amount of raw opium prepared for consumption in Macao amounted to 26,363 opium balls in 1906, 18,509 balls in 1907 and 22,455 balls in 1908, equivalent to 41.9 tons in 1906, 29.4 tons in 1907 and 35.6 tons in 1908. After being boiled, a ball of opium was reported to produce twenty-one taels and

based on the detailed data reported by the authorities to the Shanghai conference would have resulted in a rate of 7.7% for 1906 and a rate of 5.4% for 1907. The latter estimates for Macao were recalculated based on the officially assumed daily per capita consumption rate of 2 mace per opium user per day (or 2.76 kg per year). If the calculation were based on the 'Formosa formula' (1.29 kg per year), the prevalence rate of opium use would have amounted to 11.5% in 1907. This suggests that overall abuse levels may have been roughly the same in Macao as in Hong Kong, and about twice as high as mainland China. Per capita consumption of opium among the general population in Macao was 148 grams in 1907, about the same as in Hong Kong and twice the level in mainland China.

Levels of opium use similar to those in mainland China were reported from Koun-tschéou-ouan (or Kwangchouwan), the territory leased by France, where about 5% of the total population or 20% of the adult population was smoking opium.<sup>154</sup> In Kiachow, which was under German administration, 2.6% of the total population were opium smokers, about half the level of mainland China.<sup>155</sup>

Far higher levels of opium consumption were reported amongst the 118,000 adult Chinese labourers working in the United States. Ninety-four per cent of US opium imports were said to be for Chinese labourers. The US reported that 15% of them were heavy smokers at 6 lbs (2.72 kg per person per year), 20% were light smokers at 1.5 lbs per annum (0.68 kg) and 10% were social smokers at 1 oz per year (28.35 grams). The average annual per capita consumption rate amounted to 1.22 kg per Chinese opium user, a similar figure as reported for opium users in Formosa.<sup>156</sup> The original US estimates of the opium prevalence among male Chinese workers were, however, extremely high (45%). During discussions at the conference the US delegation indicated that the US estimates of the number of Chinese opium users may have been too high. The head of the US delegation stated, "*with a fair amount of certainty that 30 per cent of the adult male Chinese population were addicted to the habit.*" Based on this estimate, average daily consumption would have been 1½ mace (5.7 grams) of prepared opium a day, equivalent to about 2 kg a year.<sup>157</sup>

### Opium consumption estimates for Singapore

The highest per capita levels of opium consumption of any country were reported from Singapore which was, at the time, a British colony. Calculations suggest that 325 grams of raw opium or 211 grams of prepared opium were, on

— six mace weight in pulp. In other words, a ball of opium (1.59 kg) was said to produce 0.801 kg of opium pulp in Macao, equivalent to a ratio of 0.505. Applying this ratio gives levels of opium pulp availability of 21.1 tons, 14.8 tons and 18 tons in 1906, 1907 and 1908 respectively. Using the officially reported consumption estimate of 2 mace per person, results in estimates of the number of users of 7,656, 5,375 and 6,521, respectively. Given a population of around 100,000 people at the time, the prevalence rates would have been 7.7%, 5.4% and 6.5%, respectively. Per capita consumption amounted to 211 grams in 1906, 148 grams in 1907 and 180 grams in 1908.

average, thought to be consumed per person in 1906,<sup>w</sup> almost three times the average consumption in mainland China. This reflected the dominant role that opium played in the colony, where between 1800 and 1910, 40 - 60% of total state revenues were opium related.<sup>158</sup> Applying the 'Formosa formula' for the average annual dose, approximately 16.4% or 43,300 persons used opium in 1906. The overwhelming number of opium users in the colony were of Chinese descent.<sup>159</sup>

### Consumption estimates for Singapore, (1906)

Total amount of net imports of raw opium:	85.9 tons
Total amount of prepared opium for consumption	
China ratio (80%):	68.7 tons
Macao ratio (50%):	<u>42.9 tons</u>
Average	55.8 tons
Average consumption of 3.534 grams per day (Formosa ratio)	
Total number of opium smokers:	43,300
In % of total population:	16.4%
Range	12.6- 20.2%
Annual per capita consumption of raw opium among total population:	325 grams
Annual per capita consumption of prepared opium among total population:	211 grams

### Opium consumption estimates for British India (excl. Burma)

Legal consumption of opium in the world's second largest opium producing country, British India (excl. Burma), was reported to have amounted to 422.3 tons in 1907/08. During the conference, the British authorities clarified that this figure only accounted for licit opium consumption, not diversions (related to tax avoidance).

### Consumption estimate for India, 1907/08

Amount available for consumption:	552,510 seers (equivalent to 422.3 tons)
Daily dose:	21.5 grains (1.393 grams)
Annual amount:	0.509 kg
Estimated number of opium users:	830,500
In % of total population:	0.4%
Annual per capita consumption:	1.9 grams

— This results from the application of the average of the transformation ratios from raw to prepared opium reported from China and Macao.

The average normal dose, as identified by the Royal Commission in 1895 amounted to 21.5 grains per person per day (equivalent to about 0.5 kg per year). Based on this dose, there were approximately 830,000 opium users in British-India (excluding Burma) in 1907/08. With a total population of 232 million people (221.5 million excluding Burma),<sup>160</sup> the overall prevalence rate of opium consumption in British India was however just 0.4% in 1907/08, significantly lower than in China (5.4%).

Per capita consumption among the general population was 1.9 grams per person per year, far lower than in China (74 grams). Given the large-scale opium production in India at the time, this was low. Regional disparities within India were also important. Consumption in South India, where no poppy cultivation existed, for example, was well below the national average. In territories around Malwa (e.g. Ajmer Merawa) and in Bombay, the main point of transit for opium from Malwa, however, per capita consumption rates were well above the national average.

**Opium consumption estimates for Burma (Myanmar)**

Licit consumption of opium had reached 74,731 seers by 1906/07. Per capita consumption among opium users in Lower Burma was reported to have amounted to one sixteenth of a ‘tola’ or 11.25 grains a day. This was equivalent to 266.1 grams per year – a lower consumption rate than in India. Relatively high prices of opium were responsible for this.<sup>161</sup> Also, opium was still a new vice for many people in Lower Burma. Use rates for the Shan State and other growing areas, where the price of opium was much lower, and/or where farmers produced opium for their own needs, were significantly higher: between 1 and 1.4 kg of opium per user per year. The mid-point estimate, applying these per capita use levels would amount to some 160,000 persons or 1.5% of the total population of Burma. Per capita consumption among the general population amounted to 6.6 grams of opium per year.

**Opium consumption estimates for French Indochina (Vietnam, Laos, Cambodia)**

No official prevalence rates for Indochina as a whole were presented at the Shanghai conference. However, data presented at the Shanghai conference are sufficient to produce an ‘ex-post’ estimate. The French authorities reported the purchase of 137.9 tons of opium for Indochina in 1907 and 167 tons in 1908. In addition, it was estimated that domestic (illegal) production could have reached up to 400-500 Piculs (24-30 tons), and that illegal imports from Yunnan (China) into Indochina amounted to between 20 and 25 tons per year. Thus, the total amount available for consumption could have been around 200 tons per year. Indochina was thus the third largest opium market after China and India in Asia.

**Consumption estimates for Burma, 1906/07**

Amount available for consumption:	74,731 seers (equivalent to 69.7 tons)
a) Daily dose of 11 ¼ grains (0.729 grams) Annual amount: <i>Estimated number of opium users:</i> <i>In % of the total population:</i>	0.266 kg 262,065 2.5%
b) Annual amount: <i>Estimated number of opium users:</i> <i>In % of the total population:</i>	1.2 kg 58,110 0.55%
Mid-point estimate <i>Total number of opium smokers:</i> <i>In % of total population:</i>	160,000 1.5%
Annual per capita consumption among total population	6.6 grams

Per capita consumption estimates ranged from around 0.2 kg per year for the Vietnamese people to 1.4 kg of opium used by the local Chinese (a significant proportion of total consumption)<sup>162</sup> and by the population in northern Laos.<sup>x</sup> Using a mid-point estimate of 0.8 kg per user per year would yield an opium using population of about 250,000 persons, or 1.7% of the general population of Indochina. Such an estimate would be in line with other estimates of this era, which suggested that Vietnam had a prevalence rate of around 2%,<sup>163</sup> Cambodia around 1%, and Laos less than 2%.<sup>164</sup>

**Consumption estimates for Indochina, 1907/08**

Amount available for consumption:	200 tons
Annual per capita consumption (0.2 -1.4 kg):	0.8 kg
<i>Estimated number of opium users:</i>	250,000
<i>In percent of the general population:</i>	1.7%
Annual per capita consumption among the general population	14 grams

Annual per capita consumption among the general population amounted to around 14 grams of opium, i.e. more than in India but less than in China. Opium consumption was particularly high among the local Chinese populations. In the Chinese district of Cholon, now Ho Chi Min City, Vietnam, average (licit) per capita consumption was several

<sup>x</sup> Based on results of studies undertaken by the French authorities, which were re-confirmed by studies undertaken by the Lao authorities a century later.

times the 'national' average at 66 grams of opium (and thus close to the estimate for mainland China). It was estimated that at least a third of the Chinese population was addicted to opium. In some parts of Indochina, 70% to 80% of the opium smokers were ethnic Chinese.<sup>165</sup> (Part of the explanation for this is that the so-called 'opium farms,' which operated throughout South-East Asia in the 19<sup>th</sup> century and which were explicitly created in order to provide opium to immigrant Chinese populations, were actually restricted from selling to local populations.)

### Opium consumption estimates for the Netherlands East Indies (Indonesia)

The annual need for crude opium for the factory of the *régie* (government monopoly) amounted to a total import of raw opium for domestic consumption of 90.9 tons. The sales of *chandu* (smoke-able opium) on the islands of Java and Madura – the main islands of the Netherlands East Indies averaged, 759,928 tahils, or 38 tons, over the 1904-08 period. The average consumption per user was reported to have been extremely low in Java (3 grains per day, equivalent to just 71 grams per year). There were approximately half a million on two islands, equivalent to 1.8% of the total population. Outside Jakarta, per capita consumption among opium users was reported to have been four times larger, around 12 grains per day (284 grams per year). Among the Chinese population consumption was considerably larger. In total, using the information provided at the conference, it is estimated that there were about 660,000 opium users (1.5% of the population) in the Dutch East Indies in 1906/07.

### Opium consumption estimates for Siam (Thailand)

The authorities of Siam reported that imports of opium amounted to 1,385 chests (88 tons) in 1907, which was about the same as total consumption in the Netherlands East Indies. Applying the same rates of per capita consumption among users as reported from Indochina, Siam had an opium using population of 110,000, or 1.5% of the total population, in 1907. The annual per capita consumption of opium was approximately 15 grams per person, i.e. similar to the levels found in Indochina.

Consumption estimates for Siam (Thailand), 1907	
Amount available for consumption:	88 tons
Annual per capita consumption (0.2 -1.4 kg):	0.8 kg
Estimated number of opium users:	110,000
In percent of the general population:	1.5%
Annual per capita consumption among the general population	15 gram

### Opium consumption estimates for the Philippines

Following the changes in the US government's opium policies in the Philippines (towards gradual suppression), opium imports had declined from 129 tons in 1902 to 77 tons in 1907 (-40%). Thus by 1907, the Philippines were a similarly sized market to the Netherlands East Indies or Thailand. Most opium users were reported to be ethnic Chinese. Assuming an average consumption of 1.2 kg per year per opium user (US Government figures for Chinese labourers in the USA), the total number of opium users is estimated at around 63,400 persons or 0.8% of the Philippines' total population at the time, less than the prevalence rates in Indochina or Thailand.

#### Consumption estimates for the Philippines, 1907

Amount available for consumption:	77.1 tons
Annual per capita consumption among users:	1.216 kg
Estimated number of opium users:	63,400
In % of the general population:	0.8%
Annual per capita consumption among the general population	10 grams

### Opium consumption estimates for Persia (Iran)

Persia reported the production of around 10,000 Piculs (605 tons) of opium of which around 2,500 Piculs (151 tons) were for local consumption.<sup>166</sup> Persia was thus the fourth largest opium market in Asia (after China, India and Indochina.) No information on average per capita consumption was provided at the conference. Assuming a rate of average per capita consumption similar to India (0.5 kg per year), it is estimated that roughly 300,000, or 2.9%, of the population consumed opium in Persia in 1907.

#### Consumption estimates for Persia (Iran), 1907

Amount available for consumption:	151 tons
Annual per capita consumption among users:	0.5 kg
Estimated number of opium users:	302,400
In % of the general population:	2.9%
Annual per capita consumption among the general population	15 grams

### Opium consumption estimates for countries in North America

The largest opium market outside Asia was the United States. The amounts available for consumption amounted to slightly more than 200 tons in 1907. This was smaller than

the opium markets of China and India. At the Shanghai conference, representatives of the US Government reported that 181,000 to 213,000 persons consumed opium in the USA. Taking a mid-point of 206,000 persons it is estimated that 0.2% of the total population were opium users. Overall per capita consumption was relatively low at 2.3 grams in 1907. While overall opium consumption and the proportion of opium users among the general population were low, the prevalence of opium use was high among the population of Chinese descent. US authorities reported that according to a survey of the large Chinese communities in the United States, 15% of males were heavy smokers, 20% light smokers and 10% social or casual smokers of opium. Authorities voiced concern over a potential increase in the opium habit in the country.<sup>167</sup> In subsequent discussion at the conference, the US delegation stated that, “with a fair amount of certainty ... 30 per cent of the adult male Chinese population were addicted to the habit.”<sup>168</sup>

Consumption estimates for the United States, 1907	
Amount available for consumption:	201.5 tons
Annual per capita consumption among users:	0.98 kg
Estimated number of opium users:	206,000
Range:	181,000-231,000
In % of the general population:	0.2%
Annual per capita consumption among the general population	2.3 grams

Data for Canada showed that some 31 tons of opium were imported in 1906. Based on this, Canada would have had a per capita consumption of 5.1 grams, about twice as high as the United States. Most consumers were reported to have been of Chinese origin. Applying the ‘Formosa formula’ Canada would have had 24,000 opium users (0.4% of the total population).

Consumption estimates for Canada, 1906	
Amount available for consumption:	31.3 tons
Annual per capita consumption among users: (Formosa formula)	1.29 kg
Estimated number of opium users:	24,200
In % of the general population:	0.4%
Annual per capita consumption among the general population	5.1 grams

### Opium consumption estimates for countries in Europe

Estimating turn of the century consumption levels for Europe is difficult. Although there is information on the opium imports going into various European countries, no

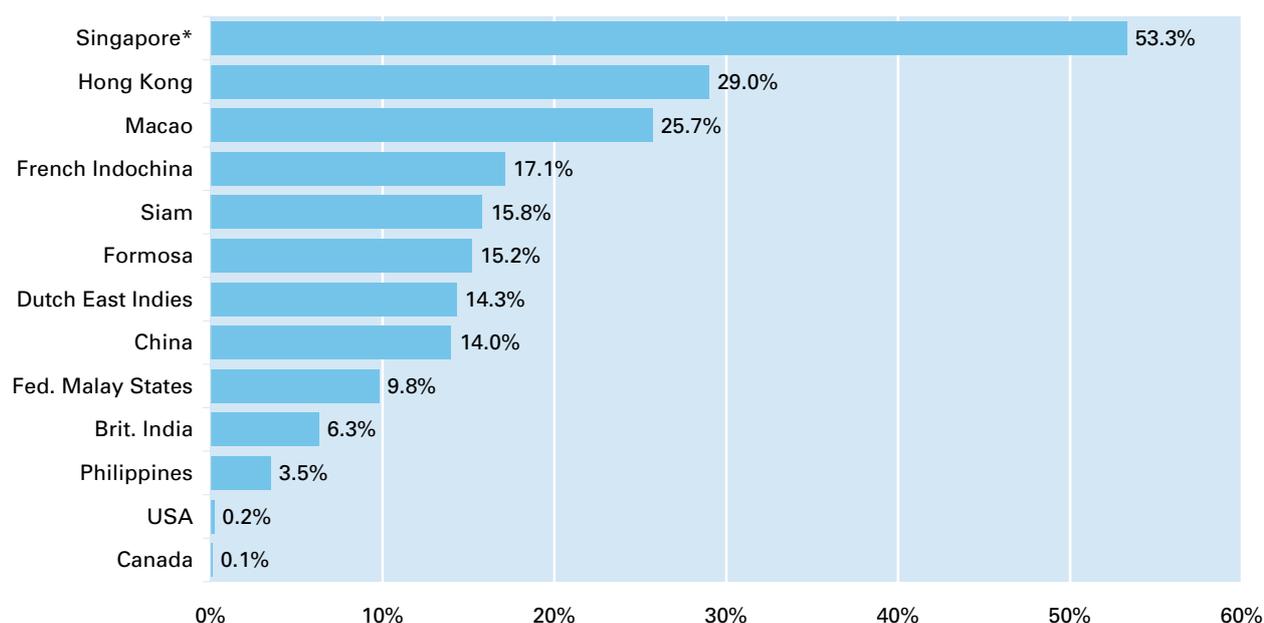
information on per capita consumption of opium users emanated directly from the conference. Also, because ethnic Chinese groups were extremely small in European countries at the time, consumption rates of ethnic Chinese communities are not a meaningful proxy for Europe. Having said this, overall per capita consumption levels of opium, among the general population (users and non-users), suggest that consumption was limited, except perhaps for the UK which had an overall per capita consumption of 5.2 grams per inhabitant. This appears to have been similar to the levels reported from Canada but higher than consumption in British India (1.9 grams) or in the United States (2.3 grams). Per capita consumption in Germany amounted to 0.75 grams and in France to 0.36 grams. In countries where there was no pharmaceutical production of morphine or heroin, such as Italy or Austria-Hungary, the per capita consumption amounted to just 0.06 and 0.05 grams, respectively.

Consumption estimates for European countries, 1906/07	
UK (Great Britain), 1907 Amount available for consumption: Per capita consumption among the general population:	205.5 tons 5.2 grams
GERMANY, 1906 Amount available for consumption: Per capita consumption among the general population:	46.5 tons 0.75 grams
FRANCE, 1906 Amount available for consumption: Per capita consumption among the general population:	14.7 tons 0.36 grams
ITALY Amount available for consumption: Per capita consumption among the general population:	2.1 tons 0.06 grams
AUSTRIA-HUNGARY Amount available for consumption: Per capita consumption among the general population:	1.4-2 tons 0.05 grams

### Estimates of government and administrative revenue generated by opium

In addition to investigating the extent of opium consumption, the Opium Commission also looked in detail at revenue from opium accruing to governments. The latter inquiry revealed strikingly high values in several Asian countries. This became extremely important at the conference – highlighting, in reality, the severe difficulties faced by many Asian countries in potentially eliminating the (licit) opium sector from their national economies.

## Opium related revenues as a percentage of total (state) revenues, 1906/07



\*Singapore and the other two Straits Settlements Penang and Malacca (today Malaysia).  
Source: International Opium Commission, Shanghai, 1909.

After the Chinese Government levied a consolidated tax on both foreign and domestic opium in 1906, income from opium was reported to have almost tripled to around 14 million *taels* (2.1 million British pounds in 1906), equivalent to 14% of annual government income (100 million *taels*)<sup>169</sup>. (This included about £1 million in duties collected by the Imperial Maritime Customs.)

This, however, was only a portion of total national income. According to information provided in the 1909 Shanghai Commission report, taxes and licenses levied by the provincial authorities generated sums equivalent to about £3 million a year.<sup>170</sup> Mr. Leech, the counselor of the British Legation at Beijing, and one of the main experts on these issues at the time, estimated that the Chinese authorities derived a total income of £6.5 million (US\$ 0.7 billion in 2006 dollars<sup>171</sup>) from opium in 1906. (£4 million was the figure officially reported to the International Opium Commission.)<sup>172</sup>

The reported income from the opium production and trade in British India, excluding the so-called 'Native States' where significant opium related income was generated, was £4.7 million in the fiscal year (April to March) or 6.3% of total state income by 1906-07.<sup>173</sup> The income was basically generated from the difference between the production price and the auction price (more than 75%) as well as from fees (less than 25%). About 80% of the total export income was generated in trade with China. Expressed in current currency units, the overall income from opium taxes, levies and license fees in British India (excluding the Native States) would have been US\$ 0.5 billion in 2006 dollars.<sup>174</sup> Total opium exports from British India amounted to £6.2 million in 1906-07, equivalent to US\$ 0.7 billion in 2006 dollars.

Local sales of opium amounted to £ 3.75 million in 1906-07, equivalent in current dollars to US\$ 0.4 billion.

The highest proportion of state revenues from opium was reported from Singapore and the other 'Straits Settlements', Penang and Malacca (both today Malaysia). The revenue derived from opium in these 'Straits Settlements' amounted to £0.6 million and was equivalent to 53.3% of total revenue in 1906. In 1904, the proportion even stood at £0.7 million or 59.1% of the total.<sup>175</sup> Singapore's 'farm system' was considered a model for other colonies due to the fact that it generated the highest total revenue from the opium trade of any authority.

As represented in the graph above:

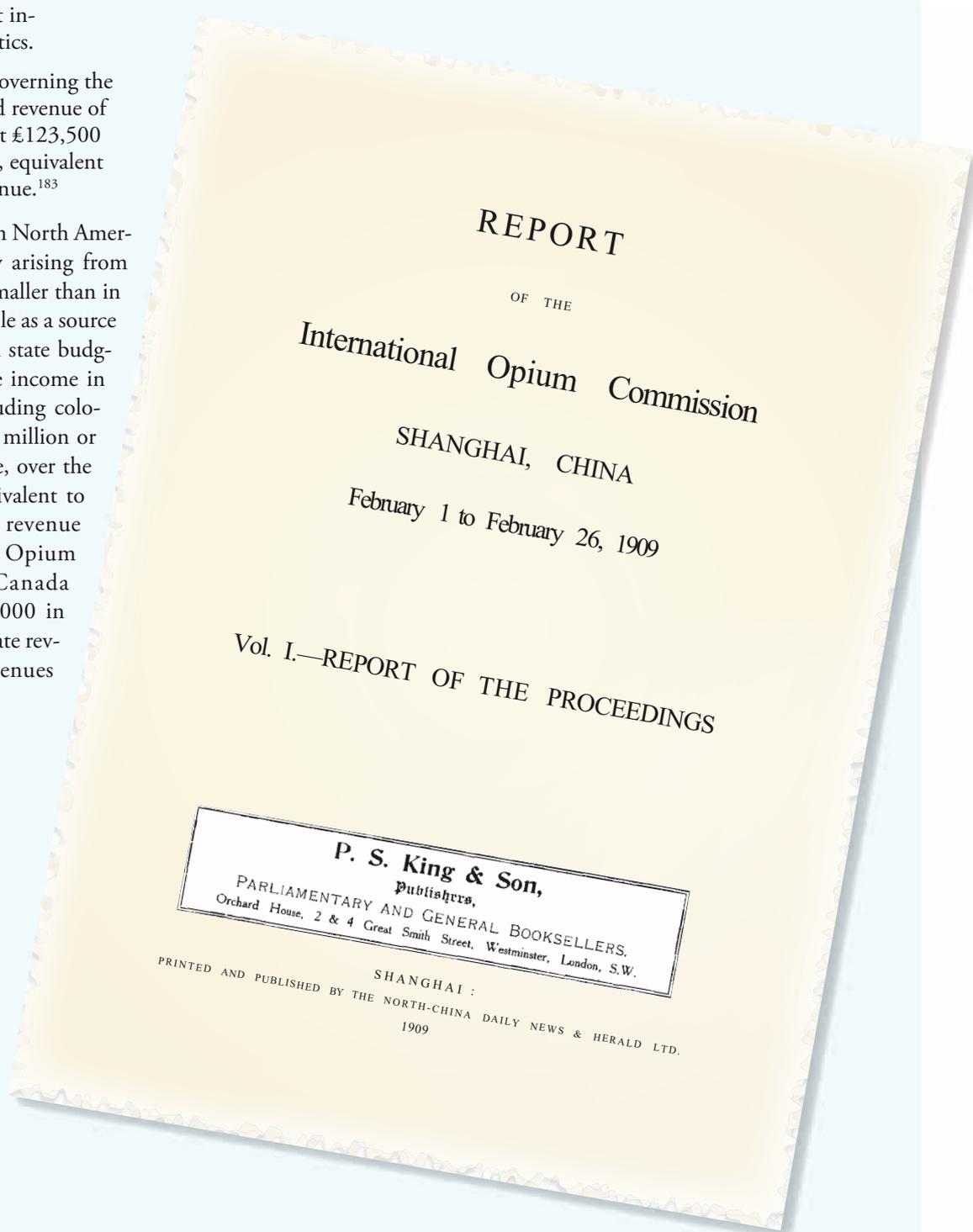
- Revenues derived from opium in the British colony of Hong Kong were £0.2 million, equivalent to 29% of total revenues in 1906.<sup>176</sup>
- Opium revenues in the Portuguese colony of Macao were £130,000 or 25.7% of total revenues in fiscal year 1908/09.<sup>177</sup>
- Revenues derived from opium in the French colonies of Indochina amounted to £0.6 million or 17.1% of total revenues in 1907.<sup>178</sup>
- Revenues derived from opium in Siam (Thailand) also amounted to £0.6 million or 15.8% of total revenues in 1907.<sup>179</sup>
- Revenues derived from opium in the then Japanese colony of Formosa (Taiwan) amounted to £0.45 million or 15.2% of total revenues in 1907.<sup>180</sup>
- Revenues derived from opium in Dutch-East Indies were higher in absolute terms, amounting to £1.8

million in 1907. Expressed as a proportion of total revenues they were, however, slightly lower than in the countries or territories mentioned above: 14.3% of total revenues in 1907.<sup>181</sup> Similar proportions of around 14% were also reported for mainland China though there were still quite substantial differences in the estimates (see discussion above).

- The Federated Malay States, which form now part of Malaysia, reported revenues from opium of £0.3 million in 1907, or 9.8% of total revenue.<sup>182</sup>
- The proportion of the opium related income for India was reported to have been slightly lower (6.3% of total revenues in 1906/07), though this may be misleading as opium income generated in the so-called 'native states' was not included in these statistics.
- The US authorities governing the Philippines generated revenue of \$0.6 million or about £123,500 from opium in 1907, equivalent to 3.5% of total revenue.<sup>183</sup>

Opium related income in North America and Europe, mainly arising from import duties, was far smaller than in Asia and hardly noticeable as a source of income in the overall state budgets. Opium related state income in the United States (excluding colonies) amounted to \$1.4 million or £0.3 million, on average, over the 1900-1907 period, equivalent to just 0.2% of all state revenue during this period.<sup>184</sup> Opium related income in Canada amounted to just \$88,000 in 1907 or 0.1% of total state revenue.<sup>185</sup> In Europe revenues were negligible.

Apart from an in-depth analysis of the various dimensions of the opium problem, the International Opium Commission also passed a number of 'recommendations' urging the gradual suppression of opium smoking and the control of smuggling. A strong appeal was made to governments controlling foreign concessions and settlements in China to (i) co-operate with the Chinese Government's directives to close opium dens and (ii) to apply domestic pharmacy laws in concessions and settlements. Further, the Commission strongly urged governments to take decisive measures to control the manufacture and distribution of morphine and other derivatives of opium.



*The following are the Resolutions as adopted, in their revised form :—*

*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 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 recognises 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.

[NOTE.—*The Portuguese Delegation reserved its vote on these resolutions in every instance. With regard to the vote of the Italian Delegation, attention is called to the following correspondence.*]

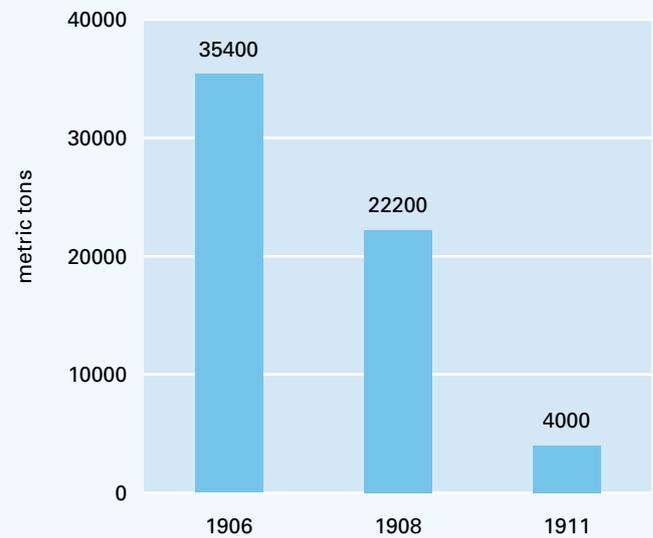
Although the Commission was not intended to establish binding obligations, it accelerated the efforts which led to the conclusion of The Hague Opium Convention of 1912.<sup>186</sup> This “preparatory phase,” from 1906 to 1909, created a huge amount of momentum, and, as governments did not want to be seen as responsible for any aggravation of the drug problem in the interim, a number of initiatives were taken *prior* to the conference. The initiatives ranged from changes in control regimes to total bans on opium poppy cultivation. For example, by the end of 1909, a Commission on Opium (appointed in 1907) had suspended the opium farms in Singapore, Penang and Malacca in the British controlled territories of Malaya. The Government Monopolies Department then entered into possession of the premises and reopened them with a view to gradually suppressing opium-smoking in these territories.<sup>187</sup>

The most important initiative, during this three year period, however, was the agreement between Britain and China which obliged Britain to gradually eliminate its opium sales to China over a ten year period through the end of 1917. China, in return, was obliged to eliminate opium poppy cultivation within a ten year period.<sup>188</sup> The agreement foresaw a 10% annual reduction of British exports to China. British officials were given the right to undertake independent verifications of Chinese cultivation, beginning three years after the start of the implementation of the agreement. The inspector was to be given unlimited access to the interior of China.<sup>189</sup>

In order to demonstrate its seriousness, the Chinese Government began a major anti-drug campaign.<sup>190</sup> This opium suppression campaign was later described “*as the most successful of all the Manchu reforms.*”<sup>191</sup> The Chinese authorities also issued an edict in 1906, which, while not banning opium outright, set out a clear plan for reducing both production and consumption over the next decade.<sup>y</sup> Because of this preparatory work, by the time international delegations convened at the conference in Shanghai, they were already reporting major successes in reducing the opium problem. The Chinese delegation reported a strong decline of dom-

estic opium production (-37%) from 584,800 piculs (≈35,400 tons) in 1906 to 367,250 piculs (≈22,200 tons) in 1908.<sup>z</sup>

Opium production in China, 1906<sup>aa</sup>-1911



Source: Conférence Internationale de l’Opium, La Haye, 1 décembre 1911 – 23 janvier 1912, p. 57

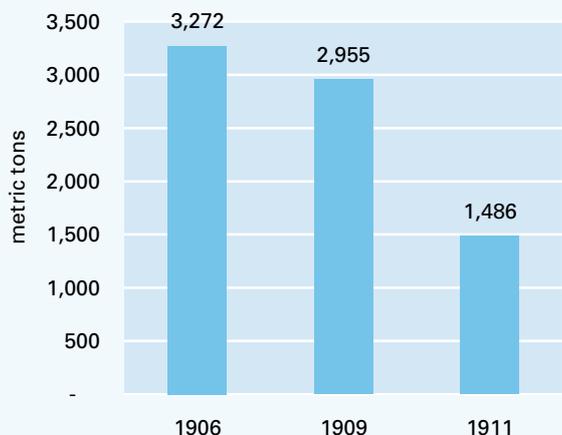
China’s was not the only government to make headway during this period. A large number of countries/territories, including Formosa (Taiwan), French-Indochina, Siam (Thailand), Burma, and the Philippines.

y Measures taken included: Land not being used for poppy planting was henceforth closed to poppy growing; land where opium was under cultivation had to be registered and reduced by one-ninth annually. Punishment for non-compliance required confiscation of the land in question. Special rewards were granted to those who ended poppy cultivation before the obligatory time limit. A licensing system was introduced to register opium addicts and prevent new smokers from joining their ranks. Magistrates were charged to compile lists of persons who smoked opium in their district. Those buying opium without a certificate were liable to punishment. Also required was a certificate that compelled those under the age of sixty to reduce the amount of smoking annually, either by two-tenths, or three-tenths, and to determine a date of final cessation. The names of smokers not reducing intake would be placed on record in the street and no honorary positions would be given to them. Restaurants and bars selling opium were notified that they would have to stop selling within six months. Shops were allowed to continue selling opium but had to register and provide detailed statistics to the authorities. (See Thomas D. Reins, “Reform, Nationalism and Internationalism: The Opium Suppression Movement in China and the Anglo-American Influence, 1900-1908”, *Modern Asian Studies* Vol. 25, No. 1, Feb. 1991, pp. 124-125.)

z If this trend had continued, China could have eliminated opium production even before the planned 10-year period. The overthrow of the imperial government by a nationalist revolt in 1912, however, marked a reversal of this downward trend as the new nationalist government in Beijing turned out to be rather weak vis a vis the provinces where local warlords promoted the cultivation of opium poppy to strengthen their position.

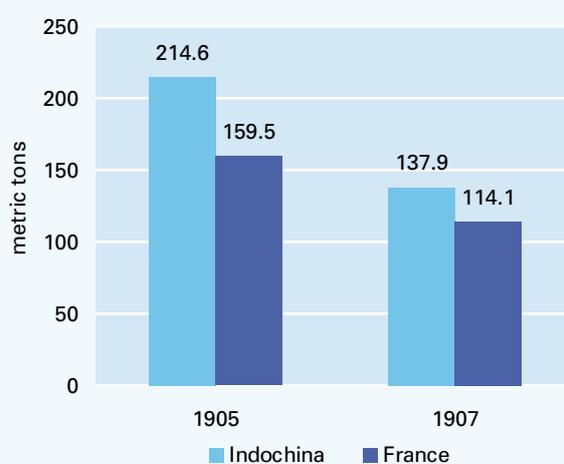
aa The official Chinese pproduction estimate for 1906 (584,800 piculs) was derived from customs\levies reports. (In 1908, using a similar customs\levies-based methodology, the Chinese authorities estimated production at 367,250 piculs in 1908 (decline of 37%) . This showed a significant decline of production over the 1906 – 1908 period.) The UK delegation to the 1907/08 Shanghai proceedings was critical of Chinese 1906/07 production figures. UK estimates by Morse (1905), based on a rapid assessment of the situation, suggested a total production of 376,000 piculs in 1905. UK estimates by Leech (1907), based on another rapid assessment, estimated Chinese production at 331,000 piculs in 1907 (a decline of 12%). This estimate was forwarded by the British legation in Peking to the British Foreign Office in London. (Using the lower decline (UK figures) would have meant less of a reduction of British opium exports from India to China.) UNODC decided to use the official Chinese figures because these became the accepted figures and were generally accepted and used during the proceedings which elaborated the 1912 Hague Convention.

### Opium imports of China (in metric tons), 1906-1911



Source: Conférence Internationale de l'Opium, La Haye, 1 décembre 1911 – 23 janvier 1912, p. 67

### Opium imports of France and Indochina, 1905-1907



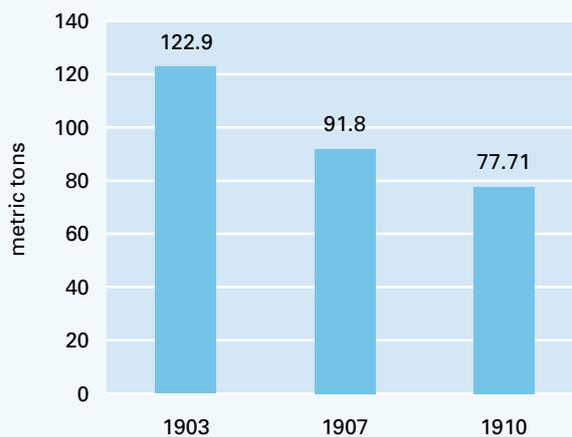
Source: International Opium Commission, Shanghai 1909, Annex 1. Statistics of Trade in Opium.

### Opium re-exports of Macao, 1905-1907



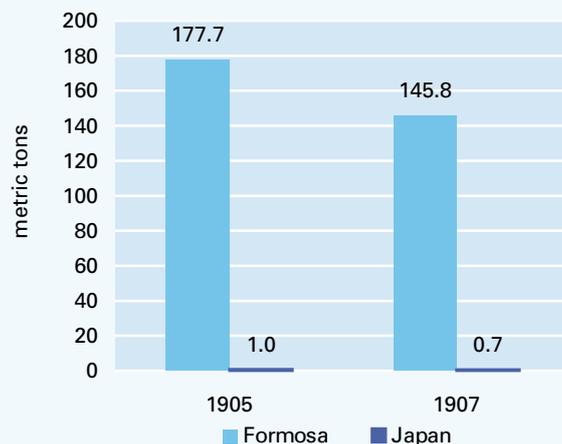
Source: International Opium Commission, Shanghai 1909, Annex 1. Statistics of Trade in Opium.

### Sales of chandu (prepared opium) in Indochina, 1903-1910



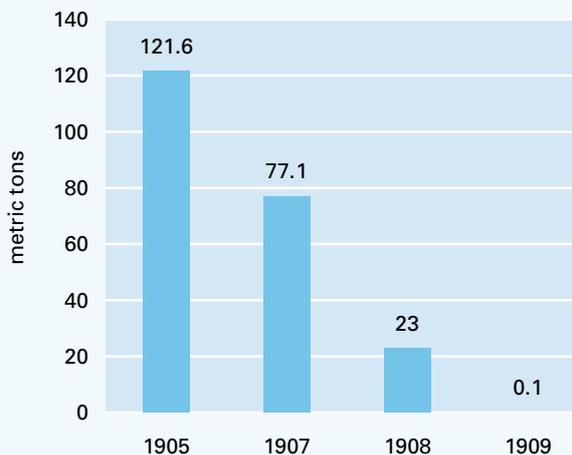
Sources: International Opium Commission, Shanghai 1909, Annex 1. Statistics of Trade in Opium and Conférence Internationale de l'Opium, La Haye, 1 décembre 1911 – 23 janvier 1912, Tome II, p. 81.

### Opium imports of Formosa and Japan, 1905-1907



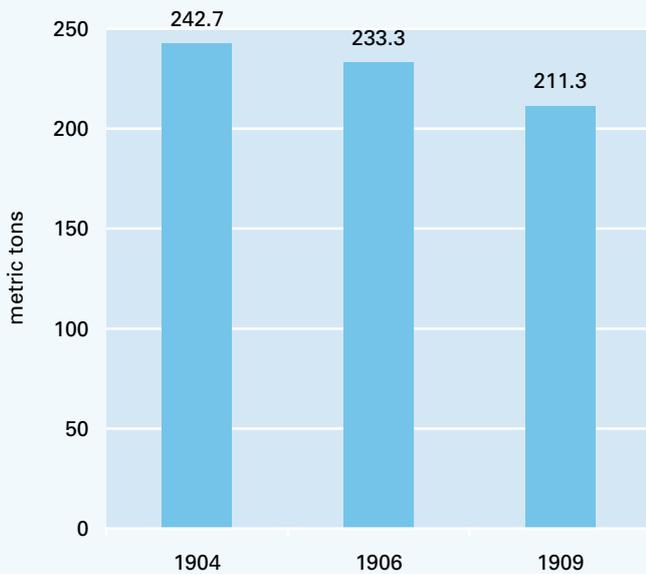
Source: International Opium Commission, Shanghai 1909, Annex 1. Statistics of Trade in Opium.

### Opium imports of the Philippines, 1905-1909



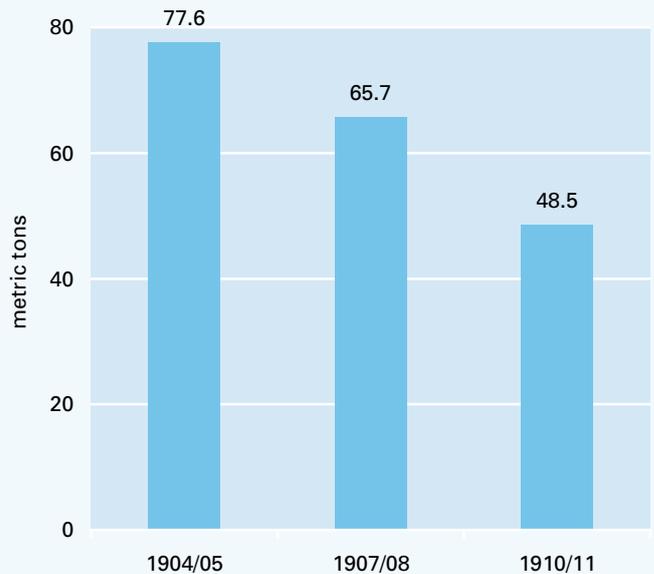
Source: Conférence Internationale de l'Opium, La Haye, 1 décembre 1911 – 23 janvier 1912, Tome II, p. 6.

Opium imports of the USA, 1904-1909



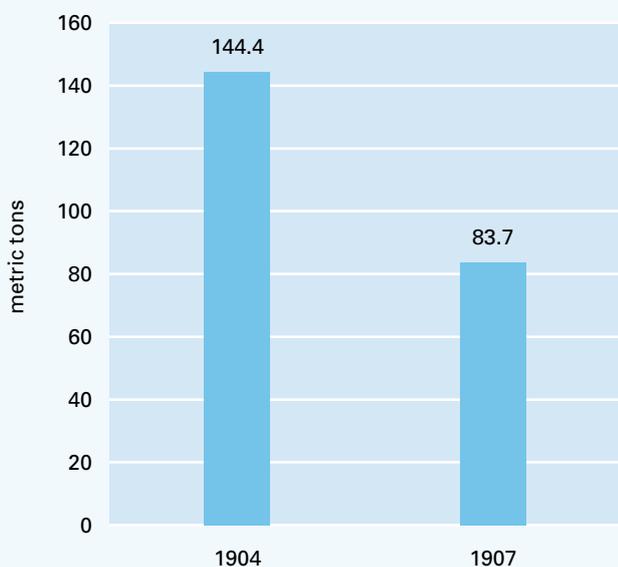
Source: Conférence Internationale de l'Opium, La Haye, 1 décembre 1911 – 23 janvier 1912, Tome II, p. 34.

Opium sales in Burma (Myanmar), 1904-1911



Sources: International Opium Commission, Shanghai 1909, Vol II, p. 187 and Conférence Internationale de l'Opium, La Haye, 1 décembre 1911 – 23 janvier 1912, Tome II, p. 93.

Opium imports of Siam (Thailand), 1904-1907



Source: International Opium Commission, Shanghai 1909, Annex 1. Statistics of Trade in Opium.

The US delegation attempted to set the foundation for an unambiguous prohibitionist global drug regime, but this did not meet with the approval of most other colonial powers. These countries pursued more pragmatic approaches, such as deterring experimentation by increasing drug prices. The typical line of argument used by pragmatists was that: drug abuse could not be eliminated, therefore efforts should focus on limiting the consequences of drug abuse. These colonial powers felt results would be best achieved via high taxes and licence fees.

Because of this divergence of opinion, with the US delegation in favour of a global ban on non-medical production and trade, no agreement was reached on a definition of 'legitimate use'. For the US delegation, legitimate use was exclusively the use of drugs for medical and scientific purposes. The other colonial powers, however, felt that eating, smoking, and other applications of opium in traditional preparations could also qualify as legitimate use. They advocated that a 'quasi-medical' use of opium should be legal. The colonial powers also objected to US proposals to follow up the Shanghai conference with a plenipotentiary conference. US attempts to further accelerate the cessation of Indian exports to China also failed.<sup>192</sup>

While the momentum and results mentioned above were positive, the conference also revealed ongoing difficulties in achieving international agreement. A number of fundamental questions arose, first amongst was: should the aim of drug control be the prohibition of any drug use outside of scientific and medical purposes, or should it be to reduce the health and social consequences of drug use and drug production?

Differences aside, the Shanghai conference revealed the value in approaching drug control multilaterally. India, which was still the world's largest opium exporter at the time, agreed to end all opium exports to jurisdictions that prohibited its import, thus ending the trade to Philippine ports. Of particular importance was the agreement between the UK and China negotiated during the preparatory phase of the Shanghai conference; on the basis of which the last chest of Indian

opium was publicly burned in Shanghai in January 1919 - ending the 300 year Indian-Chinese opium trade.<sup>193</sup>

## The Hague Convention, 1912

The path from the non-binding recommendations of the Shanghai conference to the establishment of international legally binding instruments kept pace with the development of multilateralism throughout the 20<sup>th</sup> century.

Post -1909, the Right Reverend Charles H. Brent continued to lobby for a follow-up conference with plenipotentiary powers and the establishment of an international drug control treaty. Having gained US support, he generated support among church circles close to the British anti-opium lobby. Eventually, the other governments agreed to the conference. The formal initiative came from the US State Department and the Government of the Netherlands agreed to host the conference and act as secretariat. The conference took place in The Hague from 1 December to 23 January 1912 with the participation of the Netherlands, China, France, Germany, Italy, Japan, Persia, Portugal, Russia, Siam (Thailand), The United Kingdom of Great Britain and Ireland and the British overseas territories (including British India), and the United States of America.

Following intensive discussions, the conference agreed on the first international drug control treaty, the International Opium Convention, consisting of six chapters and 25 articles. In addition to the opium and morphine already under extensive discussion at the Shanghai Conference, the Convention of The Hague included heroin and cocaine on the list of substances to be controlled.<sup>ab</sup>

Cocaine had been known since 1860 but started to create problems in North America and Europe towards the end of the 19<sup>th</sup> century and the first decade of the 20<sup>th</sup> century. Heroin, originally known under its chemical name, diacetylmorphine, was first synthesized in 1874 by an English chemist, C.R. Alder Wright, experimenting with combining morphine with various acids<sup>194</sup>. The drug was rediscovered by the German Bayer pharmaceutical company in 1895 and marketed as a cough suppressant under the name of heroin as of 1898<sup>195</sup>, quickly gaining market shares across the globe and emerging as the world's most dangerous drug in the 20<sup>th</sup> century .

The preamble to the Convention made reference to the work done by the International Opium Commission in Shanghai, stated a desire to work towards a progressive suppression of the abuse of opium, morphine and cocaine (and the preparation and derivatives of these substances); and the desire to come to a mutual international understanding.<sup>196</sup>

<sup>ab</sup> Use of cocaine was spreading rapidly in North America and, to a lesser extent, in Europe after 1880/1890. Heroin was first synthesized in 1874 by the English researcher C.R. Wright; its popularity spread rapidly after the Bayer pharmaceutical company introduced it in 1898. (See Davis F. Musto, *The American Disease: Origins of Narcotic Control*. New York 1987).

### *Articles of the Hague Convention, 1912*

*Chapter I of the International Opium Convention deals with raw opium. In Article 1, all contracting Powers committed themselves to controlling the production and distribution of raw opium. In Article 2, signatories limited the number of towns, ports and other locations through which the export of import of raw opium was permitted. In Article 3, countries committed themselves to preventing the export of raw opium to countries prohibiting importation. In Article 4, countries required that every package containing raw opium intended for export (and exceeding 5 kg) had to be properly marked.*

*Chapter II deals with prepared opium. In Article 6, the contracting Powers committed themselves to take measures for the gradual and effective suppression of the manufacture, internal trade and use of prepared opium. In Article 7, the import and export of prepared opium was prohibited 'as soon as possible'. In Article 8, countries prohibited the export of prepared opium immediately to countries which prohibited its imports. All remaining exports had to be properly marked.*

*Chapter III dealt with medicinal opium, morphine, heroin and cocaine. Article 9 called on the contracting Powers to enact pharmaceutical laws or regulations to confine the use of morphine, cocaine and their respective salts to medical use only. Article 10 called on the contracting parties to control all persons manufacturing, importing, selling, distributing and exporting morphine, cocaine and their respective salts, as well as the building in which such industry or trade was carried out. In addition, the manufacture of morphine and cocaine was only to be permitted for specially licensed establishments and persons, which/who were required to detail, the quantities manufactured, imports, sales and all other distributions and export of these substances. Article 11 foresaw that any sale to unauthorized persons had to be prohibited. Article 12 stipulated that only specially authorised persons were allowed to enter such substances. Article 13 stipulated that exports were only allowed to licensed persons in the receiving country. Article 14 stipulated that the rules and regulations regarding the manufacture, import, sale and export had to be applied to (a) medicinal opium, (b) to preparations (containing more than 0.2% morphine or more than 0.1% of cocaine), (c) to heroin or its preparations (containing more than 0.1% of heroin) and d) to all new derivatives of morphine, cocaine, or of their respective salts, as well as to every other alkaloid of opium which may be liable to similar abuse and ill-effects.*

*Chapter IV dealt primarily with the opium situation in China. Article 15 called on the contracting Powers to take all necessary measures to prevent the smuggling of opium*

*(raw and prepared), morphine, heroin and cocaine into China or the Far-Eastern colonies and leased territories of China. The Chinese Government, on their part, was to take similar measures for the suppression of smuggling from China to the foreign colonies and leased territories. In Article 17, parties having treaties with China committed themselves to restrict and control the habit of smoking opium in these territories and, in Article 18, to gradually reduce the number of shops selling raw and prepared opium.*

*Chapter V dealt with national legislation. In Article 20, the contracting Powers were asked to make the possession of opium, morphine, cocaine and their respective salts illegal. Article 22 obliged parties to communicate to each other, through the Ministry of Foreign Affairs of the Netherlands, (a) the texts of existing laws and administrative regulations with regards to narcotics and (b) to provide statistical information regarding the trade in raw and prepared opium, morphine, heroin and cocaine.*

*Chapter VI dealt with the final provisions of the treaty and the signing and ratification procedures. In Article 22 all countries were invited to sign the conventions, including those not present at the creation of this convention; a number of the latter were specifically mentioned, including Turkey, Serbia, Switzerland, Bolivia, Peru, Colombia etc. Article 23 stipulated that all the Powers had to sign the convention before they would be invited to ratify. According to Article 24, the convention would enter into force three months after all ratifications had been received. In the event of not having received all signatures by the end of 1912, the Government of the Netherlands was instructed (Article 23) to invite the Powers who had signed the convention to deposit their ratifications.*

The 1912 Convention invigorated drug control efforts in several countries. In the United States it prompted the 1913 Congressional passage of the Harrison Act, which is largely viewed as the foundation of 20<sup>th</sup> century US drug policy.<sup>197</sup>

The Harrison act arose as a direct result of the Convention and the international obligations which underpinned its establishment. At the beginning of the 20<sup>th</sup> century, federal control over narcotics use and prescription practices was thought to be unconstitutional in the USA. The 1906 *Pure Food and Drug Act* which contained some weak controls over the US pharmacy trade, was considered the furthest the federal authorities could go without infringing on the rights of individual states. At the Hague conference, however, the US delegation was criticised for its lack of appropriate national legislation. This weakened the country's negotiating position and prompted the US State Department to campaign for a federal anti-narcotics law based on the Government's tax authority. This law was challenged many times

within the USA<sup>198</sup> and likely only survived on the strength of the country's international obligations.

Despite its vast influence, there were limits to how far the Hague Convention actually went. Most producer countries, for example, notably the UK, Persia and Russia, objected to proposals to reduce cultivation. Thus, Article 1 only obliged the contracting powers to 'control' opium production, not to reduce it to medical and scientific use. Also, although states agreed to gradually suppress opium smoking, they did not agree on any timetable. This enabled most countries to continue the *status quo* through the subsequent decade. In addition, two controversial US proposals for systems of reciprocal notification and vessel searches, for opium imports and exports, failed to gain support. Italy, affected by the marijuana and hashish trade in its African possessions, was unsuccessful in gaining support for measures to reduce the trade in cannabis herb and resin.

Given the wealth that had been generated by the opium trade throughout this period it is unsurprising that Chapter III, dealing with the manufacture of drugs, proved to be the most controversial one in the negotiations. After long negotiations, the German delegation succeeded in removing codeine from the list of substances under control. Germany argued that until states not represented at the conference (such as Peru and Bolivia for the coca production, Turkey, Serbia and other Balkan countries for opium production and Switzerland for pharmaceutical manufacturing) adhered to the treaty's provisions, the drug business would simply migrate to the least restrictive regulatory regimes. Thus, the delegation, supported by France and Portugal, insisted that all thirty-four governments producing, manufacturing and consuming, would have to ratify the treaty before it entered into force.

While the argument was rational, in the short run it made ratification almost impossible.<sup>199</sup> In fact, over the next two and a half years only eight countries ratified the treaty. Against this background, and with the outbreak of World War I, full implementation of the first international drug control treaty had little chance. Cognisant of this, in 1915, the United States, China, the Netherlands (as the secretariat of the treaty), Norway and Honduras, announced that they would implement the treaty amongst themselves. The real impact of this was almost nil, but it prevented the burial of the First International Opium Convention before it actually saw the daylight.

World War I led to rapidly rising levels of drug use in several countries and amongst Allied troops in France in 1915. Some limitations on alcohol consumption also prompted people to turn to cocaine and opiates as alternatives. Curfews drove night life underground and exacerbated related illicit activities. In many countries, unscrupulous physicians and pharmacists dispensed rising quantities of addictive substances with impunity, and shippers still operated under no import or export restrictions.

Perceived increases in use led European countries formerly reluctant to ratify the International Opium Convention of The Hague to change their attitude. Great Britain, for instance, used the Defence of the Realm Act to tighten domestic controls, focusing on punitive measures for trafficking in or possession of cocaine and opium. Germany, Canada and other states instituted similar acts to restrict access to drugs and to deter smuggling while conserving vital analgesic medications. These ad-hoc wartime administrative arrangements solidified after 1918.<sup>200</sup>

Previous wars had given most countries some knowledge of the consequences of large-scale morphine epidemics.<sup>201</sup> War-time smuggling also demonstrated that laxity in one jurisdiction could easily imperil efficacy elsewhere. Thus, the UK Home Office introduced a system of import/export authorizations designed to ensure that all drug shipments into and out of Britain had a legitimate destination. This system was increasingly adopted by other countries.<sup>202</sup>

The situation was different in China. The 1906-1911 period had brought significant progress in reducing opium poppy cultivation and curbing opium smoking.<sup>203</sup> Though opium suppression continued in the new Republic, the 1911 revolution weakened the momentum of the anti-opium campaign. Anti-opium conferences were held in 1913 and stringent Regulations on Prohibiting Poppy Planting were proclaimed in 1914. In 1915, the leader of the new Republic, Yuan Shikai, approved government-managed opium monopolies in several provinces (Guandong, Jiangxi and Jiangsu), effectively legalizing opium again. After his death in 1916, the country fell into complete chaos amid the struggle for control by different warlords. During this time, opium revenue became a major financial resource for many warlords mainly through so-called 'fines' (i.e., taxes) on cultivation, trafficking, selling and smoking.<sup>204</sup> Even though production came nowhere near 1906 levels, much of the progress made in reducing opium production and consumption was lost.

With opium still a major global issue and with universal ratification of the Convention still a problem, the US, the British and the Chinese authorities developed the idea of adding a stipulation to the peace treaties with Germany and the other axis powers: countries signing and ratifying these peace treaties would also automatically sign and ratify the International Opium Convention.

Article 295 of the Treaty of Versailles (28 June, 1919) stated<sup>205</sup>:

*“Those of the High Contracting Parties who have not yet signed, or who have signed but not yet ratified, the Opium Convention signed at The Hague on January 23, 1912, agree to bring the said Convention into force, and for this purpose to enact the necessary legislation without delay and in any case within a period of twelve months from the coming into force of the present Treaty.*

*Furthermore, they agree that ratification of the present Treaty should in the case of Powers which have not yet ratified the Opium Convention be deemed in all respects equivalent to the ratification of that Convention and to the signature of the Special Protocol which was opened at The Hague in accordance with the resolutions adopted by the Third Opium Conference in 1914 for bringing the said Convention into force.*

*For this purpose the Government of the French Republic will communicate to the Government of the Netherlands a certified copy of the protocol of the deposit of ratifications of the present Treaty, and will invite the Government of the Netherlands to accept and deposit the said certified copy as if it were a deposit of ratifications of the Opium Convention and a signature of the Additional Protocol of 1914.”*

An almost identical text is found in Article 247 of the Treaty of Peace Between the Allied and Associated Powers and Austria (St. Germain-en-Laye, 10 September 1919) which entered into force in 1920.<sup>206</sup> The respective text is also found in Article 230 of the Trianon Treaty with Hungary, in Article 174 of the Neuilly Treaty with Bulgaria and in Article 280 of the Sévres Treaty with Turkey.

Thus, with the stroke of a pen, the requirements of the 1912 The Hague treaty were satisfied and the first International Opium Convention gained near-universal adherence after 1919. Due to its incorporation in the peace treaties, some 60 countries and territories ratified the Hague treaty, and by 1949 the number had risen to 67.<sup>207</sup>

### Drug control under the League of Nations, 1920-1945

The peace treaties of 1919 also laid the foundation for the League of Nations, and, by a resolution of the League of Nations on 15 December 1920, the Opium Advisory Committee (OAC) was established to oversee the implementation of the Hague Opium Convention of 1912.<sup>208</sup> (The OAC was the forerunner of the *Commission on Narcotic Drugs* (CND).) In addition, the League designated an Opium and Social Questions Section within its secretariat to provide the OAC with administrative and executive support. The League Health Committee (forerunner of the World Health Organization) took responsibility for advising on medical matters.

The League's new international drug control organs focused considerable effort on gauging the extent of the international drug problem. The OAC requested information about imports, exports, re-exports, consumption, reserve stocks, etc. Conservative estimates based on this information suggested that world production of opium and coca exceeded medical and scientific needs by a factor of ten. In addition, a substantial proportion 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 modelled after the British system introduced during the World War I.<sup>209</sup>

The involvement of several key countries in the OAC, including the US and Russia, was extremely limited, as they were not members of the League of Nations. This had a detrimental impact on the efficacy of the OAC and a number of complex institutional solutions were devised to facilitate at least a partial collaboration on international drug control issues.

Several attempts were made to enable the USA to participate directly in the OAC, and as of 1923, the US State Department did send observers to the OAC meetings. These meetings revealed, however, ongoing differences in opinion among the participating states. While the US delegation advocated a strict supply-control, the colonial powers defended the traditional forms of opium use in Asia. They rejected any substantive restrictions on poppy cultivation, arguing that this would only foster illegal cultivation and trade in China. The South American states defended their coca interests and declared that, at most, they would agree to keep levels of production stable.<sup>210</sup>

The position of the USA *vis à vis* the League of Nations meant that it could no longer play the leading role in promoting international drug control efforts. This role was taken over by the United Kingdom. Sir Malcolm Delevingne, Deputy Undersecretary of State in the UK Home Office (1922-31) became the prime architect of Britain's narcotics policy after 1913 and a key figure in international drug control during the era of the League of Nations. Sir Delevingne took a pragmatic, step-by-step approach in strengthening the control regime without alienating the countries affected by this.

### The 1925 Convention

In 1925, two further international drug control agreements were concluded. The first, the Agreement concerning the Manufacture of, Internal Trade in, and Use of, Prepared Opium, was signed on 11 February, 1925 and entered into force on 28 July, 1926.<sup>211</sup> 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.*” Article I required that, with the exception of retail sale, the importation, sale and distribution of opium would be a government monopoly. 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 dens. Article IV required governments to limit the number of opium retail shops and smoking dens as much as possible. Articles V and VI regulated the export and transport of opium. Article VII required governments to discourage the use of opium through instruction in schools, literature, and other methods.<sup>212</sup> This treaty was signed and ratified by seven countries: the British Empire, India, France, Japan, The Netherlands (including the Netherlands Indies, Surinam and Curaçao), Portugal and Thailand.<sup>213</sup>

The second agreement, the new International Opium Convention, or “1925 Convention,”<sup>214</sup> entered into force in 1928. It was eventually signed and ratified by 56 countries.<sup>215</sup> It was not signed by the USA, China, or Peru. Persia signed but did not ratify the treaty.<sup>216</sup> This Convention detailed the content of the Hague Convention, institutionalized the international control system and extended the scope of control to cannabis.

With these two agreements, the British import/export authorization model was adopted as the main international trade control mechanism (Chapter V). (This mechanism is still in place today.) The system of import certificates and export authorizations assured that international trade in narcotic substances is controlled by the competent authorities of both the importing and exporting countries.<sup>217</sup> The system requires a separate import authorization (Article 12) to import any controlled substance. The authorization is required to include the amount to be imported, the name and address of the importer and the name and address of the exporter. An exporter “*shall require a separate export authorization to be obtained for each exportation ... The Contracting Party, before issuing such export authorization, shall require an import certificate, issued by the Government of the importing country and certifying that the importation is approved... .*” (Article 13)

According to Article 21 of the 1925 Convention, countries were required to forecast their medical and scientific drug needs (the amount needed for medical and scientific purpose) on an annual basis. Article 22, §1 continues: “*The Contracting Parties agree to send annually ... within three... months after the end of the year, as complete and accurate production statistics as possible relative to the preceding year as well as amounts of each of the substances covered by the present Convention which have been confiscated on account of illicit import or export; the manner in which the confiscated substances have been disposed of ... together with. .. other information as may be useful in regard to such confiscation and disposal.*”

Chapter II of the Convention dealt with internal control of raw opium and the coca leaf. In this context, Article 2 stated: “*The Contracting parties undertake to enact laws and regulations to ensure the effective control of the production, distribution and export of raw opium ...*” While states were compelled to ‘control’ production, they were still under no obligation 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 by the Advisory Committee on the Traffic in Opium and the Assembly, has not been included in the Convention as a contractual obligation. While, again, no one disputed the rightness of this principle, the objections raised by the producing countries to its immediate acceptance as a*

*binding obligation made it obvious that years will be required before the principle will become effective in fact.*<sup>218</sup>

The refusal to limit production of opium and coca caused both the US and Chinese delegations to withdraw from the conference. Neither signed the 1925 Convention.

Chapter III, however, did limit the production of manufactured drugs: “*The Contracting Parties shall enact effective law or regulation 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 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 were experts who did not hold any office which would put them in a position of direct dependence on their Governments.<sup>219</sup> The main task of the Permanent Central Board, also referred to as Permanent Central Opium Board (PCOB), was to administer the statistical information sent by member states to Geneva 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 PCOB also established the system of import certificates and export authorizations for the licit international trade in narcotic drugs.<sup>220</sup>

The non-governmental expert level membership of the PCOB effectively expanded the control system beyond the still limited membership of countries in the League of Nations. Thus, Article 19 of the Convention stated that, “*The members of the Central Board shall be appointed by the Council of the League of Nations*” and that “*The United States of America and Germany shall be invited each to nominate one person to participate in these appointments.*”

The construction of the Board as a semi-independent body, therefore, amended the exclusion of both the US and Germany. It was based on proposal put forward by the US delegation during the preparations of the 1925 Convention, asking for the creation of a new entity, with the status of an independent evaluator and quasi-judicial body, to oversee the fulfilment of the treaty’s provisions.<sup>221</sup>

Governments had to come to a compromise on the degree to which the Board could or should control the production, manufacture of and trade in drugs: would the markets remain free, determined by supply and demand, or controlled, based on production quotas centrally determined in Geneva? The original proposal of 1924 envisioned a Board

with powers to determine the amount of drugs manufactured each year. Imports and exports would be limited to the quantities specified in the estimates. The Board would have the power to set estimates for countries that failed to submit their own, and question estimates that seemed excessive. Finally, the Board would have had the power to impose sanctions on states that exceeded their allotment by prohibiting other governments from exporting raw material or manufactured drugs to the offending country. Eventually, these powers were seen to be too far-reaching by several states and the proposal failed.<sup>222</sup>

In the final version of the Convention, the Board had lost its right to question several of the statistics submitted by governments: Article 22, §3 stated: “*...It shall not be within the competence of the Central Board to question or to express any opinion on the amounts imported or purchased for Government purposes or the use thereof.*” In Article 23, with regard to statistics on the manufacture of prepared opium and the use of raw and prepared opium: “*It is understood that it shall not be within the competence of the Board to question or to express any opinion upon these statistics and that the provision of Article 24 are not applicable... except in cases where the Board may find that illicit international transactions are taking place on an appreciable scale.*” Only when the Board received sufficient evidence that a country acted as a centre of illicit traffic of drugs (Article 24, §1), could it request an explanation through the Secretary-General of the League of Nations. The Board could not advise on sanctions; according to Article 24 §2, it could only bring the issue to the attention of the Governments of all the Contracting Parties, and the Council of the League of Nations and recommend an embargo.<sup>223</sup>

Even with the compromise on reduced powers, the PCOB proved to be a successful instrument in reducing the licit manufacture and trade in psychoactive substances in subsequent years. Most countries did not want to run the risk of being singled out by the Board as centres of illicit drug traffic and strengthened their rule and regulations.

The PCOB also had a positive impact on raw materials producers. Even by 1925, the Government of India concluded that the political costs linked to continued (albeit limited) opium exportation outweighed the economic advantages. It announced that it would end opium exports to any state or colony acting as a centre for the illicit traffic, even if such a government were to produce any valid import certification. In 1926, the Government of India declared a gradual reduction of all non-medicinal opium exports. Indian exports dropped significantly in subsequent years.<sup>224</sup>

Another new element of the 1925 Convention was the application of the international drug control system to cannabis. This followed a pressing call by the head of the delegation from Egypt, M. El Guindy<sup>225</sup>:

“.. I have the honour to submit to the Conference in as concise a form as possible a memorandum on hashish. .. It is true that in our country we have taken the strictest measures against the contraband traffic in this drug, but there are other peoples also which suffer from its ravages. Egypt is not the only nation concerned, and I therefore wish to ask you to examine the problem of hashish with all the attention that it deserves, since it is a problem of capital importance for a large number of Eastern peoples.

The *cannabis indica* or *sativa*, called also by the name of hashish (English — Indian hemp ) was known even to antiquity. It was originally cultivated on the plateau of Persia and Turkestan. Later, it was introduced into Asia Minor and Egypt, where it was mentioned by chroniclers of the time of the Crusades. At present, the countries which produce it are Siberia, Russia, the Caucasus, Persia, the western plateau of the Himalayas, Kashmir, India and also South-Eastern Europe.

Taken in small doses, hashish at first produces an agreeable inebriation, a sensation of well-being and a desire to smile; the mind is stimulated. A slightly stronger dose brings a feeling of oppression and of discomfort. There follows a kind of hilarious and noisy delirium in persons of a cheerful disposition, but the delirium takes a violent form in persons of violent character. It should be noted that behaviour under the influence of the delirium is always related to the character of the individual. This state of inebriation or delirium is followed by slumber, which is usually peaceful but sometimes broken by nightmares. The awakening is not unpleasant; there is a slight feeling of fatigue, but it soon passes. Hashish absorbed in large doses produces a furious delirium and strong physical agitation; it predisposes to acts of violence and produces a characteristic strident laugh. This condition is followed by a veritable stupor, which cannot be called sleep. Great fatigue is felt on awakening, and the feeling of depression may last for several days. The habitual use of hashish brings on chronic hashishism... The countenance of the addict becomes gloomy, his eye is wild and the expression of his face is stupid. He is silent; has no muscular power; suffers from physical ailments, heart troubles, digestive troubles, etc.; his intellectual faculties gradually weaken and the whole organism decays. The addict very frequently becomes neurasthenic and, eventually, insane. In general, the absorption of hashish produces hallucinations, illusions as to time and place, fits of trembling, and convulsions. A person under the influence of hashish presents symptoms very similar to those of hysteria...

The illicit use of hashish is the principal cause of most of the cases of insanity occurring in Egypt. In support

of this contention, it may be observed that there are three times as many cases of mental alienation among men as among women, and it is an established fact that men are much more addicted to hashish than women.. Generally speaking, the proportion of cases of insanity caused by the use of hashish varies from 30 to 60 per cent of the total number of cases occurring in Egypt.

In view of the great danger involved by the consumption of hashish, special measures have been taken by the Egyptian Government. As early as 1868, Dr. Mohammed Ali Bey made a report to the competent authorities regarding the accidents caused by the abuse of hashish. In 1884, the cultivation of this plant was forbidden. The cafés (or mashhashas) in which hashish was consumed by smoking in special hookahs were closed, and are still mercilessly sought out by the police. Measures were taken to prevent the production and importation of *cannabis indica*... All cultivation of *cannabis indica* is prohibited...

... I was very glad to hear that the South African Government had made the same proposal as myself. I should also specially like to thank the honourable delegates of the United States, Turkey, Japan, Brazil, Poland, Greece and other countries, who have assured me that this subject was also included in their programmes... I had an interview with the honourable delegates of France, the British Empire and India in the hope of gaining a decision in favour of my proposal ... All these distinguished delegates were in agreement with me as regards the terrible and injurious effects of this drug, and none of them denied that it was a dangerous narcotic and a habit-forming drug..

Personally, even at the risk of seeming importunate, I insist, and shall continue to insist, on the importance of this question, being confident that in this respect I am voicing the views of the entire Egyptian people, from His Majesty King Fuad I, our .. well-beloved sovereign, who takes a special interest in the question, down to the humblest fellah of the Nile valley.

I earnestly beg all the delegates to give this question their best attention, for I know the mentality of Oriental peoples, and I am afraid that it will be said that the question was not dealt with because it did not affect the safety of Europeans. I am in full agreement with my eminent colleague, Dr. Chodzko, who said that considerations of religion, of race or of nationality must never be allowed to stand in the way of the humanitarian work which the League of Nations undertakes...

The League wants all the citizens of the world to be able to live their lives in freedom and good health, and therefore I am sure that it will give its attention to the havoc wrought by hashish among our population....

*The League of Nations will earn the gratitude of all those it will have rescued from the hashish habit, and it will thus swell the ranks of those who wish to fight under its banner in the good cause.*

*I am certain that you, gentlemen, who work under the aegis of the League of Nations, will help us in the struggle we have undertaken against this scourge, which reduces man to the level of the brute and deprives him of health and reason, self-control and honour.”*

The 1925 Convention included the following provisions in 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 established 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”.*

Control of cannabis was far less comprehensive than control of opium/morphine/heroin or coca/cocaine. Although the 1925 Convention brought cannabis, under international control for the first time, control was limited. The Convention only dealt with the international dimension of the cannabis trade. It did not prohibit the production of cannabis as such; it did not ask 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.<sup>226</sup>

## The 1931 Convention

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 with the Permanent Central Opium Board. Government statistical returns were increasingly received and provided a clearer picture of the supply and demand situation. In addition, many states had strengthened their domestic enforcement efforts, and India, the world's main opium exporter, started to reduce its opium exports.

The lack of universality in the agreements, however, ensured that these approaches would never be fully successful. Persia

and other states started to fill the void created by the Indian withdrawal from the quasi-medicinal market. In addition, the overproduction of opium inside China continued. Statistical returns from China indicated that imports of manufactured drugs into China had started to skyrocket. And, as European governments pressured pharmaceutical companies to conform to more stringent control standards, a number of unscrupulous operators moved their activities to states that had not ratified the International Opium Convention.

The global economic depression of the 1920's severely hampered any attempts at limitation with producer countries refusing to forego existing export opportunities. Similarly, countries importing psychoactive substances feared that lower production would increase import prices and also opposed any global production cuts.

Member states favouring limitation began to look into other control options. The Convention for Limiting the Manufacture and Regulating the Distribution of Narcotic Drugs<sup>227</sup>, was signed 13 July 1931 and entered into force in July 1933, following its ratification by 40 states.<sup>228</sup> Eventually 67 countries<sup>229</sup> ratified the convention, including all key drug manufacturers such as the United States, Germany, Switzerland, the Netherlands, Great Britain and Northern Ireland, France, Canada, Australia and even the Soviet Union.<sup>230</sup>

The 1931 Convention introduced a compulsory estimates system aimed at limiting the global 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.<sup>231</sup> It consisted of six Chapters and 34 Articles. The main elements of the new control system were as follows: Signatories were to submit, according to Article 5, §2, (a) estimates on the quantities needed for medical and scientific needs, (b) for conversion, (c) for reserve stocks, and (d) for Government stocks. Provisions were included so that States could revise the estimates up for unforeseen medical requirements. In order so as not to limit free trade, signatories did not have to designate where they would buy their supplies – allowing them to shop for the lowest price. The core of the Convention is contained in Chapter III, Limitation of Manufacture, Article 6 §1:

*“There shall 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:...*

- *The quantity required within the limits of the estimates for that country for that year for use as such for its medical and scientific needs...*
- *The quantity required... for conversion, whether for domestic consumption or for exports;*
- *Such quantity as may be required ... for the executing during the year of orders for export in accordance with the provisions of this convention;*

- *The quantity... required... of maintaining the reserve stocks...*
- *The quantity... required for.. maintaining the Government stocks...*

In §2, it is stated that if “*at the end of any year, any High Contracting Party finds that the amount manufactured exceed the total of the amounts specified above, ... such excess shall be deducted from the amount to be manufactured during the following year. ...*”

In addition, Article 17 obliged countries to carefully monitor all manufacturing activities, stating that “*Each High Contracting Party shall require each manufacturer within his territories to submit quarterly reports stating: (a) The amount of raw materials and of each of the drugs received into the factory and the quantities of the drugs.. produced from .. these substances. (b) The quantities of either the raw material or the products manufactured therefrom which were disposed of during the quarter; (c) the quantities remaining in stock at the end of quarter*”.

Responsibility for monitoring the estimate system was given to a newly founded Drug Supervisory Body<sup>232</sup> (abbreviated DSB or the Body). The DSB was in charge of a comprehensive assessment of global drug requirements (Article 5, §6). States had to report imports and exports to the DSB after execution of the orders, thus giving the DSB indirect control powers over the global trade in manufactured drugs.<sup>233</sup>

By creating this new Body, (the tasks could have been fulfilled by the Permanent Central Opium Board) the US was able to avoid acknowledging the leading role of the League of Nations in the area of international drug control. This prevented bringing the US delegation into the awkward position of validating *ex-post facto* the 1925 International Opium Convention that created the Board.<sup>234</sup>

The 1931 Convention also introduced the principle, presently known as ‘drug scheduling’, i.e. applying three different control levels to drugs based on: (i) the degree of danger presented by a particular drug, and (ii) the extent to which a drug was used by the medical profession.<sup>235</sup> Drugs in Group II, codeine and dionine, were subjected to the least stringent measures, meaning their manufacture was limited less strictly and their distribution was somewhat freer than in the case of the other drugs. The main body of drugs were subjected to the general scheme of limitation of manufacture and regulation of distribution. Diacetylmorphine (heroin), on the other hand, whilst treated like the main body of drugs as regards the limitation of manufacture, was prohibited for export except under special conditions: According to Article 10: §1 *The High Contracting Parties shall prohibit the export from their territories of diacetylmorphine, its salts, and preparations containing diacetylmorphine, or its salts.* §2 *Nevertheless, on the receipt of a request from the Government of any other country in which diacetylmorphine is*

*not manufactured, any High Contracting Party may authorise the export to that country of such quantities of diacetylmorphine, its salts, and preparations ... as are necessary for the medical and scientific needs of that country, provided that the request is accompanied by an import certificate and is consigned to the Government Department indicated in the certificate.*

## The 1936 Convention

The Hague Convention of 1912, which only entered into force in the early 1920s, the International Opium Convention of 1925, and the 1931 Convention for Limiting the Manufacture and Regulating the Distribution of Narcotic Drugs proved highly successful in limiting the licit trade in psychoactive substances. The Permanent Central Opium Board concluded that by 1934-35, the legal manufacture of opiates and cocaine had dropped to the level of legitimate demand.<sup>236</sup>

Unfortunately, progress made on the licit side prompted the emergence of illicit activities.<sup>237</sup> Following the end of alcohol prohibition in the United States (1933), a number of organized crime groups were looking for new business opportunities and found heroin trafficking and prostitution proved lucrative. They set up networks that had hubs in Marseille (France), Tanger (Morocco) and Beirut (Lebanon). In collaboration with European organized crime, heroin was purchased from small pharmaceutical manufacturers in various European countries, notably Switzerland and France, and smuggled to the Near and Middle East (often Alexandria or Beirut), the Far East (typically Shanghai) and, in cooperation with US organized crime groups, New York and Chicago. Heroin distribution centres in Europe were fronted by legal business activities located in Paris, Zürich, Hamburg, Prague, and Vienna. After 1930, stricter controls in Europe, caused by implementation of the Conventions, led to the shifting of business centres to Istanbul.<sup>238</sup> Opium produced in Turkey was also frequently used as raw material for clandestine heroin production activities. Persian opium was also involved - facilitated by the fact that Persia did not participate in the import/export certification system. In addition, significant amounts of this opium were shipped by Japanese groups to China, prompting complaints by the Chinese authorities.<sup>239</sup>

Concerned over the expansion of drug markets, the League of Nations convened a conference in 1936. The main outcome of this conference was the 1936 Convention for the Suppression of the Illicit Traffic in Dangerous Drugs.<sup>240</sup> This was the first treaty to explicitly focus on drug trafficking and the first to make certain drug offenses international crimes. Article 2 of 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, des-*

*patch in transit, transport, importation and exportation of narcotic drugs, contrary to the provisions of the said 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.”*

Also for the first time the Convention dealt explicitly with drug related crime committed abroad and extradition: According to Article 6: *“In countries where the principle of the international recognition of previous convictions is recognised, foreign convictions for the offences referred to in Article 2 shall, subject to the conditions prescribed by the domestic law, be recognised for the purpose of establishing habitual criminality.”* Similarly Article 7 clarifies: *“In countries where the principle of the extradition of nationals is not recognised, nationals who have returned to the territory of their own country, after the commission abroad of any of the offences referred to in Article 2, shall be prosecuted and punished in the same manner as if the offence had been committed in the said territory, even in a case where the offender has acquired his nationality after the commission of the offence.”* Article 9 calls explicitly for extradition: *“1. The offences set out in Article 2 shall be deemed to be included as extradition crimes in any extradition treaty which has been or may hereafter be concluded between any of the High Contracting Parties. 2. The High Contracting Parties who do not make extradition conditional on the existence of a treaty or on reciprocity shall as between themselves recognise the offences referred to above as extradition crimes. 3. Extradition shall be granted in conformity with the law of the country to which application is made.”*

The practical importance of this Convention remained limited as a number of key countries refused to sign and ratify it. This included the USA, for which the convention was not sufficiently far-reaching.<sup>241</sup> Other countries, such as Germany and Japan, were no longer participating in international conferences. In total only 13 countries signed and ratified this convention.<sup>ac</sup> Moreover, it only became effective in October 1939, i.e. after World War II had started, and drug control priorities had been supplanted by more immediate foreign policy imperatives.<sup>242</sup> In fact, it was another five decades before these topics were dealt with again in detail at the multilateral level.

### International drug control in the final years of the League of Nations

Increasing political tensions in the late 1930s weakened international cooperation. Germany, which had entered the League of Nations in 1926, left after the National-socialists came to power. Japan left the League of Nations in 1933 after the League had voiced opposition to the invasion of the Chinese territory of Manchuria. Italy withdrew in 1937,

following the League’s condemnation of its invasion of Ethiopia. The Soviet Union, which had only joined the League of Nations in 1934, had to leave it in 1939 following its aggression against Finland.<sup>243</sup>

Despite of this unfavorable political environment in the late 1930s, most countries adhered to the conventions and even supplied statistics until 1939.

As discussed previously, the rather complex institutional structure that included bodies such as the Central Permanent Opium Board and the Drug Supervisory Body, facilitated the cooperation with countries that were not members of the League of Nations. This not only enabled the United States to cooperate closely with the international drug organs, but - after 1933 – it enabled cooperation with countries such as Germany and, to some degree, Japan. Though in the latter case allegations of dubious business practices by Japan, notably with regard to China, were frequently on the agenda.<sup>244</sup>

During World War II, violations against the international drug control treaties were limited to significant shipments of opium and other opiates to China. After World War II, this was addressed in several war tribunal cases against Chinese and Japanese officials where references were made to the international drug control treaties.<sup>245</sup>

As of 1940, most of the offices of the international drug control system were gradually transferred to the United States (the Opium Advisory Committee to Princeton and the Central Permanent Board and the Drug Supervisory Body to Washington), though their official seat (and some staff) remained in Geneva.

ac Belgium, Brazil, Canada, China, Colombia, Egypt, France, Greece, Guatemala, Haiti, India, Romania and Turkey.





## International Drug Control under the Auspices of the United Nations

From 1946 on, the United Nations assumed the drug control functions and responsibilities formerly carried out by the League of Nations. In the years surrounding World War II a number of new synthetic narcotics were developed. The most important of these substances were methadone, developed by German scientists in 1937, and pethidine (Demerol). Both substances, produced and marketed by German companies, were in great demand by both soldiers and civilians affected by the war.

Following the war, companies from many nations applied for manufacturing licences, and the newly formed Commission on Narcotic Drugs (CND) soon concluded that there was a real danger that a large trade in these new dependence producing substances could develop if manufacture and trade remained unchecked. The first idea was to add these substances to the existing Conventions. However, the CND secretariat felt that the 1925 and 1931 Conventions could not be amended without complications. The CND therefore drafted a separate agreement (protocol) that required states to submit the new substances to the same estimates-of-need and statistical reporting provisions that applied to opium-based narcotics. The 1948 Synthetic Narcotics Protocol came into force only one year later on 1 December 1949.<sup>246</sup> The application of the 1948 Protocol meant 14 new substances were placed under international control by 1951 and a further 6 by 1954.<sup>247</sup>

### The 1953 Opium Protocol

Following World War II, international relations changed dramatically and the development of multilateralism in drug control relied more than ever on diplomacy and consensus building. The United States and the Soviet Union emerged

as the two new superpowers. Germany and Japan were reconstructing, as were the European colonial powers, who were also in the process of divesting colonial empires.

As early as 1943, the US administration had curtailed all opium smoking in the areas liberated from Japan, including previous colonies and European territories.<sup>248</sup> A few years later, the US undertook new initiatives to prohibit the production and use of opium for other than medical and scientific needs.<sup>249</sup> The original plan, launched in 1948 by the head of the US delegation, Harry Anslinger<sup>ad</sup> was to have this principle incorporated into a new Single Convention. The complexity of international relations at the time, however, precluded any quick elaboration of an international convention.

In the meantime, the elimination of opium production and consumption in China in 1949 meant that previous arguments by opium producing countries that their reductions would simply be replaced by Chinese production were no longer valid. Between 1949 and 1952, Mao's government eliminated opium production, trade and consumption from China.<sup>250</sup>

In June 1953, countries agreed to the elaboration of a Protocol for Limiting and Regulating the Cultivation of the Poppy Plant, the Production of, International and Wholesale Trade in and Use of Opium, known more simply as the 1953 Opium Protocol. The Protocol was intended to limit opium production and use to medical and scientific needs. According to this Protocol (Article 6), only seven countries

<sup>ad</sup> Mr. Harry Anslinger was head of the Federal Bureau of Narcotics (FBN) and key player in domestic and international drug control as of the early 1930s.

– Bulgaria, Greece, India, Iran, Turkey, the USSR and Yugoslavia – were authorized to produce opium for export.<sup>251</sup> The Protocol also asked countries to implement comprehensive control systems at the national level. It stipulated six measures to be taken, in Article 3: “*With a view to controlling the production and use of opium, and trade in opium: 1. Every producing State shall establish, if it has not already done so, and maintain one or more government agencies (hereafter in this article referred to as the Agency) to perform the functions assigned to it ...; 2. Production shall be limited to areas designated by the Agency or other competent government authorities; 3. Only cultivators licensed by the Agency or other competent government authorities shall be permitted to engage in production; 4. Each licence shall specify the extent of the area on which the cultivation of the poppy is permitted; 5. All cultivators of the poppy shall be required to deliver their total opium crops to the Agency. The Agency shall purchase and take physical possession of such opium crops as soon as possible; 6. The Agency or other competent government authorities shall have the exclusive right of importing, exporting and wholesale trading in, opium and of maintaining opium stocks other than those held by manufacturers licensed to manufacture alkaloids from opium.*”<sup>252</sup>

The Permanent Central Board was empowered with specific supervisory and enforcement responsibilities. Article 11 §1 (d) stipulated: “*If the Board considers that a local inquiry would contribute to the elucidation of the situation, it may propose to the government concerned that a .. committee of inquiry designated by the Board be sent to the country or territory in question. If the government fails to reply within four months to the Board’s proposal such failure shall be considered a refusal of consent. ...*” Article 12 then dealt with various enforcement efforts, including recommendations for an embargo (§2) and a mandatory embargo (§3). Legal overproduction was to be eliminated through control of the amount of opium that could be stocked by individual States.<sup>253</sup>

The 1953 Opium Protocol contained the most stringent drug-control provisions that had ever been embodied in international law.<sup>254</sup> The agreement extended the reporting provision placed on manufactured drugs under the 1931 Convention to raw opium. Aimed primarily at producing states, signatories would submit estimates concerning the amount of opium planted, harvested, consumed domestically, exported and stockpiled to the DSB. Year-end statistics would have to be reported to the PCOB. The Protocol also gave the Board responsibility for making inquiries into discrepancies, conducting inspections, and imposing embargoes. The Board was empowered to fix estimates, and could take investigatory and punitive action, even in the case of states that were not a party to the Protocol. In exchange for accepting the new burdens and limitations, producer countries received a monopoly on licit sales of opium, and were given a fifteen year grace period in which to cease all pro-

duction. Parties to the treaty agreed to buy opium only from the seven states named in the text.<sup>255</sup>

Article 21 of the Protocol stipulated that twenty-five states, including three of the seven producing states, had to ratify the treaty. This stipulation emerged as its main stumbling block. ECOSOC Resolution 1953/505/(XVI)G on the universal and early application of the 1953 Opium Protocol urged all members of the United Nations to sign, ratify and accede to the Protocol as soon as possible. In total, 61 countries signed and ratified the Protocol.<sup>256</sup> However, among the seven identified opium producing and exporting states, only India and later Iran ratified the Protocol during the 1950s. This was not sufficient for the Protocol to enter into force.

The Soviet Union opposed some of the inspection regulations. Greece and Yugoslavia only declared their readiness to ratify it once Turkey had done so. Greece eventually ratified the Protocol in February 1963 and Turkey, following increasing pressure from the USA, in July 1963. However, by that time, the 1961 Single Convention had already been established. It entered into force in December 1964, superseding the 1953 Opium Protocol. In reality, the 1953 Opium Protocol was only in force for a year and a half.

## The 1961 “Single” Convention

By 1961, there were nine international legal agreements on narcotic drugs. Their overlapping provisions were complex and this was compounded by the fact that several countries had not signed and ratified all the treaties.<sup>257</sup>

In an attempt to correct this and after 13 years of negotiation, the Single Convention was adopted in 1961 and entered into force on 13 December 1964. It superseded all previous international conventions, protocols and treaties.<sup>258</sup> As of March 2008, there were 183 parties to the Single Convention on Narcotic Drugs (as amended by the 1972 Protocol amending the Single Convention) by virtue of ratification, accession or succession.<sup>259</sup> Accession is almost universal and far more countries acceded to the single convention than to any other drug control treaty.<sup>260</sup>

The Single Convention consists of 51 Articles, covering definitions of the substances under control, the framework for the operations of the international drug control bodies, reporting obligations by Member States, controls on production, manufacture, trade and consumption, and penal provisions. The key provision of the Single Convention is to be found in Article 4: “*The parties shall take such legislative and administrative measures... (c) ... to limit exclusively to medical and scientific purposes the production, manufacture, export, import distribution of, trade in, use and possession of drugs.*”<sup>261</sup>

The objectives in drafting the Single Convention were threefold: codification of existing multilateral treaty laws into one

single document, streamlining of the international drug control machinery, and extension of controls to new areas.

The first objective, to codify all existing multilateral treaty laws into one single document, was largely achieved. Provisions, such as those on the estimates and statistics system, established by the 1925 and the 1931 Conventions, were retained. Similarly, the system of import and export authorizations remained intact. The same applied to the provisions for controlling the manufacture of narcotic drugs established by the 1931 Convention. These were continued with the inclusion of the synthetic drugs introduced under the 1948 Protocol. The Single Convention retained the concept of schedules, first introduced in the 1931 Convention, but expanded them from two to four. Some of the far-reaching inspection provisions, contained in the 1953 Opium Protocol (which by 1961 had not as yet entered into force) were weakened to render the Single Convention more acceptable to several producer countries, most notably to the USSR and its allies. The Single Convention did not include a closed list of seven recognized producers, as under the 1953 Opium Protocol. The Soviet Union, in particular, lobbied for the rights of several developing countries to be given an opportunity to participate in this lucrative business.

All but one of the previous drug control conventions and treaties were superseded by the Single Convention. The poorly subscribed 1936 Convention on the Illicit Traffic in Dangerous Drugs, remained in force - except for Article 9, which was replaced by the new penal provisions contained in Article 36 of the Single Convention. This occurred because the delegations could not agree on which of the provisions to finally incorporate into the Single Convention.<sup>262</sup> The 1936 Convention was *de-facto* superseded by the 1988 *United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances*. Penal provisions more or less taken over from the 1936 Convention refer to the obligation to take into account foreign convictions for the purpose of establishing recidivism (Art. 36, §2(a) (iii)); the obligation to prosecute serious offences in the country where the offence was committed or in the country where the offender is found if extradition is not possible ((Art. 36, §2(a) (vi)) and the provision that the [drug production and trafficking related] offences enumerated in Article 36 should be considered extraditable offences and included in extradition treaties (Art. 36, §2(b) (i)), or be automatically considered extraditable offences for countries where extraditions without specific extradition treaties are possible (Art. 36, §2(b) (iii)). In addition, the Single Convention also detailed a previously more general rule of the 1936 Convention, stating in Article 36, §2, (a) (ii) that “*The intentional participation.. and attempts to commit any of such offences, ... preparatory acts and financial operations in connexion with the offences referred to in this article shall be punishable offences...*” obliging Member States to make money laundering operations punishable offences.

The second objective of the Single Convention was to simplify and streamline the control machinery in order to increase the efficiency of international drug control efforts. This led to the establishment of International Narcotics Control Board (INCB). In addition, a number of administrative duties were consolidated and simplified. No consensus, however, was found on proposals to merge the Division of Narcotic Drugs with the secretariat of the INCB. Such a merger was only effected three decades later with the creation of the United Nations International Drug Control Programme (UNDCP) in 1991.<sup>263</sup> While the main task of the Board was to monitor and control the licit production, manufacture, trade and consumption of narcotics, the Secretary-General [i.e. now UNODC] was to overview the illicit side. Thus, in Article 18, the Parties were required “*to furnish to the Secretary-General such information as the Commission may request as being necessary for the performance of its functions, and in particular ...:(c) Such particulars as the Commission shall determine concerning cases of illicit traffic, including particulars of each case of illicit traffic discovered which may be of importance, because of the light thrown on the source from which drugs are obtained for the illicit traffic, or because of quantities involved or the method employed by illicit traffickers.*”

The third objective of the Convention was the extension of the existing controls to include the cultivation of the plants grown as raw material for the production of natural narcotic drugs, as well as the prevention of non-medical drug consumption. Thus, the 1961 treaty continued to keep a tight rein on the production of opium and extended international controls to the production of poppy straw, coca-leaf and cannabis. These controls included the obligation to create national agencies for opium (Article 23), coca (Article 26) and, if applicable, for cannabis (Article 26) for countries deciding to maintain such production for covering their medical and scientific needs. Such agencies had – according to Article 23 - to designate the areas in which the cultivation could take place; allow only licensed cultivators to engage in such cultivation; demand that the total crop be delivered by them to the Agency; and give the Agency the exclusive right of importing, exporting, wholesale trading and maintaining stocks. Such provisions effectively barred private enterprises, which might have been interested in an expansion of the market, from participating in this lucrative line of business.

The Single Convention did not contain a general prohibition of drug production (as had been demanded by some member states, notably with regard to cannabis), but clear requirements that production, for whatever substance, could only take place under certain conditions and only for medical or scientific purposes.

The Commentary to the 1961 Convention points out that the term ‘for medical purposes’ (Article 4, (c)) was not uni-

formly interpreted by governments. Some prohibited the consumption of narcotic drugs by all addicts, while others permitted consumption by persons whose addiction proved to be incurable to prevent painful withdrawal symptoms. The Commentary also highlights that the term ‘for medical purposes’ did not have the same meaning at all times and circumstances. Its interpretation depended, *inter alia*, on the type of medical practice and science. Established and nationally recognized systems of indigenous medicine, for example, had to be taken into account.<sup>264</sup>

The Single Convention prohibited the recreational practices of opium smoking, opium eating, coca-leaf chewing, as well as the smoking and other uses of cannabis resin and cannabis herb. Countries were allowed some transition periods (Article 49) to abolish these practices. Countries also committed to abolishing the quasi-medical use of opium within a 15-year period and the practices of coca leaf chewing and the use of cannabis within a 25-year period.<sup>265</sup>

The Single Convention took an interesting approach to penal requirements. The ‘Penal Provisions’ laid down in Article 36, state §1 (a): “*Subject to its constitutional limitations each Party shall adopt such measures as will ensure that cultivation, production, manufacture, extraction, preparation, possession, offering, distribution, purchase, sale, delivery... brokerage, dispatch, ... transport, importation and exportation of drugs contrary to the provisions of the Convention... shall be punishable offences when committed intentionally, and that serious offences shall be liable to adequate punishment particularly by imprisonment or other penalties of deprivation of liberty.*” The Commentary to the 1961 Convention points out that Article 36 is intended to fight illicit drug trafficking, obliging parties to make such violations against the law clearly punishable offences, including imprisonment. The ‘use of drugs,’ however, is not mentioned in Article 36.

When Article 36 mentions ‘possession’ it refers to the ‘possession of drugs intended for distribution’,<sup>ae</sup> ‘Possession for personal consumption’ is dealt with in Article 33, where the Convention states that, “*The Parties shall not permit the possession of drugs except under legal authority.*” Governments have some flexibility in implementing this provision. The

<sup>ae</sup> In fact, Article 36 of the Single Convention is based on a previous Article 45 of the Third Draft, which served as the working document for the Plenipotentiary Conference. This draft enumerated in its paragraph 1 possession among the actions for which punishment would be required. This Article 45 of the Third Draft was included in chapter IX, headed “Measures against illicit traffickers”. Eventually, the Draft’s division into chapters was not taken over in the Single Convention. This was the only reason why the chapter heading was deleted, as were all other chapter headings. Article 36 is still in that part of the Single Convention which deals with the illicit traffic. It is preceded by Article 35, entitled Action against the illicit traffic, and followed by Article 37, entitled Seizure and Confiscation. Against this background, the authors of the Commentary tended to support the opinion that only ‘possession for distribution’ and not that for personal consumption was a punishable offence under article 36 of the Single Convention. (United Nations, *Commentary on the Single Convention on Narcotic Drugs, 1961*, Prepared by the Secretary-General in accordance with paragraph 1 of Economic and Social Council resolution 914 D (XXXIV) of 3 August 1962, p. 112.)

Commentary to the 1961 Convention clarifies that Governments are not required to punish unauthorized possession as a serious offence. They can choose to impose administrative penalties, such as fines or censure instead. They can, in fact, choose not to impose any penalties as long as they “*use their best endeavours to prevent this possession by all those administrative controls of production, manufacture, trade and distribution which are required by the Single Convention.*”<sup>266</sup>

In short, the Single Convention, while tough on illegal production and trafficking, gives governments a high degree of flexibility in dealing with local drug abuse problems. States are compliant with the Convention as long as they remain committed to the general obligation that “*legislative and administrative measures have to be taken to limit to medical and scientific purposes... the use and possession of drugs*” (Article 4, (c)).<sup>267</sup>

The Single Convention also obliges Member States to assist their drug addicts with medical treatment and rehabilitation.<sup>268</sup> The original wording of Article 38, §1 (prior to its amendment in 1972) was: “*The Parties shall give special attention to the provision of facilities for the medical treatment, care and rehabilitation of drug addicts.*” Earlier international narcotics treaties had contained no such an obligation, despite the long held view that victims of addiction needed to be assisted by treatment, after-care and rehabilitation.<sup>269</sup>

### The 1972 Protocol amending the Single Convention

Drug use increased dramatically with the social and cultural changes of the 1960s, first in North America and then in Europe. Recreational drug use was a central feature of some of these changes. In the USA alone, the number of arrests at the state level for marijuana possession rose ten-fold between 1965 and 1970. A national survey in 1971 revealed that 24 million Americans had used cannabis. The number of heroin addicts in the USA was estimated to have risen from about 50,000 in 1960 to roughly half a million by 1970.<sup>270</sup> In addition to ongoing diversions from licit producers, notably Turkey (estimated by the US authorities to have accounted for close to 80% of the opiates found in the USA in the late 1960s),<sup>271</sup> illegal production also increased strongly in South-East Asia, notably in Myanmar. By the 1970s, Myanmar had become the world’s largest supplier of illicit opiates. Much of the transformation of Myanmar opium into heroin took place in neighbouring Thailand.<sup>272</sup> During the Vietnam war, heroin use spread amongst the US soldiers based in South-East Asia.<sup>273</sup>

When US president Richard Nixon declared a ‘war on drugs’ in the early 1970s, heroin was particularly targeted.<sup>274</sup> The ‘war on drugs’ directed federal resources to supply reduction and law enforcement efforts as well as to research, treatment and educational efforts. The US proposed to hold a new conference to agree on a number of additional drug

control measures. Thus, a conference was convened in March 1972 in Geneva to amend the 1961 Single Convention, with a view to strengthening both supply and demand reduction efforts.<sup>275</sup>

By fine-tuning the existing Single Convention, the Protocol underscores the necessity of strengthening the current control system, increasing efforts to prevent illicit production, strengthening the efforts to fight the illegal traffic in narcotics, prevent the use of drugs, and deal with the consequences of drug abuse. The Protocol consists of a total of 22 amendments to the Single Convention. Most countries which ratified the Single Convention also signed and ratified the Protocol. There are just three countries – Afghanistan, Chad and the Lao PDR – which signed and ratified the Single Convention but did not accede to the 1972 Protocol amending the 1961 Convention.<sup>276</sup>

According to the amended Article 19, governments had to supply to the Board information on, “*The area (in hectares) of the geographical location of land to be used for the cultivation of the opium poppy*” and “*The approximate quantity of opium to be produced.*” This was intended to improve international controls over licit opium production. Such reporting requirements had been foreseen by the 1953 Opium Protocol, but they had been superseded by the entry into force of the 1961 Single Convention.<sup>277</sup>

An added Article 21 bis, Limitation of Production of Opium, was intended to create economic incentives for licit opium exporting countries to keep controls up to standard. When countries did not meet their obligations, the INCB was entrusted to deduct from the country’s licit opium production quota for the next year any amounts which the Board considered to have been introduced into the illicit traffic in that country. Such a situation could occur as a result of insufficient measures taken to prevent illicit production or insufficient controls over licit production. In this way, the Board was supposed to punish a nation that did not implement sufficient controls by imposing an economic sanction on the medicinal opium industry.

In an added §2 of Article 22, countries prohibiting the cultivation of the opium poppy or the cannabis plant also had to commit themselves to “*seize any plants illicitly cultivated and destroy them...*” In addition to eradication obligations set out in of Article 22 §2, the concept of international assistance to enable governments to implement the Convention are contained in Article 14 dealing with ‘Technical and Financial Assistance’ to be provided by competent United Nations organs and specialized agencies to implement the Convention.<sup>278</sup> The background to this was a multi-decade long struggle between developing countries producing plant based drugs and developed countries consuming them. The developing producer countries regularly asked for external assistance in exchange for reductions in drug production which the consumer countries initially considered to be an

unacceptable form of blackmail. By the early 1970s, however, positions started to shift and the USA itself emerged as a strong promoter of a United Nations Funds for Drug Abuse Control (UNFDAC), one of the goals of which was to provide crop substitution and alternative development assistance to developing countries.<sup>279</sup>

The Protocol also expanded the scope of Article 38 ‘Treatment of Drug Addicts’ to ‘Measures against the Abuse of Drugs’. Thus countries did not only have a legal obligation to treat and rehabilitate drug addicts, they also had, for the first time, a legal obligation to “*take all practicable measures for the prevention of abuse of drugs and for the early identification .. of the persons involved*” as well as a legal obligation for the “*social reintegration*” of such persons.<sup>280</sup>

The Protocol provided possible alternatives to incarceration for drug addicts in Article 36, §1 (b): “*Notwithstanding the preceding subparagraph, when abusers of drugs have committed such offences, the Parties may provide, either as an alternative to conviction or punishment, or in addition to conviction or punishment, that such abusers shall undergo measures of treatment, education, after-care, rehabilitation and social reintegration...*” According to this text, Parties could substitute treatment for conviction or punishment of abusers who intentionally committed any offence listed in subparagraph (a): “*cultivation, production, manufacture, extraction, preparation, possession, offering, offering for sale, distribution, purchase, sale, delivery, brokerage, dispatch, dispatch in transit, transport, importation and exportation of drugs contrary to the provision of the Convention*”. The Commentary points out that Parties would normally do so only in the case of relatively minor offences, such as the illicit sale of comparatively small quantities of narcotic drugs. It was also submitted that such alternatives could only be applied to offenders who were dependent on narcotics.<sup>281</sup> Finally, the Protocol included a number of stipulations designed to strengthen the mandate of the INCB.<sup>282</sup>

It is possible that some of the provisions outlined above, combined with the decision by Turkey to prohibit cultivation and production of opium poppy after June 30, 1972,<sup>283</sup> led to the temporary reversal of the growth of global heroin consumption. Illicit opium production also declined during this period, particularly in Thailand. In addition, Turkey informed the United Nations in September 1974 that it would again permit the licensed cultivation of poppies for medical purposes,<sup>284</sup> and this time controls worked very well. Turkey had switched over to the poppy straw method because it was less prone to diversion.

### The 1971 Convention on Psychotropic Substances

Following World War II, Japan experienced a methamphetamine abuse epidemic of fairly large proportions. The epidemic was supplied by the huge stocks of methampheta-

mine hoarded during the war. Eventually, the epidemic was ended by a major market crack-down by the government in 1954. At roughly the same time, amphetamine use began to expand in Scandinavia and the UK, and methamphetamine abuse began to widen in the USA. The use and cultural influence of psychedelic drugs, including LSD, was in its heyday. Poly-drug abuse was increasingly common with users becoming addicted to multiple substances.

In the mid-1960s, most countries imposed only minimal limitations on the distribution of amphetamines, barbiturates, tranquilizers and other synthetic, non-plant based drugs. As the problems described above gained in intensity, restrictions were introduced in several of the developed countries, prompting pharmaceutical companies to market their products more aggressively in Latin America, Africa and Asia. The misuse of psychotropic substances thus became a truly global phenomenon and several developing countries started to reproach the double standards applied to drugs.<sup>285</sup> These epidemics initially appeared to be isolated phenomena. By the mid-1960's, however, the general upward trend in the abuse of psychotropic substances seemed to qualify as a global phenomenon.

In 1967 the INCB, the UN Legal Office and the WHO expressed the view that in order to control these psychotropic substances a new treaty would have to be negotiated. Pharmaceutical lobbies were wary of this and, ironically, used many of the same arguments against control which were used years earlier by developing countries producing plant based drugs. A 'strict control' coalition emerged among the Scandinavian countries, the Soviet bloc countries and several plant based drug producer states (who did not understand why they should be subjected to greater controls than the rich manufacturing countries where psychotropic substances were produced.) The USA, which had both a large pharmaceutical industry and a large abuse problem, took a middle position. Some pharmaceutical industry representatives supported the creation of a treaty, realising that it would determine a *de-facto* level of control that most countries would not exceed. This would allow industry to proceed with research, development and the marketing of new substances worldwide, while the minimum barriers provided by such a treaty would keep unscrupulous competitors at bay. Nevertheless, the overwhelming interest of the pharmaceutical companies was to keep new controls to a minimum.<sup>286</sup>

The resulting compromise was a major step ahead for international drug control and continues to form the basis for the control of psychotropic substances today. The Convention, known as the *1971 Vienna Convention*, placed a number of amphetamine-type stimulants, hallucinogens (such as LSD), sedative hypnotics and anxiolytics (benzodiazepines and barbiturates), analgesics and antidepressants under international control. A significant number of other substances,

forming part of these groups, were added in subsequent decades.<sup>287</sup> Seventy-one states, the World Health Organisation, and ICPO/INTERPOL<sup>288</sup> attended the plenipotentiary conference. A number of representatives from various pharmaceutical companies attended as well. The Convention entered into force in August 1976. As of March 2008, 183 countries were party to the 1971 Convention, equivalent to 95% of all UN member states and more than 99% of their combined population.<sup>289</sup>

The 1971 Convention consists of 33 Articles. The control system provided by this Convention was based on the 1961 Convention, though it also contained some innovations. There are general prescription requirements, i.e. all substances can only be supplied or dispensed with a medical prescription (Article 9, §1). Advertisement of such substances to the general public were to be prohibited (Article 10, §2) and, instead, appropriate cautions and warnings have to be indicated on the labels and the accompanying leaflets (Article 10, §1). Parties to the Convention must also take, according to Article 20 §1, "*measures for the prevention of abuse of psychotropic substances and for the early identification, treatment, education, after-care, rehabilitation and social reintegration of the persons involved.*" According to Article 8 (a), a general system of licensing should be introduced for the manufacture, the domestic and international trade and the distribution of psychotropic substances.

Article 15 deals with inspection requirements. Parties have to maintain a system of inspection of manufacturers, exporters, importers, wholesale and retail distributions and of medical and scientific institutions. A Party may also notify all other Parties through the Secretary-General (subsequently changed to UNODC) that it prohibits the importation of one or more of the psychotropic substances. Notified countries must then take measures to ensure that none of the substances specified in the notification are exported (Article 3). Article 21 foresees a number of measures to fight the illicit traffic in these substances, including mutual assistance in the area of law enforcement [Article 21 (b) and (c) and (d)] and in the area of judicial cooperation [Article 21 (e)].

In addition to the general rules and regulations (detailed above) which apply to all psychotropic substances, the Convention established four different Schedules for controlled psychotropic substances. The Schedules are based on two criteria: the potential therapeutic value and the potential risks related to the consumption of a substance.<sup>290</sup> The risks warranting scheduling are: the capability of a substance to create a state of dependence (Article 2 §4 (a) (i) (1)), the abuse potential, i.e. the ability to create central nervous system stimulation or depression resulting in hallucinations or disturbances in motor function, thinking, behaviour, perception or mood (Article 2 §4 (a) (i) (2)) and the risk of the substance concerned creating a public health and social problem ((Article 2 §4 (b)).<sup>291</sup> The scheduling of substances

under the 1971 Convention is therefore potentially more restrictive than the scheduling of opiates or cocaine related substances under the 1961 Convention.

Schedule 1 lists those substances which are prohibited, except for scientific and very limited medicinal purposes. The very strict provisions of Schedule 1 (Article 7) only allow for the manufacture, trade, distribution or possession of these substances subject to special licences and prior authorizations, always under close government supervision, and restricts the amounts to be supplied. Exports and imports are restricted to trade between the competent authorities or agencies of the exporting and importing country, or persons, or enterprises specifically authorized by the competent authorities (Article 7, (f)). Substances currently found under Schedule 1 include MDA and MDMA (Ecstasy) for which there is only very limited recognized therapeutic use. Normal commercial transactions for such Schedule 1 substances are, in general, very difficult.

Schedule II substances may have a strong abuse potential or be widely abused, but they also have properties which lend themselves to be utilized for generally recognized therapeutic use. Several of the amphetamine-type stimulants, including methamphetamine, amphetamine, methylphenidate and fenetylline fall into this category as well as one hallucinogen (phencyclidine) and a few sedative-hypnotics (methaqualone and secobarbital).<sup>292</sup> Commercial transactions for such substances are possible, though these substances remain strictly controlled. Manufacturers, wholesale distributors, exports and importer have to keep records showing in detail the quantities manufactured, each acquisition and disposal, the date, supplier and the recipient (Article 11, §2). They also require separate import and export authorizations (Article 12, §1 (a)). The national authorities must furnish the INCB annual statistics with regard to the quantities manufactured, exported to and imported from each country, and on the stocks held by manufacturers for Schedule I and Schedule II substances (Article 16, §4 (a)).

Control of Schedule III and Schedule IV substances is less strict. Substances under control in Schedule III include, *inter alia*, cathine, a central nervous system stimulants, some barbiturates (amobarbital, cyclobarbital, pentobarbital), flunitrazepam, the most frequently abused benzodiazepine, buprenorphine, an opioid used in several countries in substitution treatment, and pentazocine, an opioid analgesic which is reported to be widely abused in some African countries.

For Schedule III substances, no separate import or export authorizations are required. Record keeping requirements are less strict. National authorities must only provide the Board with aggregate information on the quantities manufactured, exported and imported (Article 16, §4 (b)).

Most of the substances in Schedule IV are various benzodi-

azepines, including diazepam, and various barbiturates such as phenobarbital. No separate import or export authorizations are required for these Schedule IV substances. Record keeping requirements are only rudimentary. They are limited to showing the total quantities of the specific drugs manufactured, exported and imported. Similarly, national authorities must only provide the Board with aggregated (i.e. not detailed) information on the quantities manufactured, exported and imported of the individual substances (Article 16, §4 (b)).

If the Board has reason to believe that the aims of the Convention are being seriously endangered by the failure of a country to carry out the provisions, the Board can recommend to the Parties, the Economic and Social Council and the Commission on Narcotic Drugs that they stop the export, import or both of particular psychotropic substances from, or to, the country concerned (Article 19, §1 and §2). This gives the Board a powerful sanction mechanism.

Like the Single Convention, the 1971 Convention also delineated the roles of the INCB and the Secretary General [i.e. now UNODC]. While the role of the Board is primarily the monitoring of the licit manufacture and trade in psychotropic substances, the role of the Secretary-General [UNODC] is primarily illicit control. Governments must furnish the Secretary-General with information on: “*Significant developments in the abuse of and the illicit traffic in psychotropic substances...*” (Article 16, §1 (b)), notably “*in respect of any case of illicit traffic in psychotropic substances or seizure from such illicit traffic which they consider important because of (a) new trends disclosed, (b) the quantities involved, (c) the light thrown on the sources from which the substances are obtained; or (d) the methods employed by the illicit traffickers*” (Article 16, §3).<sup>293</sup>

## The 1981 International Drug Abuse Control Strategy

Despite efforts made over the previous decades, sharp increases in drug abuse occurred in many countries towards the end of the 1970s. Initial progress made in curbing the global heroin problem stalled as the supply void created by Turkey in the early 1970s was filled by rising opium production in Mexico and in the Golden Triangle. There was also an increase in opium production and diversion from Iran. This ceased after the Islamic Revolution declared opium production illegal in 1979 and resulted, inadvertently, in a shift in opium production to neighboring Pakistan and eventually to Afghanistan.

Cannabis production and consumption increased worldwide, with production increasing in Latin America and consumption increasing in North America and Europe. Experiments with *de-facto* de-criminalization of cannabis use in many states across the USA in the 1970s, further contributed to a general climate of tolerance towards drug

consumption and rapidly rising drug use prevalence rates<sup>294</sup> in the United States, in the second half of the 1970s.<sup>af</sup> In parallel, illegal cocaine production from the Andean region had increased since the early 1970s. Cocaine started to emerge as a serious problem in North America beginning in the 1980s.

Taking this into consideration, the Commission on Narcotic Drugs studied the possibilities of launching a comprehensive strategy to reduce international drug abuse. This resulted, in 1981, in the formulation of an *International Drug Abuse Control Strategy*<sup>295</sup>. The Strategy called for international co-operation to combat drug abuse and trafficking with the following objectives: (1) improvements to the drug control system, (2) maintenance of a balance between legitimate drug supply and demand, (3) eradication of illicit drug supply (4) reduction of illicit traffic (5) reduction of illicit demand and prevention of drug abuse, and (6) commitment to the treatment, rehabilitation and social reintegration of drug abusers. The Strategy also called for various organizations and agencies operating within the United Nations system to provide increased support to assist Governments in activities such as crop-substitution, drug law enforcement and preventive drug education.

The status of the implementation of the Drug Abuse Control Strategy was reviewed each year through reports of the Economic and Social Council (ECOSOC). Though these reports suggested that the world community was strengthening the efforts in the on-going battle against illegal drug production, trafficking and abuse, the same reports also suggested that there was, in fact, an ongoing increase in the levels of drug production and consumption globally. This was attributed to the rapid increase in the level of sophistication of the global drug trafficking networks.

In December 1984, the General Assembly adopted a 'Declaration on the Control of Drug Trafficking and Drug Abuse'.<sup>296</sup> The Assembly declared that the "*illegal production of, illicit demand for, abuse of and illicit trafficking in drugs impede economic and social progress, constitute a grave threat to the security and development of many countries and people and should be combated by all moral, legal and institutional means, at the national, regional and international levels.*" Its eradication, the Assembly said, was the collective responsibility of all States. The Declaration then went on to state that Member States, "*undertake to intensify efforts and to coordinate strategies aimed at the control and eradication of the complex problem of drug trafficking and drug abuse through programmes including economic social and cultural alternatives.*" The importance of these statements was their elucidation of the links between the drug problem and social and

economic development and their emphasis on the 'collective responsibility of all States.'

### The 1987 Declaration of the International Conference on Drug Abuse and Illicit Trafficking and Comprehensive Multidisciplinary Outline of Future Activities in Drug Abuse Control

Levels of drug production, trafficking and abuse remained high into the 1980s. Illicit opium production in Myanmar continued at high levels and Afghanistan emerged as an important illicit opium producing country. Drugs provided financial resources to the *mujaheddin* in their fight against the then-communist, Russian-supported government in Kabul. Illegal coca leaf production and resulting cocaine manufacture in the Andean region broke a new record each year. Cannabis production and consumption remained high, though some significant eradication had taken place in several countries of Latin America. In parallel, the traditional producer/consumer country divide started to lose importance as ever more countries were affected by drug trafficking and drug abuse. The situation was summarized as follows: "*The upsurge of drug addiction since the 1960s represents a previously unknown phenomenon, at least as far as its dimensions are concerned. Addiction has spread over the entire planet, sparing almost no nation, no social class and no age, regardless of sex and race. The damage caused to the physical psychological and social health of individuals and of communities has made drug addiction a public hazard on the world scale. Addiction has become a matter of serious concern to many Governments, for it affects public and social health and economic resources...*"<sup>297</sup>

These overall increases led to a renewed effort to address the drug problem at the global level in 1987. A ministerial-level conference was convened in Vienna from 17 to 26 June 1987 and was attended by representatives from 138 States.<sup>298</sup> The political declaration adopted at the 1987 Conference reaffirmed the political will to take vigorous action against drug abuse and trafficking and set benchmarks for progress. The declaration reconfirmed the collective responsibility of Governments to provide appropriate resources for the elimination of illicit production, trafficking and drug abuse. "*In evolving effective action against drug abuse, illicit production and trafficking, we emphasize the need for the international community to adopt measures to treat all aspects and causes of the problem.*"<sup>299</sup>

During the conference, guidelines entitled *Comprehensive Multidisciplinary Outline for Future Activities* (CMO) were adopted for dealing with the reduction of supply, trafficking and demand of illicit drugs. The CMO was divided into four chapters (prevention and reduction of the illicit demand, control of supply, suppression of illicit trafficking, treatment and rehabilitation) and contained 35 targets defining problems with subsequent suggested courses of action. (The

<sup>af</sup> Annual prevalence of cannabis use among 12<sup>th</sup> graders in the USA increased, according to the annually conducted surveys in US high-schools, from an already extremely high level of 40% in 1975 to 50.8% in 1979. By 2007, the corresponding rate had fallen to 31.7%. (Source: NIDA, *Monitoring the Future*, 1975-2007).

CMO is specifically referred to in Article 14 §4 of the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic substances of 1988, which stipulates that, “*The Parties shall adopt appropriate measures aimed at eliminating or reducing illicit demand for narcotic drugs and psychotropic substances... These measures may be based, inter alia, ... on the Comprehensive Multidisciplinary Outline adopted by the International Conference on Drug Abuse and Illicit Traffic, held in 1987, as it pertains to... prevention, treatment and rehabilitation.*”<sup>300</sup>

One of the main achievements of the CMO was the introduction of a “balanced approach” in dealing with the drug problem.<sup>301</sup> In Chapter I, the CMO discussed the supply control model (§18), versus the demand control model (§20). The CMO concluded (§21): “*For the purpose of dealing with the totality of the problems posed by drug abuse and illicit trafficking, both the supply of and the demand for drugs should be reduced and action should be taken to break the link between demand and supply, that is, the illicit traffic.*”<sup>302</sup>

The CMO recommended the implementation of an ‘early warning’ system which would identify shifts in preferences among drug users. It promoted the development of “national education programmes” (§56-§73) and the inclusion of drug abuse prevention curricula in all educational institutions, as well as curricula for teachers, parents, the clergy, medical doctors and pharmacists (§60). In addition, the CMO addressed the dangers of drug abuse at the workplace (§74-§96), asking employers’ and workers’ organizations to develop joint action programmes with a view to discouraging drug abuse (§80). It also highlighted the role of cultural and sport activities as alternatives to drug abuse (§97-§104).

Chapter II advocated the reinforcement and extension of measures to control the supply of drugs. The CMO promoted transitional economic and financial assistance to farmers and encouraged the United Nations system to seek contributions from international financial institutions and Governments for integrated rural development projects (§218). However, it also made it clear that such assistance had to be contingent on the complete abandonment of illicit cultivation (§206). Another key area for action was the control of precursor chemicals (§173-§187).

Chapter III dealt with illicit trafficking, controlled deliveries, extraditions and money laundering.

Chapter IV discussed treatment and rehabilitation, stressing again the importance of evaluations to improve the effectiveness of treatment outcome (§351). The CMO saw drug addiction as a chronic recurring disorder which responds to treatment. It argued, however, that several treatment episodes may be necessary before long-term abstinence is realized (§408). The CMO stressed the importance of seeking out drug addicts in their environment with a view to guid-

ing them towards treatment (§368) and that treatment centres should carry out ‘individualized’ treatment programmes (§372). In terms of diseases transmitted through drug using habits, such as HIV/AIDS and hepatitis, the CMO recommended that, when drug use could not be stopped immediately, experts should study possible prophylactic measures, as long as such measures would not promote or facilitate drug abuse (§391).

In commemoration of the outcome of this conference the General Assembly decided by resolution 42/112<sup>303</sup> “*to observe 26 June each year as the International Day against Drug Abuse and Illicit Trafficking.*”<sup>304</sup>

### The United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic substances, 1988

By the late 1980’s, the controls on licit drugs were working well. Some diversions from licit channels still occurred, but they had ceased to be a problem at the global level. The same applied to most Schedule I and Schedule II substances controlled under the *1971 Convention on Psychotropic Substances*. The situation was less positive for several of the Schedule III and Schedule IV substances. On the other hand, illicit production, trafficking and abuse of opium/heroin and of cocaine rose throughout the 1980s. In addition, the clandestine manufacture of psychotropic substances, notably the amphetamine-type stimulants, was increasing in North America, Europe and South-East Asia.<sup>305</sup>

The global influence of organized crime groups increased throughout the 1980s. The most notorious of these, the Medellin and Cali cartels, controlled the majority of the trade in Colombian cocaine. The cartels were not only trafficking ever larger amounts of cocaine to North America and Europe, they were also becoming a serious threat to local and national governance.<sup>306</sup> They made use of the huge criminal proceeds derived from the cocaine business to corrupt local and national authorities. When this was not effective, they engaged in horrendous acts of violence to intimidate decision makers. In 1988, the Colombian Minister of Justice, Guillermo Plazas Alcid proclaimed, “*no country in the world had paid as high a price as Colombia in the fight against drug abuse and illicit trafficking. One by one, Ministers of State, judges of the Supreme Court, officials in the armed forces and police, members of intelligence units, soldiers and journalists had all fallen as an intimidated nation raised anguished voices for protection from the scourge. Had the world forgotten the burning up of Colombia’s Palace of Justice which housed senior judges and law officials?... Colombia’s tough experience in fighting the problem had left legions in the political and social fabric of the country... Timely and adequate treatment of the problem of drug abuse and illicit trafficking should be given maximum priority at the national and international levels.*”<sup>307</sup>

Against such a background the General Assembly requested – via the Economic and Social Council – the Commission on Narcotic Drugs, “to initiate, as a matter of priority, the preparation of a draft convention against illicit traffic in narcotic drugs which considers the various aspects of the problem as a whole in, in particular, those not envisaged in existing international instruments.”<sup>308</sup> The United Nations Conference for the Adoption of a Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances subsequently met in Vienna, from 25 November to 20 December 1988. Delegations from 106 States participated and eventually adopted a new Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances.<sup>309</sup>

The 1988 Convention, consisting of 34 Articles, entered into force just two years later, on 11 November 1990 and has proven to be a powerful instrument in the international fight against drug trafficking. As of March 2008, 183 countries were parties to this Convention<sup>310</sup> or 95% of all United Nations Member States, having more than 99% of the world’s total population. Non-parties to the Convention are just three countries in Africa (Equatorial Guinea, Namibia and Somalia), one country in Asia (Timor Este), one country in Europe (Holy See), and seven island countries in the Oceania region<sup>311</sup> (Kiribati, Marshall Islands, Nauru, Palau, Papua New Guinea, Solomon Islands, Tuvalu).<sup>48</sup>

The preamble of the 1988 Convention refers to *the rising trend in the illicit production of, demand for and trafficking in narcotic drugs and psychotropic substances,* the “increasing inroads into various social groups made by illicit traffic,” the “links between illicit traffic and other related organized criminal activities which undermine the legitimate economies and threaten the stability, security and sovereignty of States,” the fact that “the illicit traffic generates large financial profits and wealth enabling transnational criminal organization to penetrate, contaminate and corrupt the structure of government, legitimate commercial and financial business, and society at all its levels,” and the desire “to eliminate the root causes of the problem.. including the illicit demand ... and the enormous profits.” The preamble underlines the seriousness of the problem and thus sets the scene for the rather strict and far-reaching obligations arising from this Convention.

Following a set of definitions in Article 1, the Convention then lays down the key objective in Article 2: “The purpose of this Convention is to promote co-operation among the Parties so that they may address more effectively the various aspects of illicit traffic in narcotic drugs and psychotropic substances having an international dimension.” (Article 2 §1).<sup>312</sup> Some of the obligations of this Convention are rather far-reaching, clearly going beyond those contained in earlier Conventions. This raised fears that they could be misused by some countries for other political objectives. In order to dissipate

such fears, Article 2 §2 makes it clear that, “The Parties shall carry out their obligations under this Convention in a manner consistent with the principles of sovereign equality and territorial integrity of States and that of non-intervention in the domestic affairs of other States.”

The 1988 Convention comprehensively addresses most aspects of the illicit drug industry.<sup>313</sup> In Article 3, §1 (a) (i) it lists the following activities, which when committed intentionally, are to be established as a criminal offence: “The production, manufacture, extraction, preparation, offering... distribution, sale... .delivery ... , brokerage, dispatch,... importation or exportation of any narcotic drug or any psychotropic substance contrary to the provisions of the 1961 Convention as amended [by the 1972 Protocol] or the 1971 Convention.” To this list are added, in Article 3, §1 (a) (ii) “The cultivation of opium poppy, coca bush or cannabis plant for the purpose of the production of narcotic drugs contrary to the provision of the 1961 Convention ...” This list is basically the same as that found in the 1961 and the 1971 Convention. The 1961 Convention only obliged Parties to make such activities ‘punishable offences’. The 1988 Convention goes an important step further and compels Parties to make them a ‘criminal offence.’

In Article 3, §5 the Convention sets out that, “The parties shall ensure that their courts .. can take into account factual circumstances which make the commission of the offences .. particularly serious: The involvement in the offence of an organized criminal group to which the offender belongs; The involvement of the offender in other international organized criminal activities; The involvement of the offender in other illegal activities facilitated by commission of the offence; The use of violence or arms by the offender; The fact that the offender holds a public office and that the offence is connected with the office in question; The victimization or use of minors; The fact that the offence is committed in a penal institution or in an educational institution or social service facility or in their immediate vicinity or in other place to which school children and students resorts for educational sport and social activities; Prior conviction, particularly for similar offences, whether foreign or domestic...” Most countries use this as a guideline for their national definitions of ‘aggravating circumstances’ for sentencing drug traffickers.

Article 3, §2 stipulates that, “the possession, purchase or cultivation of .. drugs... for personal consumption” have to be established as a criminal offence. This goes beyond the requirements of the previous conventions. It has been, and continues to be, a controversial stipulation for some countries. The Commentary to the 1988 Convention reveals a number of legal interpretations of this Article and points to legal loopholes that could be used by countries which oppose making the possession of drugs for personal use a criminal offence.<sup>314</sup> In any case, Parties can – according to Article 4 (c) of the 1988 Convention – provide “in cases of minor

<sup>48</sup> Not all of the small island countries in the Oceania region are also UN member states.

*nature... alternatives to conviction or punishment such as education, rehabilitation or social reintegration as well as ... treatment and aftercare...*

One of the main characteristics of the 1988 Convention was the emphasis it placed on the prevention of money laundering. “Financial operations in connexion with the offences referred to in this article ...” (Article 36, §2(a) (ii)) were referred to in the 1961 convention. But this obligation, hidden in the text of the 1961 Convention, was not effectively implemented by most countries. In the 1988 Convention, these obligations are referred to much more explicitly. In Article 3 §1 (b), drug related money laundering (“*conversion or transfer of property, knowing that such property is derived from an offence established in subparagraph (a)*”) is established as a criminal offence and Article 3 §1 (“*(a) (v) establishes that the financing of any of the drug trafficking related offences, when committed intentionally, must be a criminal offence.*”)

Another money related issue is the ‘confiscation’ (Article 5) of proceeds derived from drug related offences: “*Each Party shall ... adopt ... measures... to identify, trace, freeze or seize proceeds, property, instrumentalities ... for the purpose of eventual confiscation*” (Article 5 §2). Thus, the 1988 Convention is clearly designed to hit drug traffickers where it hurts them most - by depriving them of ill-gotten financial gains.<sup>315</sup> Moreover, the courts have to be empowered to seize bank, financial or commercial records. Bank secrecy cannot be invoked in such cases (Article 5, §3), and mutual legal assistance cannot be declined on the ground of bank secrecy (Article 7, §4). Though the Convention does not require any party to abolish its bank secrecy laws, it does require appropriate exception to the principle of bank secrecy or confidentiality to enable action in cases involving illicit drug traffic.<sup>316</sup>

The 1988 Convention emphasized the importance of precursor control at the international level. Trade in precursor chemicals for the manufacture of illegal drugs was established as a punishable offence under the 1961 Convention if considered a ‘preparatory act’ under Article 36, §2(a) (ii). Very few countries had implemented precursor legislation prior to the 1988 Convention. The 1988 Convention establishes, in Article 3, §1, (a) (iv), that the manufacture, transport or distribution of equipment used in the manufacture of illicit drugs, as well as the manufacture, transport or distribution of precursor chemicals, knowing that they are used for the illicit manufacture of drugs, have to be made criminal offences (Article 3, §1, (a) (iv)).

In Article 12, the Convention went several steps further, establishing an international precursor control regime to be monitored by the International Narcotics Control Board. Substances frequently used in the illicit manufacture of narcotic drugs or psychotropic substances were identified and listed in two Tables. The general obligation of Parties with

regard to precursor control is laid down in Article 12, §8. It stipulates that Parties have to “*take the measures they deem appropriate to monitor the manufacture and distribution of substances in Table I and Table II which are carried out within their territory. To this end, the Parties may (i) Control all persons and enterprises engaged in the manufacture and distribution of such substances; (ii) Control under licence the establishment and premises in which such manufacture or distribution may take place; (iii) Require that licencees obtain a permit for conducting the aforesaid operations; (iv) Prevent the accumulation of such substances in the possession of manufacturers and distributors, in excess of the quantities required for the normal conduct of business..*” Parties are also obliged, according to Article 12, §9 to:

(a) “*Establish and maintain a system to monitor international trade in substances in Table I and Table II in order to facilitate the identification of suspicious transactions. Such monitoring system shall be applied in close-cooperation with manufacturers, importers, exporters, wholesale and retailers, who shall inform the competent authorities of suspicious orders and transactions.*”

(b) “*Provide for the seizure of any substance in Table I or Table II if .. it is for use in the illicit manufacture ...*”

(c) “*Notify the competent authorities ... of the Parties concerned if there is reason to believe that the import, export or transit .. is destined for the illicit manufacture ..*”

(d) “*Require that imports and exports be properly labelled and documented ..*”

For substances controlled in Table I, Article 12 §10 foresees, in addition, a system of “pre-export notifications”. This means that prior to the export of a substance, the competent authority in the importing country has to validate the legal needs for such imports and inform the competent authority in the exporting country of the importer, the name of the substance, the quantities, the expected point of entry and the expected date of dispatch.

The 1998 Convention also attempts to bar all havens to drug traffickers, particularly through its extradition provisions.<sup>317</sup> While special provisions in the 1961 and the 1971 Conventions dealt with extradition, their scope was widened to take into account the increase in criminal offences in the 1988 Convention. Acts such as money laundering, or the manufacture, transport, distribution of equipment and substances listed in Table I and II (precursor chemicals) became extraditable offences.<sup>318</sup> With the exception of this widening of scope, the extradition rules (Article 6) do not deviate substantially from what was already laid down in the previous drug conventions. They are largely based on the concept of incorporating drug related offences into extradition treaties between States (Article 6 §2).

The 1988 Convention makes extraditions “*..subject to the*

conditions provided for by the law of the requested Party.” (Article 6, §5). In fact, a number of national laws do not allow for the extradition of nationals to foreign countries.<sup>319</sup> In such a case, Article 4 §2 stipulates that the Party which refuses to extradite a person to another country must then “take such measure as may be necessary to establish its jurisdiction over the offences.” In general, the national laws of many countries have, however, become more favorable towards extraditions over the last two decades.

The 1988 Convention covers ‘controlled deliveries’, defined as “the technique of allowing illicit or suspect consignments of narcotic drugs, psychotropic substances in Table I and Table II... to pass out, of through or into the territory of one or more countries with the knowledge and under the supervision of the competent authorities” (Article 1 (g)), “with a view to identifying the persons involved” in drug trafficking offences and “taking legal action against them”. (Article 11, §2). Article 11 was, in fact, the first international Convention to endorse the practice of controlled delivery. Previous conventions had only emphasized the seizures of drugs. The most obvious attraction of this law enforcement strategy is that it facilitates the identification, arrest and prosecution of the organizers and financiers in the criminal venture in question, instead of merely arresting those involved at the lower level in the hierarchy. Such actions can significantly contribute to the general goal of disrupting and dismantling drug trafficking organizations.<sup>320</sup>

Though the 1988 Convention aimed at reducing illicit traffic in drugs, it does not only address drug trafficking. It also obligates Parties to prevent or reduce the supply of drugs (Article 14 §2-§3). This means that each Party has to, “take appropriate measures to prevent illicit cultivation of and to eradicate plants containing narcotic or psychotropic substances, such as opium poppy, coca bush and cannabis plants, cultivated illicitly in its territory” (Article 14 §2).

The subsequent sentence in Article 14 §2 created some misunderstandings: “The measures adopted shall respect fundamental human rights and take due account of traditional licit uses, where there is historic evidence of such use, as well as the protection of the environment.” The reference to ‘traditional licit uses’ was interpreted by some countries in the Andean region as an acknowledgement by the international community that ‘due account’ for such ‘traditional licit uses’ would have to be taken, ensuring both production for traditional consumption and the legality of traditional consumption (coca chewing, ‘mate de coca’ tea). In contrast, the 1961 Convention had already outlawed the habit of coca leaf chewing, opium smoking, the quasi-medical use of opium and the non-medical use of cannabis. Countries could ask for special transitional periods under the 1961 Convention to enable people registered by 1964 to continue with their habits. However, the maximum transitional periods, granted by the 1961 Convention, ended in 1979 (for opium) and on

12 December 1989 (for cannabis and coca-leaf).<sup>321</sup> Article 14 §1 of the 1988 Convention states that, “Any measures taken pursuant to this Convention by Parties shall not be less stringent than the provisions applicable to the eradication of illicit cultivation of plants containing narcotic and psychotropic substances... under the provision of the 1961 Convention...”<sup>322</sup>

In Article 14 §3, the 1988 Convention addresses alternative livelihoods: “...Such co-operation may, inter alia, include support, when appropriate for integrated rural development leading to economically viable alternatives to illicit cultivation. Factors such as access to markets, the availability of resources and prevailing socio-economic conditions should be taken into account...” While not obligating parties to any specific action, Paragraph 3 draws attention to the need, in some countries, for alternative development programs that are designed to wean communities off of their dependence on illicit cultivation.<sup>323</sup>

The 1988 Convention does oblige Parties to take measures to reduce the demand for drugs –reflecting the principle of a balanced approach, first established in the CMO a year earlier. Thus, Parties to the 1988 Convention must adopt – according to Article 14 §4: “appropriate measures aimed at eliminating or reducing illicit demand for narcotic drugs and psychotropic substances...” The Convention then goes on to state that “These measures may be based, inter alia, ... on the Comprehensive Multidisciplinary Outline adopted by the International Conference on Drug Abuse and Illicit Traffic, held in 1987, as it pertains to... prevention, treatment and rehabilitation.”<sup>324</sup> As the elaboration of the 1988 Convention began with goals related primarily to preventing drug trafficking, this holistic approach to the problem (i.e. with a focus on both supply and demand), was particularly prescient. It has been a guiding principle of international drug control ever since. The original draft text of this paragraph actually went a bit further, requiring Parties to adopt appropriate measures to eliminate illicit demand for narcotic drugs and psychotropic substances, “with a view to removing the financial incentives for illicit traffic.”

### Special Session of the General Assembly Devoted to Countering the World Drug Problem Together, June 1998

The measures taken in compliance with the 1988 Convention were successful in dismantling some of the world’s largest criminal networks in the first half of the 1990s. Extraditions for drug related offences became more common. Progress was made in drug related money laundering, notably after the Financial Action Task Force (FATF) developed an initiative, based on the 1988 Convention, to combat the misuse of financial systems by persons laundering drug money. In 1990, the FATF drew up the FATF 40 Recommendations which now form the basis of all standards for anti-money laundering policy.<sup>325</sup> Substantial progress was also made in the field of precursor control. Controlled deliv-

eries were increasingly used to interdict drug trafficking and are now a central operational strategy of customs, police and intelligence units around the world. In fact, most of the provisions of the 1988 Convention were implemented by those countries which had the resources to do so.

At the same time, by the late 1990s the prospects for a drug free world appeared to be more distant than ever before. Although some of the large drug networks had been neutralized, drug trafficking was continuing at a high level, facilitated by a myriad of smaller, seemingly dispersed groups. The downward trend in drug abuse, seen in the second half of the 1980s, did not continue in the USA after 1991/92. Europe also experienced major increases in drug abuse. The changes following the end of communism in Central and Eastern Europe, like the opening of trade, media and travel, also included increased drug consumption, notably among youth. Drug abuse also emerged as a serious social problem in many developing countries, notably in countries along the main transit routes. Abuse of amphetamine-type stimulants, notably methamphetamine, was a serious problem in many countries of East and South-East Asia. Countries in Latin America started to become increasingly affected by cocaine abuse. Countries in Africa suffered from ever larger cannabis production and consumption, and from continuous diversions of licit psychotropics into parallel markets. By the mid-1990s, the international community felt that the levels of illicit drug production and consumption required an immediate and significant response.

This response came in the form of the declarations and action plans which States Members of the UN agreed to at a Special Session of the United Nations General Assembly (UNGASS) in June 1998. In his opening statement the UN Secretary-General made reference to the drastic proliferation of drugs over the previous 30 years and expressed his hope that “*when historians study the work of humankind in the field of drug control, they will write about the next few days as the point where this trend was reversed.*”<sup>326</sup>

The UNGASS adopted, unanimously, a ‘*Political Declaration*’ and linked to it the ‘*Guiding Principles on Demand Reduction*,’ as well as a number of measures to enhance international cooperation to counter the world drug problem, notably the (i) ‘*Action plan against manufacture, trafficking and abuse of amphetamine-type stimulants and their precursors*,’ (ii) ‘*Control of precursors*,’ (iii) ‘*Measures to promote judicial cooperation*,’ (d) ‘*Countering money laundering*,’ and (e) ‘*Action plan on international cooperation on the eradication of illicit drug crops and on alternative development*’.

## Political Declaration

The Political Declaration<sup>327</sup>, adopted by the UN General Assembly, consists of a preamble and 20 paragraphs. In the preamble, the societal and human damage caused by drugs is highlighted: “*Drugs destroy lives and communities, under-*

*mine sustainable human development and generate crime. Drugs affect all sector of society in all countries... Drugs are a grave threat to health and well-being of all mankind, the independence of States, democracy, the stability of nations, the structure of all societies and the dignity .. of millions of people and their families.*”

In the first operative paragraph the States Members reaffirm the “*unwavering determination and commitment to overcoming the world drug problem through domestic and international strategies to reduce both the illicit supply of and the demand for drugs.*”

In the second paragraph, States Members “*Recognize that action against the world drug problem is a common and shared responsibility requiring an integrated and balanced approach in full conformity with the purposes and principles of the Charter of the United Nations and international law, and particularly with full respect for the sovereignty and territorial integrity of States, non-intervention in the internal affair of States and all human rights and fundamental freedoms...*” Four items are important here: the concept of “shared responsibility” (previously referred to as ‘collective responsibility’ in the 1984 Declaration on the Control of Drug Trafficking and Drug Abuse), the “balanced approach”, the respect of ‘sovereignty, territorial integrity’ and, for the first time, the reference to the ‘Charter of the United Nations’ and to ‘human rights’.<sup>ah</sup>

There are paragraphs in the Declaration which deal with:

<sup>ah</sup> The latter point is of particular importance with potentially far-reaching implications. This has been brought to the attention of the CND by some NGOs and a number of Member States during the 51st session of the Commission on Narcotic Drugs (10-14 March 2008) in the context of discussions on the appropriateness of the death penalty for drug related crimes. The 1961 Convention states, in Article 36 §4, that “*Nothing contained in this article shall affect the principle that the offences to which it refers shall be ... prosecuted and punished in conformity with the domestic law of a Party*”. Similarly, the 1988 Convention states in Article 3 §11 that “*Nothing contained in this article shall affect the principle that the description of offences to which it refers and of legal defences thereto is reserved to the domestic law of Party and that such offences shall be prosecuted and punished in conformity with that law*”. Article 39 of the 1961 Convention goes even a step further, stating, “*Notwithstanding anything contained in the Convention, a Party shall not be, or be deemed to be precluded from adopting measures of control more strict or severe than those provided by this Convention...*”. All these articles, contained in the international drug conventions, would not stop Member States from using the death penalty for serious drug offences. This may, however, have changed with the adoption of the Political Declaration of June 1998 and its explicit reference to the ‘UN Charter’, ‘international law’ and ‘human rights’ into the field of international drug control. The International Harm Reduction Association (a NGO), supported by a number of other Member States, argued at the 51<sup>st</sup> session of the CND (March 2008) that drug related offences would not meet the legal requirements for capital punishment (“cases where the crime is intentional and results in lethal or extremely grave consequences”; Article 6(2) of the ICCPR) set out by international law, notably the International Covenant on Civil and Political Rights (ICCPR), a position that is apparently shared by the UN Human Rights Committee. Reviewing national compliance with obligations under the ICCPR, the UN Human Rights Committee has consistently been very critical of countries that applied capital punishment to drug offences, arguing that drug offences do not meet the necessary threshold of ‘most serious crimes’ needed to execute the death penalty. (The International Harm Reduction Association, *The Death Penalty for Drug Offences – A Violation of International Human Rights Law*, London 2007).

the international drug control institutions (§3), ensuring that women and men benefit equally from programs against the drug problem (§4), building on progress already achieved by States (§5), assisting people working in various fields against drug abuse and the need for drug prevention (§6) as well as for treatment, rehabilitation and social reintegration and adequate financial resources for such activities (§7). In §8, the United Nations system is called upon to invite the international financial institutions, such as the World Bank and regional development banks, to include actions against drugs in their programmes. In §10, States Members express their concern about the links between illicit drug production, trafficking and transnational organized crime and terrorist groups. In §11, a link is also made between illicit drug production and illicit trafficking in drugs and arms. §12 calls upon communities, families, religious, educational, cultural, sports, business and union leaders as well as non-governmental organisations and the media to promote a society free of drug abuse.

Following these rather general calls for cooperation, §13-§19 represent the core of the Political Declaration. They make reference to the various action plans (amphetamine-type stimulants (§13 and §14), precursors (§14), money laundering (§15), judicial cooperation (§16), demand reduction (§17) and elimination of narcotic crops (§18 and §19)) and set the year 2003 as the target date for the introduction of measures foreseen in the action plans, and the year 2008 for significant and measurable results to have been achieved. Areas where progress was to be measured were: demand reduction (§17), illicit cultivation of the coca bush, the cannabis plant and the opium poppy (§19), and the illicit manufacture, marketing and trafficking of psychotropic substances and the diversion of precursors (§ 14).

In §20 States are requested to “*report biennially to the Commission on Narcotic Drugs on their efforts to meet the above-mentioned goals and targets for the year 2003 and 2008, and request the Commission to analyse these reports in order to enhance the cooperative effort to combat the world drug problem.*” For the international reporting of the measures taken, a Biennial Reports Questionnaire (BRQ) was developed by Member States, which had to be returned, every two years, to UNODC. This procedure regularly ‘reminded’ Member States of the obligations which they had entered into, and the progress reports helped identify areas where resources were needed to help States Members meet the goals of the Political Declaration and of the accompanying Action Plans.

In contrast to the international drug conventions, no procedures are put forward in the Political Declaration for a third-party, independent evaluation of the implementation of the Political Declaration and the accompanying Action Plans. §20 only foresees that the CND should analyse the reports obtained from Member States and use this information to

enhance the cooperative efforts to fight the drug problem. Although, according to the conventions, the INCB can impose international sanctions against a non-complying country, there are no formal sanction mechanisms in the Political Declaration or Action Plans.

The self-evaluations by Member States obtained through the BRQ suggests, nonetheless, that the overall implementation of the Political Declaration, the Action Plans and the proposed measures improved from 51% over the 1998-2000 period to 60% over the 2006-07 period.<sup>ai</sup> An implementation rate of around 60% is impressive given the fact that no sanction mechanisms existed in case of non-compliance. Although it likely reflects the fact that many of the measures contained in the Action Plans were already legal obligations in the Conventions, it may also – and perhaps more importantly – reflect the fact that these instruments were based on a broad international consensus on the perceived severity of the drug problem.

Far more difficult than the ‘process evaluation’ (i.e. reporting on the efforts made) foreseen in the Political Declaration, would have been an actual ‘outcome evaluation’. This was originally also considered but then rejected. One of the most serious problems with such an approach would have been that, for the majority of countries, the baseline data were not available in 1998, and are still often missing a decade later. Nonetheless, the Political Declaration proved to be a valuable tool as it encouraged a number of countries to renew their efforts in the area of drug control and strengthened international cooperation.

Major successes in reducing the area under coca cultivation, for instance, were achieved by Peru and Bolivia in the 1990s, and by Colombia in the first few years at the new millennium. Morocco reduced its cannabis resin production significantly over the 2003-2005 period. Major successes were also achieved in South-East Asia, notably by Myanmar and

<sup>ai</sup> This is the unweighted average of replies by Member States in the BRQ to questions on ‘drug control infrastructure’, ‘demand reduction’ (average of prevention, treatment and reducing negative consequences of drug use), ‘eradication and alternative development’ (average of ‘existence of national plans including alternative development’ and ‘existence of national plans including eradication and other law enforcement measures’ and ‘proportion of States reporting international cooperation for alternative development and eradication’), ‘judicial cooperation’, ‘amphetamine-type stimulants’, ‘precursors’ and ‘money-laundering’ (average of ‘criminalization of the laundering of the proceeds of drug trafficking and other serious crimes’, ‘freezing/confiscation of proceeds’, ‘money laundering as an extraditable offence’, ‘declarations in cross-border transportation of cash and negotiable bearer instruments’, ‘measures to prevent and detect money-laundering in the financial system’). The information was based on replies by 106 countries over the 1998-2000 period (representing 91% of the world population) and 108 countries over the 2006-2007 period, representing 89% of the world population. (United Nations, Economic, Social and Economic Council, Commission on Narcotic Drugs, Fifty-first Session, *The World drug problem, Fifth report of the Executive Director, Thematic debate on the follow-up to the twentieth special session of the General Assembly: general overview and progress achieved by Governments in meeting the goals and targets for the year 2003 and 2008 set out in the Political Declaration adopted by the Assembly at its twentieth special session*, Vienna 10-14 March 2008, E/CN.7/2008/2, and detailed individual reports on the topics mentioned above.)

the Lao PDR, where opium production was drastically reduced. These successes were, however, overshadowed by the rapid expansion of opium production in Afghanistan. Demand data, where available, suggest that drug use stabilized or fell in the United States and Europe (except for cocaine) in recent years. Demand for drugs in a large number of transit countries in developing countries continued rising.

### Declaration on the Guiding Principles of Drug Demand Reduction

One of the main achievements of the UNGASS process in 1998 was the elaboration of a ‘Declaration on the Guiding Principles of Drug Demand Reduction’<sup>328</sup>. The international drug conventions offer surprisingly limited guidance on demand reduction measures. The 1987 CMO contained some, but they are only formulated as recommendations. The 1988 Convention suggests that countries refer to the CMO in developing their demand reduction measures, but it does not make their use compulsory. In contrast, the ‘Declaration on the Guiding Principles of Drug Demand Reduction’ provides States with detailed principles on how to design their national strategies with regard to demand reduction.

Chapter I (‘The Challenge’) states that *“The most effective approach to the drug problem consists of a comprehensive, balanced and coordinated approach, by which supply control and demand reduction reinforce each other ... There is now a need to intensify our efforts at demand reduction and to provide adequate resources towards that end”* (§4).

Paragraph 5 stipulates that *“Programmes to reduce the demand for drugs should be part of a comprehensive strategy to reduce the demand for all substances of abuse. Such programmes should be integrated to promote cooperation among all concerned, should include a wide variety of appropriate interventions, should promote health and social well-being among individuals, families and communities and should reduce the adverse consequences of drug abuse of the individual and for society as a whole.”* Apart from the demand for all encompassing programmes for all substances of abuse (i.e. for illegal drugs as well as for alcohol), this paragraph makes – for the first time in a legal UN document - reference to harm reduction.

In Chapter II (‘Commitment’), States Members *“Pledge a sustained political, social health and educational commitment to investing in demand reduction programmes that will contribute towards reducing public health problems, improving individual health and well-being, promoting social and economic integration, reinforcing family systems and making communities safer.”* (§7)

Chapter III (‘Guiding Principles’) is to guide the formulation of the demand reduction component of national and international drug control strategies. The ‘guiding principles’ are as follows:

*“There shall be a balanced approach between demand reduction and supply reduction, each reinforcing the other, in an integrated approach to solving the drug problem.*

*Demand reduction policies shall*

*Aim at preventing the use of drugs and at reducing the adverse consequences of drug abuse;*

*Provide for and encourage active and coordinated participation of individuals at the community level, both generally and in situations of particular risk, by virtue, for example, of their geographical location, economic conditions or large addict populations;*

*Be sensitive to both culture and gender;*

*Contribute towards developing and sustaining supportive environments.”*

The main ‘innovation’ of the ‘Guiding Principles’ was that demand reduction policies should not only aim at preventing the use of drugs (which had been already an obligation under the 1988 Convention as well as under the 1971 Convention and the 1961 Convention as amended by the 1972 Protocol), but also at ‘reducing the adverse consequences of drug abuse’. It was very difficult for States Members to reach an agreement on the final draft of this clause. The degree to which classical ‘drug prevention’ has to be given priority over ‘harm reduction’ or *vice versa*, is still subject to heated debates among UN member states today. While the United States, the Russian Federation, Japan, China and several other countries are in favour of traditional demand reduction efforts (‘prevention’) in order to reduce demand, most European countries, and Australia, tend to support policies that also contain elements of ‘harm reduction’ (such as ‘needle exchange programs’) so as to reduce and/or keep the drug use related HIV/AIDS rates low.

The 1998 Declaration on the Guiding Principles makes it clear that both elements, the ‘prevention of drug use’ and the ‘reduction of adverse consequences’ should be present in demand reduction policies<sup>aj</sup>. The International Narcotics Control Board (INCB) acknowledged in 1993 that harm reduction had a role to play in a tertiary prevention strategy; however the Board pointed out that such harm reduction programmes should not be carried out at the expense of, or be considered substitutes for, activities designed to reduce the demand for illicit drugs, and that they should not promote and/or facilitate drug abuse.<sup>329</sup>

Chapter IV (‘Call for Action’) highlights six areas that are of particular importance:

The first deals with a need for ‘assessing the problem’ (§9).

<sup>aj</sup> For more detail see United Nations Office on Drugs and Crime, “Reducing the adverse health and social consequences of drug abuse: A comprehensive approach”, Discussion paper, Vienna 1998.

*“Demand reduction programmes should be based on a regular assessment of the nature and magnitude of drug use and abuse and drug-related problems in the population.”* Countries are urged, in this context, to take into account the recommendations made in the CMO. Though some progress has been made, regular assessments on the magnitude of drug abuse are, unfortunately, still the exception rather than the rule for most countries.

The second call for action states that (§10) *“Demand reduction programmes should cover all areas of prevention, from discouraging initial use to reducing the negative health and social consequences of drug abuse. They should embrace information, education, public awareness, early intervention, counselling, treatment, rehabilitation, relapse prevention, aftercare and social reintegration...”*

The third area deals with the need for forging partnerships (§11) and underlines that *“Demand reduction efforts should be integrated into broader social welfare and health promotion policies and preventive education programmes.”* (§12)

The fourth area focuses on ‘special needs’, i.e. *“Demand reduction programmes should be designed to address the needs of the population in general, as well as those of specific population groups...”* (§13). In order to promote social reintegration, Governments should consider that *“either as an alternative ... or in addition to punishment, abusers of drugs should undergo treatment, education, aftercare, rehabilitation and social reintegration.”* (§14). Indirect reference is then made to the drug court system: *“Member States should develop within the criminal justice system.... capacities for assisting drug abusers with education, treatment and rehabilitation services. Close cooperation between criminal justice, health and social systems is a necessity and should be encouraged.”* (§14)

The fifth area calls on Government to send out “clear, scientifically accurate and reliable” information. *“Every attempt should be made to ensure credibility, avoid sensationalism, promote trust and enhance effectiveness.”* (§15) States should, in cooperation with the media, seek to raise public consciousness about the hazards of drug use.

The sixth area ‘building on experience’ asks for demand reduction strategies to be thoroughly evaluated to improve their effectiveness.

Self-evaluations by Member States suggest that the Guidelines on Demand Reduction influenced the measures taken at the national level. The self-evaluation of the measures taken in response to the Guidelines on Demand Reduction, showed - based replies received in the Biennial Reports Questionnaire (BRQ) - an improvement in the overall implementation rate from, on average, 23% over the 1998-2000 period to 29% over the 2006-07 period (average of composite indices for ‘prevention’, ‘treatment’ and ‘reducing negative consequences’). Nonetheless, data also show that

the overall implementation of comprehensive demand reduction activities, as detailed in the BRQ, remained low.

Improvements in the implementation of proposed demand reduction activities took place with regard to prevention related activities (rising from 26% to 33%), treatment related interventions (from 21% to 26%) and interventions aiming at reducing the negative consequences of drug use (from 21% to 28%). In selected geographical regions, implementation rates were found to have been significantly higher. High rates for implementation of the proposed prevention measures were found in North America (81% in 2006/07) and in the Oceania region (70%). Low rates were still found in Sub-Saharan Africa (25%). Similarly, in terms of treatment and rehabilitation, high implementation rates were reported from the Oceania region (69%) and North America (59%), while in Sub-Saharan Africa the implementation rate amounted to just 10%. In the case of measures aimed at reducing the negative consequences of drug use, the highest implementation rates were found in the Oceania region (76%), followed by West and Central Europe (50%) and North America (50%).

There were also significant differences in the implementation rates for specific activities. Provision of information and education as part of prevention programmes was shown to have risen from 34% in 1998-2000 to 42% in 2006/07 at the global level; availability of prevention programmes operating at schools and providing drug related information and education – which is and should be at the core of all prevention activities - even rose to 90%. In the area of reducing the negative consequences, measures such as availability of needle and exchange programmes rose from 39% to 52%; availability of outreach work improved from 54% to 67%, etc.<sup>330</sup>

### Action Plan on International Cooperation on the Eradication of Illicit Drug Crops and on Alternative Development

The preamble of the Action Plan on International Cooperation on the Eradication of Illicit Drug Crops and on Alternative Development<sup>331</sup> refers to a number of principles to be taken into account in the fight against drugs (‘shared responsibility’, ‘integrated balanced approach’, ‘full respect of sovereignty’, ‘territorial integrity’, ‘non-intervention in internal affairs’, ‘human rights’, ‘fundamental freedoms’, ‘sustainable human development’) and defines ‘*alternative development*’ as a process *“to prevent and eliminate the illicit cultivation of plants containing narcotic drugs .. through specifically designed rural development measures in the context of ... sustainable development efforts ... recognizing the particular sociocultural characteristics of the target communities and groups...”*

This is followed by six Chapters with a total of 33 operative paragraphs. Chapter I is entitled ‘*The need for a balanced approach to confront high levels of illicit cultivation*’, giving an

additional meaning to the concept of a ‘balanced approach’. In this case, the ‘balanced approach’ refers to the prevention of illicit cultivation (§3), as well as to the use of alternative development, law enforcement and eradication as part of national strategies, characterized by concrete measurable goals and objectives, to reduce the areas under illicit cultivation (§4).

At the same time, §7 formulates – for the first time in international drug control - a general rule which states that “*In cases of low-income production structures among peasants, alternative development is more sustainable and socially and economically more appropriate than forced eradication.*”

Chapter II proposes actions aiming at “*Strengthening of international cooperation of alternative development.*” Paragraph 9 states the elements for success of alternative development programmes. This includes a long-term political and financial commitment of the Governments and the international community, the involvement of the local communities, effective enforcement of drug control measures and the promotion of awareness among the local population of the negative consequences of drug abuse. In §10, UNDCP is requested to provide technical assistance for alternative development; this assistance must be linked to a clear political will to reduce cultivation of narcotic plants, demonstrated either by preventing or eradicating cultivation. In §11, UNDCP is requested to cooperate with relevant financial institutions and §12 states that the international financial institutions and regional development banks should be encouraged to provide financial assistance for alternative development programmes.

Chapter III deals with “Improved and innovative approaches to alternative development.” Paragraph 18 lists a number of characteristics which alternative development programmes should fulfil: “*Be adapted to the specific legal, social, economic, ecological, cultural conditions.. Contribute to the creation of sustainable social and economic opportunities through integrated rural development, including infrastructure development ... Contribute to the promotion of democratic values to encourage community participation , and promote social responsibility to develop a civic culture that rejects the illicit cultivation of crops; Include... demand reduction measures... Incorporate the gender dimension ... [and] observe environmental sustainability criteria ...*”

Paragraph 19 deals with the importance of participatory approaches and community-based agreements to reduce illicit crops and § 20 highlights the importance of institution-building at the regional and local levels.

Chapter IV focuses on “*Enhancing monitoring, evaluation and information sharing.*” Key here is the establishment of a functioning crop monitoring system. This is made explicit in §23 which stipulates that “*Governments in the producing areas should design efficient and accurate monitoring and veri-*

*fication mechanisms using the most efficient, cost-effective and accessible data collection methods available.*” Similarly, §26 lays down that “*States in which the cultivation and production of illicit drug crops has developed in recent years should prepare estimates of the extent of the problem and exchange this information...*” (§26). In §25, Governments are requested to share information on illicit drug crop assessments with UNDCP and reciprocally with other Governments. Moreover, in §24, Governments are asked to monitor the qualitative and quantitative impact of alternative development programmes.

Chapter V deals with the “*need for law enforcement in controlling illicit crops.*” This Chapter argues for the importance of law enforcement measures to accompany alternative development, and provides guidelines on the appropriate use of eradication.

Paragraph 28 states that States should ensure that alternative development programmes are complemented by law enforcement measures, notably in order to tackle other illicit activities such as the operation of illicit drug laboratories, the diversion of precursors, trafficking, money-laundering and related other forms of organized crime. In addition, the text points out that comprehensive law enforcement programmes can affect the profitability of illicitly cultivated drugs crops and thus make alternative sources of legal income more competitive.

While §7 had made the case for alternative development, i.e. “*In cases of low-income production structures among peasants, alternative development is more sustainable and socially and economically more appropriate than forced eradication.*”; §29 made it clear that “*When there is organized criminal involvement in the illicit drug crop cultivation and drug production, measures such as eradication... and arrest... are particularly appropriate.*”

Another case is addressed in §27. Even when alternative development projects are successful, some growers and processors are not likely to abandon production voluntarily simply because more lucrative opportunities may still exist in the illicit sector. Such growers must see that there is a risk associated with staying in the illicit cultivation of drug crops. Thus §30 of the Action Plan stipulates: “*In areas where viable alternative sources of income already exist, law enforcement measures are required against persistent illicit cultivation of narcotic crops.*” Applying the very same logic for the opposite case, §31 lays down that “*In areas where alternative development programmes have not yet created viable alternative income opportunities, the application of forced eradication might endanger the success of alternative development programmes.*”

The self-evaluations by Member States suggested that there were some improvements in the areas covered by the Action Plan. Over the 1998-2000, period 30% of the countries had

a National Plan that included alternative development to reduce or eliminate the cultivation of illicit crops; this proportion rose to 42% in 2006/07. For National Plans including eradication and other law enforcement measures, the corresponding increase was from 37% to 46%. In terms of international cooperation for alternative development, the rates were still lower and the improvement was only very moderate. The proportion of States reporting international cooperation in the area of alternative development and eradication programs increased from 17% to 21%. Monitoring and evaluation of alternative development and eradication programmes improved from 16% to 22%.<sup>332</sup> The average implementation rate of these reported measures (national plans, international cooperation, monitoring) improved from 22% in 1998-2000 to 29% in 2006-07.

### Action Plan against Illicit Manufacture, Trafficking and Abuse of Amphetamine-type Stimulants and their Precursors

Given the massive increase of ATS manufacture, trafficking and abuse in the 1990s, a special Action Plan was drawn up, and adopted by the 1998 United Nations General Assembly Special Session. This Action Plan against Illicit Manufacture, Trafficking and Abuse of Amphetamine-type Stimulants and their Precursors<sup>333</sup> contained more innovative elements than several others.

The ATS Action Plan consists of five Chapters. The first two Chapters deal with demand related issues, the third with information technology (affecting both the demand and the supply side) and the last two Chapters with supply related issues. The Chapters dealing with the supply-side contained a number of very concrete obligations. The first two Chapters dealing with the demand side, in contrast, were kept rather general.

Chapter I calls on “*Raising the awareness of the problem of amphetamine-type stimulants*” and contains a number of obligations for Member States, UNDCP, the INCB and the WHO to do this. One of the means to increase the priority given to ATS was to make them a regular item on the agenda of the Commission on Narcotic Drugs (§2).

Chapter II focuses on “*Reducing demand for illicit amphetamine-type stimulants*”. The main objective here is to study the problem and use the results for demand reduction campaigns – which is also in line with the procedures adopted by the Guiding Principles of Drug Demand Reduction. International bodies (§9), notably UNDCP and WHO, were asked to (a) collate current information on the health effects of ATS, (b) study the social, economic and cultural driving forces for the demand for ATS, (c) identify, document and disseminate good practices in the prevention and treatment of ATS and (d) coordinate work with NGOs in these areas. Similarly, Member States should (a) continuously monitor changing patterns of abuse, (b) investigate

social, economic, health and cultural dimensions of abuse, (c) give priority to research on the longer-term health effects, and (d) use and disseminate the results (including those of the international bodies) for targeted prevention and treatment efforts and public awareness campaigns.

In Chapter III, all parties are called to “*provide accurate information on amphetamine-type stimulants*.” Two approaches were to be followed simultaneously – reducing the flow of harmful information while strengthening the distribution of ‘positive’ information. The emergence of the internet, where recipes for clandestine manufacture, sources from where to obtain the precursor chemicals, methods for evading existing controls, techniques for abuse, reports glamorizing the consumption of ATS, etc. were all easily available, challenged this. The ATS Action Plan was thus one of the first UN documents to address the emerging problems related to the internet. §12 stipulates: “*Consultations should be initiated at the national, regional and international levels... with representatives of the traditional media and the telecommunication and software industries to promote and encourage self-restraint and to develop frameworks ... for the removal of illegal drug-related information. Frameworks could be developed from industry-managed open-complaint mechanisms such as reporting hotlines ... States should also encourage the development and use of rating and filtering software ...*” In §13 States were asked “*to ensure that their legal frameworks regarding illegal drugs and drug related information apply, as appropriate, to the internet as they do off-line.*” In §16, States were reminded of Article 10, §2 of the 1971 Convention on Psychotropic Substances which prohibits the advertisement of controlled substances and on Article 3 §1 (c) (iii) of the 1988 Convention which prohibits publicly inciting illicit activities related to drugs. At the same time, the international bodies were called to make best use of the internet and to introduce a “*worldwide clearing system ... to disseminate accurate and timely information on various aspects of the problem of amphetamine-type stimulants...*” (§14). Similarly, States should “*.. use modern information technology to disseminate information on adverse health, social and economic consequences of abuse of amphetamine-type stimulants; ...*” (§15).

Chapter IV dealt with a number of measures aimed at “*Limiting the supply of amphetamine-type stimulants*”. Measures to be taken under (§ 18) are geared towards reducing the diversion of precursors. They focus on:

- (a) the establishment, in cooperation with industry, of a “*code of conduct*” governing trade in ATS precursors,
- (b) greater use of “pre-export notifications”,
- (c) improved “*monitoring of non-scheduled substances*” and “*voluntary cooperation*” of industry to identify suspicious transactions,

- (d) establishment of a “special surveillance list”,
- (e) establishment of the “diversion of non-scheduled chemicals with the knowledge that they are to be used in the illicit manufacture” as a criminal offence, and
- (f) improved information exchange, including in investigations of non-scheduled substances.

Paragraph 19 deals with a number of measures targeting the clandestine manufacture of ATS. This includes: (a) the monitoring of clandestine manufacture methods, (b) the development of drug signature analysis and profiling, and (c) the monitoring of sales of laboratory equipment.

Chapter V aims at “*strengthening the control system for amphetamine-type stimulants and their precursors*” (§ 23). Key sub-paragraphs are:

- (a) rapid identification and assessment of new ATS (so that these substances can be brought under control and legal action can be taken against their illegal manufacture and trafficking),
- (b) improvements of the basis for control, notably by increasing the flexibility of the scheduling process: (i) emergency scheduling; (ii) scheduling based on structurally similar group (analogues); and (iii) criminal prosecutions based on similarities in the chemical structure and known or anticipated pharmacological effects,
- (e) improvements in data collection and exchange of information on size of clandestine laboratories detected, manufacturing methods, precursors used, purities, prices, sources of ATS and their precursor and epidemiological information, and
- (h) implementation of the “know your customer” principle in transactions involving ATS and their precursors; if properly implemented, this can be a potentially very powerful tool to prevent the diversion into illegal channels as it will promote stronger cooperation with the authorities while putting some of the control burden onto the chemical and pharmaceutical industry as well. In fact, the introduction of the ‘know your customer’ principle into various areas of international drug control was one of the main innovations emerging from the 1998 UNGASS process.

Self-evaluations by Member States suggest that there was a growing adherence to the measures proposed in the Action Plan against Illicit Manufacture, Trafficking and Abuse of Amphetamine-type Stimulants and their Precursors. The composite index developed on the basis of replies to the BRQ showed an overall improvement in the implementation rate, from 44% over the 1998-2000 period, to 55%

over the 2006-07 period. The composite index was based on a number of sub-indices (“capacity to collect and analyze information”, “policy and strategic responses”, “measures to improve awareness and reduce demand”, “measures to improve technical capacity to detect and monitor the problem of amphetamine-type stimulants” and “international and multisectoral cooperation”) which all showed improvements. At the subregional level, strong efforts to implement the ATS Action Plan were found in the Oceania region (96%), North America (94%), Central and Western Europe (63%) and in East and South-East Asia (62%).<sup>334</sup>

## Control of Precursors

The measures<sup>335</sup> proposed call on Member States to implement the existing obligations under Article 12 of the 1988 Convention (dealing with precursor control) and/or repeat some of the proposals made under the ATS Action Plan (‘know your customer’ principle, ‘codes of conduct’ etc.). Measures going beyond these requirements are only found in a few cases. One of the main issues in this context were new data collection requirements for Governments. According to §9, States, in cooperation with competent international bodies, should : (a) “... *establish... mechanisms... for obtaining data on the licit manufacture, import or export of precursors... and for the monitoring the movement of such substances, including the establishment of a register of public or private companies engaged in any activity relating thereto.*” No such crucial data collection requirements, needed for the identification of potential diversions, existed under the 1988 Convention.

Another case where the proposed measures went beyond the 1988 Convention concerned for stronger controls for international trade in acetic anhydride (used in the manufacture of heroin) and potassium permanganate (used in the manufacture of cocaine) (§7 (a)(i)). Governments were asked to introduce ‘pre-export notifications’ for these substances, which normally was only foreseen for Table I substances. In the meantime, these substances have been rescheduled from Table II into Table I. The stronger control mechanisms now apply to them in any case.

For the rest, the proposed measures were mainly re-formulations of the 1988 Conventions. There were probably good reasons to focus on the implementation of existing set of rules rather than inventing new ones.

Self-evaluations by Member States show that there was a growing compliance with the measures on precursor control, rising from 61% over the 1998-2000 period to 74% over the 2006-07 period. The rather high implementation rates were also a reflection of the fact that the proposed measures did not go much beyond already existing obligations under the 1988 Convention. Nonetheless, they signalled ongoing improvements of precursor control towards international standards (laid down in the 1988 Convention and re-confirmed in the UNGASS process).

The analysis of the results reveals that, overall, States have well-developed legislation relating to the control of precursor chemicals (93%), prior import/export authorizations (94%) and established working procedures for monitoring and identifying suspicious transactions involving precursors (82%). Encouraging advances were made in a number of countries that received technical assistance, as well as in countries that had established procedures to investigate the diversion of chemicals. However, data also suggest that more needs to be done with regard to codes of conduct in cooperation with the chemical industry, making resources available for technical assistance and for international cooperation in seizing illicit consignments of precursor chemicals.<sup>336</sup>

### Measures to Promote Judicial Cooperation

These measures<sup>337</sup> dealt with recommendations to promote “Extradition” (Chapter I), “Mutual legal assistance” (Chapter II), “Transfer of proceedings” (Chapter III), “Other forms of cooperation and training” (Chapter IV), “Controlled delivery” (Chapter V), “Illicit traffic by sea” (Chapter VI) and “Complementary measures” (Chapter VII). The proposed measures were, by and large, already contained in the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, 1988 and were basically geared towards facilitating its implementation. This was done, for instance, by making reference to the availability of new information technology which could be used to speed up into existing information exchange procedures. At the same time, the proposed measures were all formulated as ‘recommendations’, not as obligations.

A few material changes were also adopted, but, in such cases, the text was drafted in an extremely careful and cautious manner. For instance, with regard to extraditions, § 1 recommends that States (a) “If needed... review their domestic legislation to simplify procedures for extradition, consistent with their constitutional principles and the basic concept of their legal systems...”

Subparagraph (b) recommends States to “Inform other States of the competent authority .. designated to receive, respond to and process extradition requests...; .. communicating the name, address and telephone number of the authority ... to the United Nations International Drug Control Programme would be useful.” This was a very practical and useful recommendation to enable authorities from various countries to even consider engaging with each other in extradition procedures. Similarly, the recommendation of subparagraph (e) to use the Model Treaty on Extradition as a resource when negotiating such treaties and the recommendation (f) to “maximize the use of modern technologies for facilitating communications” were practical steps towards improving the implementation of the 1988 Convention. Moreover, a new concept was proposed in subparagraph (d) which recommends that States “Subject to constitutional provisions, inter-

*national drug control treaties and national legislation, consider extraditing their nationals for serious drug offences on agreement that they will be surrendered for prosecution but that they could be returned to serve any sentences imposed in their State of nationality...*” This is basically geared towards countries which, for various domestic reasons, are unable or unwilling to extradite their nationals.

Very practical considerations were also at the heart of the measures proposed under ‘mutual legal assistance.’ §2 recommends *inter alia*, that States (d) “Develop model forms for requests for mutual legal assistance”; and (e) “Utilize, where appropriate, the Model Treaty on Mutual Assistance in Criminal Matters as a resource when negotiating such treaties.” Like for extraditions, it is also recommended for ‘mutual legal assistance’ that States (f) “Maximize the use of modern communication technologies, such as the Internet and facsimile machines...” and (g) “Consider the use of telephone and video-link technology for obtaining witness statements and testimony...”

Most of the recommendations for the ‘transfer of proceedings’, ‘other forms of cooperation’, ‘controlled delivery’, and ‘illicit traffic by sea’, in contrast, did not bring many new elements as compared to the already existing set of rules at the international level under the 1988 Convention. A few new and potentially important ideas are, however, found under ‘complementary measures’ to enhance the implementation of the 1988 Convention. In §7 it is recommended that States consider “(a) *The protection of judges, prosecutors and other members of surveillance and law enforcement agencies, as well as witnesses, whenever the circumstances so warrant, in cases that involve illicit drug trafficking;... (b) New investigative techniques; ... The harmonization and simplification of procedures to increase international cooperation...*”

Self-evaluations by Member States show that there was a growing compliance with the measures to promote judicial cooperation, rising from 63% (2000-2002) to 68% (2006-07). The high implementation rates are again a reflection that most of the measures had been already foreseen by the 1988 Convention. The achievement of the UNGASS process was thus to give a new impetus to the implementation of already existing international obligations.

In the case of extraditions, the composite index showed an improvement from 75% to 77%. Overall, 90% of the countries reported that they had legislation on extradition procedures. The percentage of Member States not allowing the extradition of their nationals remained, however, high: 58% of the countries indicated that national law either precluded or seriously limited the extradition of nationals.

Measures taken to comply with mutual legal assistance, requirements improved from 69% to 79%. In terms of legislation permitting mutual legal assistance the improvement was even more pronounced (from 77% to 90%). The imple-

mentation rate for proposed measures to facilitate the transfer of proceedings was far lower, though rising as well (from 28% to 36%). Regarding law enforcement cooperation, the implementation rate improved from 73% to 79%. Measures taken in the area of controlled deliveries increased from 71% to 83%, suggesting that the use of this instrument has, by now, become common practice in many countries. The implementation of measures in the area of drug trafficking by sea improved from 37% to 52%. Similarly, the implementation of the newly recommended measures to protect judges, prosecutors, surveillance personnel, law enforcement officers and witnesses, improved from 63% to 79%.<sup>338</sup>

## Countering Money Laundering

Like the other Action Plans, the measures proposed to counter money laundering<sup>339</sup> are primarily geared towards facilitating implementation of the 1988 Convention. The measures start with a ten-point preamble, of which the first three paragraphs seem to be of special importance.

The first paragraph sets out the problem and underlines its potential seriousness, thus justifying the need for decisive countermeasures by the international community: *“Recognizing that the problem of laundering of money derived from illicit trafficking in narcotic drugs and psychotropic substances... has expanded internationally to become such a global threat to the integrity, reliability and stability of financial and trade systems and even government structures as to require countermeasures by the international community as a whole in order to deny safe havens to criminals their illicit proceeds.”*

The second paragraph recalls the provisions in the 1988 Convention *“according to which all parties to the Convention are required to establish money-laundering as a punishable offence and to adopt the measures necessary to enable the authorities to identify, trace and freeze or seize the proceeds of illicit drug trafficking.”* Reference is thus made to Article 3 §1 (b) (i) of the 1988 Convention, which asks Parties to establish as a criminal offence the conversion or transfer of property, knowing that such property is derived from drug related offences. But it goes beyond mere money laundering as such and also deals with the confiscation of the proceeds from illicit drug trafficking, covered under Article 5 of the 1988 Convention.

The main step ahead, however, has been the third paragraph in the preamble. In this paragraph, the 40 recommendations established by the Financial Action Task Force (FATF) were, *de-facto*, established as the standard which countries should follow in their anti-money laundering activities. This was potentially problematic as most UN Member States had not participated in the elaboration of these FATF recommendations. They were thus – following hefty discussions - entered from the backdoor, by making reference to a previous CND resolution which had already labelled these recommendations as international standards: *“Recalling also Commission*

*on Narcotic Drugs resolution 5 (XXXIX) of 24 April 1996, in which the Commission noted that the forty recommendations of the Financial Action Task Force established by the heads of State or Government of the seven major industrialized countries and the President of the European Commission remained the standard by which the measures against money laundering adopted by concerned States should be judged ...”* The subsequent paragraphs then name a number of other activities undertaken at the regional and international levels to fight money laundering and stress the need to harmonize legislations and intensify international cooperation to effectively prevent money laundering.

The first operative paragraph condemned, in the name of the United Nations General Assembly, the laundering of money derived from illicit drug trafficking and other serious crime and the use of the financial systems of States for that purpose.

The key measures to fight drug trafficking are then contained in operative paragraph 2. Following a call to implement the anti-money laundering provision contained in the 1988 Convention, the following ‘principles’ were then established in §2 (a): *“Establishment of a legislative framework to criminalize the laundering of money derived from serious crime in order to provide for the prevention, detection, investigation and prosecution of the crime of money laundering... ”*

Paragraph 2 then goes on to identify the main elements of an effective anti-money laundering regime:

- “(i) Identification, freezing, seizure and confiscation of the proceeds of crime,*
- (ii) International cooperation; and mutual legal assistance in cases involving money-laundering,*
- (iii) Inclusion of the crime of money-laundering in mutual legal assistance agreement for the purpose of ensuring judicial assistance in investigations, court cases or judicial proceedings relating to that crime.*

In §2 (b) States are obliged to *“establish an effective financial and regulatory regime to deny criminals and their illicit funds access to national and international financial system, thus preserving the integrity of financial systems worldwide and ensuring compliance with laws and regulation against money laundering through:*

- “(i) Customer identification and verification requirements applying the principle of “know your customer” in order to have available for competent authorities the necessary information on the identity of clients and the financial movements that they carry out; (ii) Financial record keeping; (iii) Mandatory reporting of suspicious activity; (iv) Removal of bank-secrecy impediments to efforts directed at preventing, investigating and punishing money laundering; (v) Other relevant measures.”*

According to §2 (c) States are also compelled to implement a number of law enforcement measures to provide for: “(i) *Effective detection, investigation, prosecution and conviction of criminals engaging in money laundering*; (ii) *Extradition procedures*; (iii) *Information sharing mechanisms*”

Paragraph 3 calls on UNDCP and its anti-money laundering programme to continue cooperating with other regional and international organizations and provide training, advice and technical assistance to enable governments to implement the principles set out in §2.

The self-evaluations by Member States revealed that there was a growing compliance with the measures foreseen to fight money laundering at the global level. The implementation of the obligation to criminalize the laundering of the proceeds of drug trafficking and other serious crime improved from 72% of reporting countries over the 1998-2000 period to 92% over 2006-07. In terms of legislation of freezing, seizure and confiscation of the proceeds of crime, implementation rose from 71% to 89%. Regarding the requirement to have money-laundering as an extraditable offence, the implementation rate increased from 65% to 77%. The obligation for States to require a declaration for cross-border transportation of cash even rose from 49% to 83%, and for negotiable bearer instruments from 31% to 62%. Moreover the implementation of measures foreseen to prevent and detect money laundering in the financial system improved from 55% to 82%.<sup>340</sup> Taking all of these components together, data suggest that the overall implementation rate of the measures foreseen to counter money laundering improved from 61% in 1998-2000 to 83% in 2006-07.

## Drug Trends over a Century of Drug Control

The long term relevance of the international drug control system, as traced in the sections above, is undeniable, but can the same be said about its efficacy? In 2009, the achievements of the decisions and instruments adopted at the 1998 UNGASS will be reviewed. These assessments have not been concluded and their results are not part of this historical overview. However, it is not inappropriate to end this review of the development of the international drug control system with the same look back that we engaged in at the beginning, concentrating this time on what was happening to drug production and consumption during the 100 years which have just been reviewed.

While tempting to claim, a review of trends *cannot* provide the international community with a completely reliable gauge of policy efficacy. The analysis of national and local programmes was, after all, beyond the purview of this review so causes of increases or decreases in markets cannot be directly attributed to local, national, regional or international efforts. Also, trend analysis for such a long period is difficult due to the absence of a consistently robust time series – especially for the non-opiates: cannabis, coca/cocaine and the amphetamine-type stimulants (ATS). For the opiates market, superimposing the trend data that is available on the history reviewed does yield some encouraging observations, as the dips and dives of the global opiates market do track the commitment to international control agreements during most of the 20<sup>th</sup> century.<sup>ak</sup>

ak In fact, all available data show that production and consumption of opiates is far lower than it was a century ago. Available data also suggest that the prevalence rates for opiates, cocaine and ATS, taken together, are lower than a century ago (by some 40%) as the massive declines in opiate use in Asia offset the global increases encountered for ATS and cocaine use. The prevalence of problematic drug use among the world's total population is thus – most likely

### Cannabis

Data constraints on long term time series are significant for the cannabis market. Reliable quantitative data on the global extent of cannabis production and consumption at the turn of the 20<sup>th</sup> century does not exist. Piecing together the limited information that does exist suggests that global production and consumption of cannabis was lower a century ago. This seems contradictory given its early pervasiveness. However, while cannabis was widespread geographically, its use was restricted to relatively small segments of societies in areas outside the Middle East. Significant reports of cannabis related problems are a late 20<sup>th</sup> century phenomenon, with increases in use quite significant after 1960 – paradoxically just when international commitment was gaining strength. This apparent contradiction is not too difficult to work out given the ambivalence about cannabis that has arisen during this fifty year period.<sup>al</sup>

Globally, and through the 20<sup>th</sup> century, cannabis has not received the health and law enforcement resources/attention given to the other drugs. Outside of North America, Europe and the countries of Egypt, Lebanon and Morocco, few countries have tackled the cultivation of cannabis with resource intensive programmes. This apparent ambivalence in the late 20<sup>th</sup> century seems to be resultant from resource

– lower than a century ago. Once cannabis is included, the picture becomes less clear. There are indications that the prevalence of the use of cannabis – the most widely consumed drug - is more widespread today than it was 100 years ago. In sum, although overall drug use may exceed the levels of a century ago, drug addiction or problematic drug use is – most likely – lower than it was 100 years ago.

al In 2006/07, cannabis use at the global level affected 4% of the population age 15-64. While this is lower than tobacco (25-30%) or alcohol use (more than 50%), it is probably far higher than it was at the turn of the 20<sup>th</sup> century.

constraints at the level of national governments – and the necessary prioritisation that entails. This prioritisation is typically based on an evaluation of health risks/costs, mortality and morbidity, and of the risk of violent and acquisitive crime. Cannabis rates are lower on such scales compared to drugs like heroin or cocaine. Although some countries have seen the *de-facto* de-criminalization of cannabis (i.e. reclassifying the drug, changing possession offenses from criminal to administrative...), there has thus far been no attempt via the Commission on Narcotic Drugs to change the way that cannabis is treated within the Conventions.

### Amphetamine-type stimulants

ATS use also is far more common than it was a century ago. Most of the psychotropic substances available today had not even been invented a century ago. Some of the most common, MDA and MDMA, which rose in prevalence only at the end of the 20<sup>th</sup> century, were discovered in 1910 and 1913 respectively. Methcathinone was first patented in Germany in 1928. LSD, prevalent through the 1960's and the 1970's was first synthesized in 1938. Amphetamine and methamphetamine were synthesized earlier (1887 and 1888, respectively), but were not actively marketed before the 1930s.<sup>341</sup>

The historical review which proceeded this section documented the response of the international community to the perceived increase in synthetic drug use in the 1960s. The drug control system proved to be responsive and elaborated and adopted the 1971 Convention on Psychotropic Substances. The main objective of this convention was to prevent the diversion of legally manufactured psychotropic substances. In fact, it proved successful in achieving these objectives for legally produced Schedule I and Schedule II substances, including amphetamine and methamphetamine. Moreover, prescribing practices by medical doctors have improved over the last three decades. This also applies to many Schedule III and Schedule IV substances, including a number of barbiturates and benzodiazepines. The 1971 Convention was not successful, however, in preventing the emergence of clandestine laboratories.

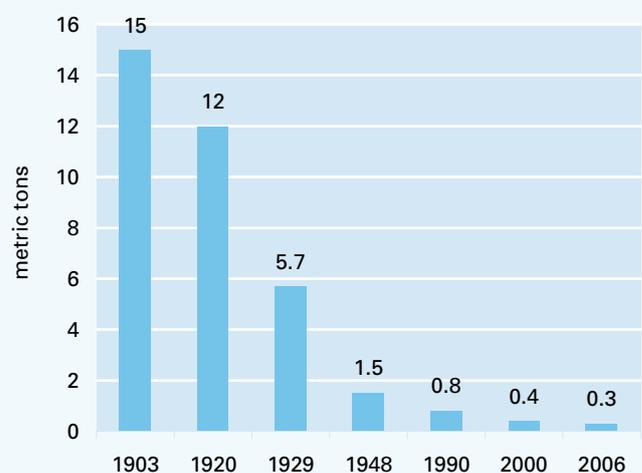
The international community demonstrated some degree of responsiveness to clandestine ATS manufacture. The 1988 United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances included the first normative basis for an international precursor control regime. However, it can probably be argued that responsiveness in this case was not as immediate as was necessary. Since the 1980s the illicit manufacture and traffic in ATS (notably methamphetamine, amphetamine and ecstasy) has increased. The detection of illicit laboratories and precursor chemicals in most countries was a new and complex inter-agency undertaking and it took some added impetus (provided by the Political Declaration (1998), the related ATS Action Plan and the 'Control of Precursor' measures) before

a comprehensive system of precursor monitoring and control could be implemented. Since the beginning of the 21<sup>st</sup> century, international cooperation in the area of precursor control has improved dramatically and a stabilisation seems to have occurred in the global ATS markets.

### Coca / Cocaine

Policy and market correlates for coca/cocaine seem to be observable for coca/cocaine. Data for licit coca production and use shows a correlation between the acceleration of international control efforts and the decline in the licit production and use of coca/cocaine. Global legal cocaine manufacture in 1903 was 15 metric tons (two thirds of which were consumed in the USA).<sup>342</sup> By 2006, legal manufacture of cocaine fell 98% to just 0.3 metric tons.<sup>343</sup> It appears that evaluation and communication facilitated by the developing international drug control system contributed to a greater awareness of cocaine-associated health risks. This awareness, combined with the development of alternative medicines, seems to have led to a reduction in licit cocaine use and production. Data show that most of this reduction took place during the League of Nations period, and continued after World War II under the United Nations.

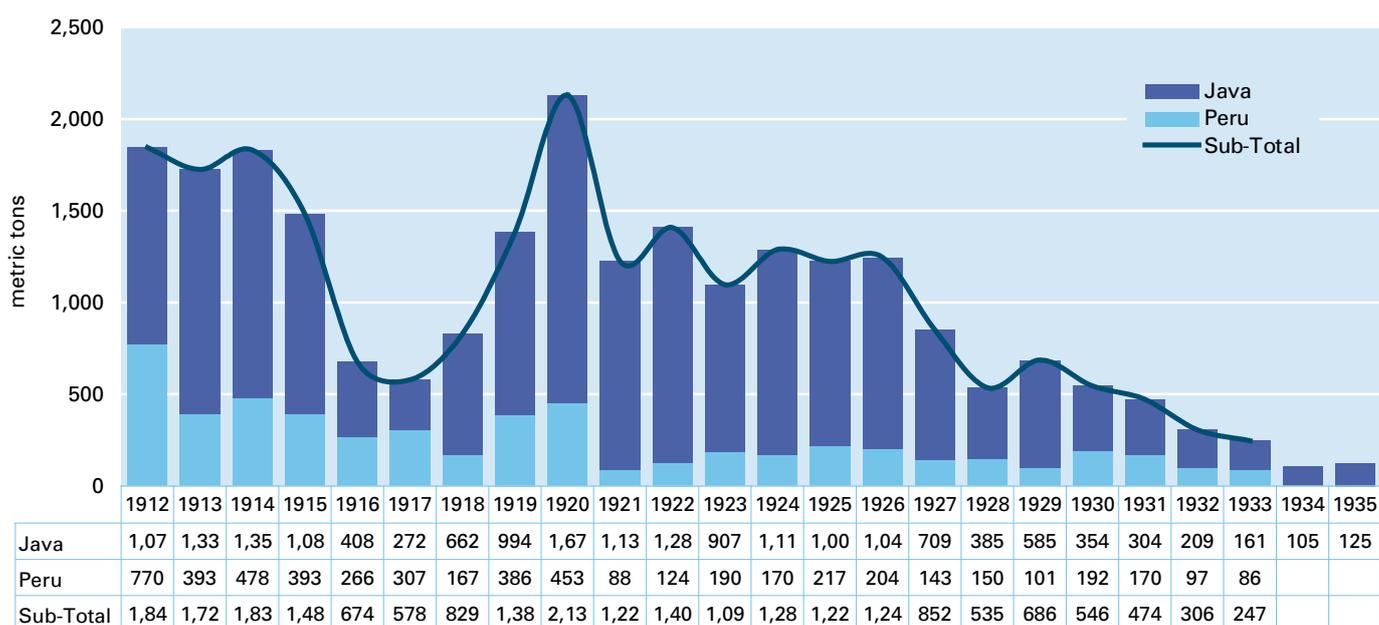
Legal cocaine production, 1903-2006



Sources: Paul Gootenberg, "Cocaine in Chains: The Rise and Demise of a Global Commodity, 1860-1950", in Steven Topik, Carlos Marichal & Zephyr Frank, *From Silver to Cocaine*, Durham and London 2007, pp. 321-351, United Nations, "Legal Trade in Narcotics 1949", *Bulletin on Narcotics*, 1951, Issue 2, United Nations, "Legal Trade in Narcotics 1950", *Bulletin on Narcotics*, 1952, Issue 2, United Nations, "Legal Trade in Narcotics 1952", International Narcotics Control Board, *2007 Narcotic Drugs*, New York 2008, p. 99 and p. 212.

The decline of coca leaf production during the League of Nations was an almost universal phenomenon. Coca leaf production in Bolivia fell by 79% between 1921 and 1933. Coca leaf production in the Netherlands East Indies (mainly Java) fell by 80% between 1929 and 1938. Overall Asian coca leaf production (including production reported by

## Licit coca leaf exports of the two main coca leaf exporting countries in the early 20th century



Source: David F. Musto, "International Traffic in Coca through the Early Twentieth Century", in *Drug and Alcohol Dependence*, Vol. 59, 1998, Table 5 and Table 6.

Japan) declined by 63% between 1929 and 1938. Although no official coca leaf production data was reported by Peru to the League of Nations, it is highly likely that there was a significant downturn of production between 1920 and 1938.<sup>344</sup> The strong decline of the licit coca sector in the inter-war period was also observable through data on coca leaf exports from Java and Peru. These exports declined 88% between 1920 and 1933. Between 1920 and 2006 global coca leaf exports had fallen 98% to 47 tons (all of which were exported from Peru to the USA).<sup>345</sup> After World War II, Taiwan and Japan ceased to produce coca. Indonesia continued producing coca leaf until the mid 1960s, with production falling from 141 tons in 1940 to 3 tons in 1966, before disappearing altogether thereafter.

Trends were more diverse after World War II. Following a massive decline of Bolivia's licit coca leaf production between 1921 and 1933 (-79%) production recovered from around 1,000 tons in 1933 and expanded to 7,000 tons by 1975, before expanding to 25,200 tons in 1980 - overtaking Peru as the world's largest licit coca leaf producer. The last report on licit production made by Bolivia to the INCB was in 1986, when production stood at 15,800 tons.<sup>346</sup> With the exception of Bolivia's boom period (1977-86), Peru has been the largest licit coca leaf producer over the course of the 20<sup>th</sup> century. Its licit production increased slightly from 8,200 tons in 1950 to 10,200 tons in 1957 before falling to 5,800 tons by 1983 and to 3,200 tons per year over the next two decades. Global licit coca leaf production never reached the high levels of the 1920s in subsequent decades.

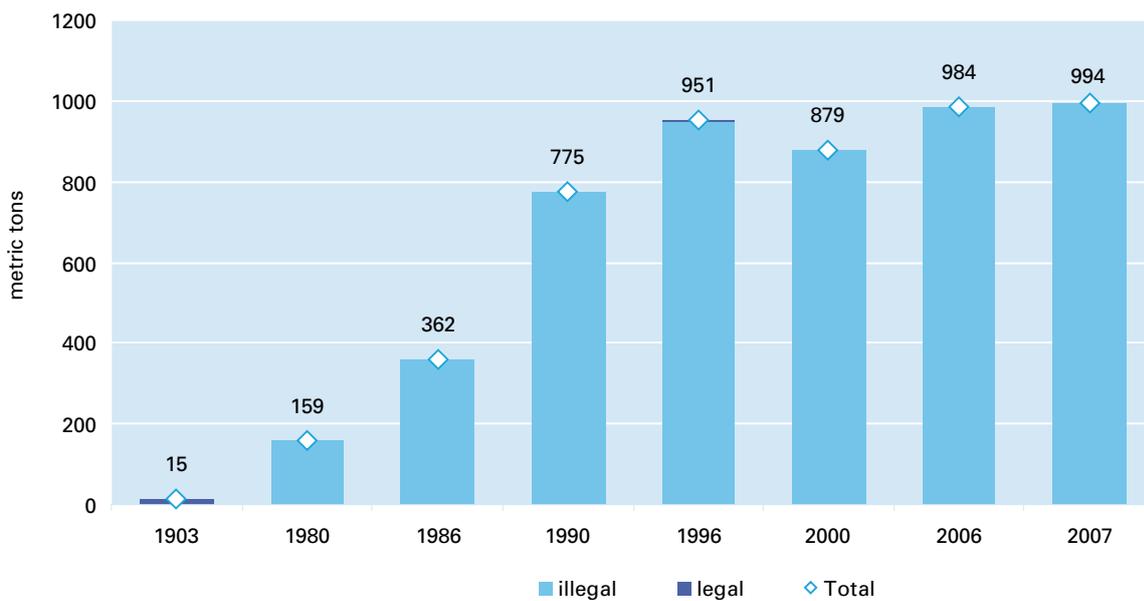
The coca/cocaine boom in the last quarter of the 20<sup>th</sup> century was exclusively in illicit production. Peru and Bolivia

both saw large increases in illicit production throughout the 1980s. Colombia's coca leaf production only increased strongly in the 1990s, partly as a result of operational law enforcement successes in controlling Peru's and Bolivia's illicit production.

Driven by the massive growth of the illicit sector, global coca leaf production, licit and illicit together, increased to a peak of 358,700 tons in 1996. Thereafter, combined licit and illicit production declined again to 298,200 tons in 2007 (-17%). Coca leaf production of both Peru and Bolivia declined between 1996 and 2000 (from 174,700 tons to 46,200 tons in Peru and from 75,100 tons to 13,400 tons in Bolivia) before increasing again in the new millennium, reaching 154,000 tons in Peru and 36,400 tons in Bolivia in 2007. Despite recent increases, coca leaf production in 2007 remained significantly lower in both Bolivia and Peru as compared to a decade earlier. The opposite trend occurred in Colombia. Coca leaf production increased from 108,900 tons in 1996 to 266,200 tons in 2000 before falling to 154,000 tons in 2007.<sup>347</sup>

As a result of a growing demand for cocaine in North America, Europe and South-America and massive increases in coca leaf production in the 1980s, illegal cocaine manufacture rose dramatically over the subsequent two decades. Illicit manufacture of cocaine increased from practically zero in 1900 to around 950 tons in 1996 and more or less remained at that level until 2007 (994 tons). Taking licit and illicit cocaine manufacture together, there has been a dramatic increase over the course of the century, from 15 tons combined in 1903 to 994 tons of illicit production in 2007 and 0.3 tons of licit production.

Global cocaine manufacture – legal and illegal, 1903-2007



Sources: Paul Gootenberg, “Cocaine in Chains: The Rise and Demise of a Global Commodity, 1860-1950”, in Steven Topik, Carlos Marichal & Zephyr Frank, *From Silver to Cocaine*, Durham and London 2007, pp. 321-351, UNODC, DELTA and UNODC, *2008 World Drug Report*, Vienna 2008.

Given the data discussed above, it seems that the commitments made via the international drug control system at the beginning of the 20<sup>th</sup> century could not be translated into operational efficacy in the control of cocaine production. There are, however, some caveats to this general observation. Prior to the introduction of controls, the growth in coca exports from Peru, then the main supplier for coca leaf for the production of cocaine, amounted to 43.4% per year over the 1890-1905 period. Similarly, growth of coca leaf exports from Java, then the world’s second largest coca producing territory (and for a number of years during the inter-war period the world’s largest coca exporting territory), amounted to 48.3% per year over the 1904-1914 period.<sup>348</sup> By comparison, the average annual growth in global cocaine manufacture (licit and illicit) over the 1903-2007 period amounted to 4.1%. This is significantly less than the growth rates observed in the licit sector, prior to the beginning of a global drug control system. On this basis, one could argue that the controls, introduced at the international level, may have had some sort of impact on the dramatic growth rates of the coca markets in the outgoing 19<sup>th</sup> and beginning of the 20<sup>th</sup> century. The geographical spread of coca production contracted dramatically subsequent to the inception of the international drug control system. Large-scale coca production in Java and Taiwan was halted after World War II, as were the earlier experiments with coca cultivation in Ceylon (Sri Lanka) and Eastern Africa.

Opiates

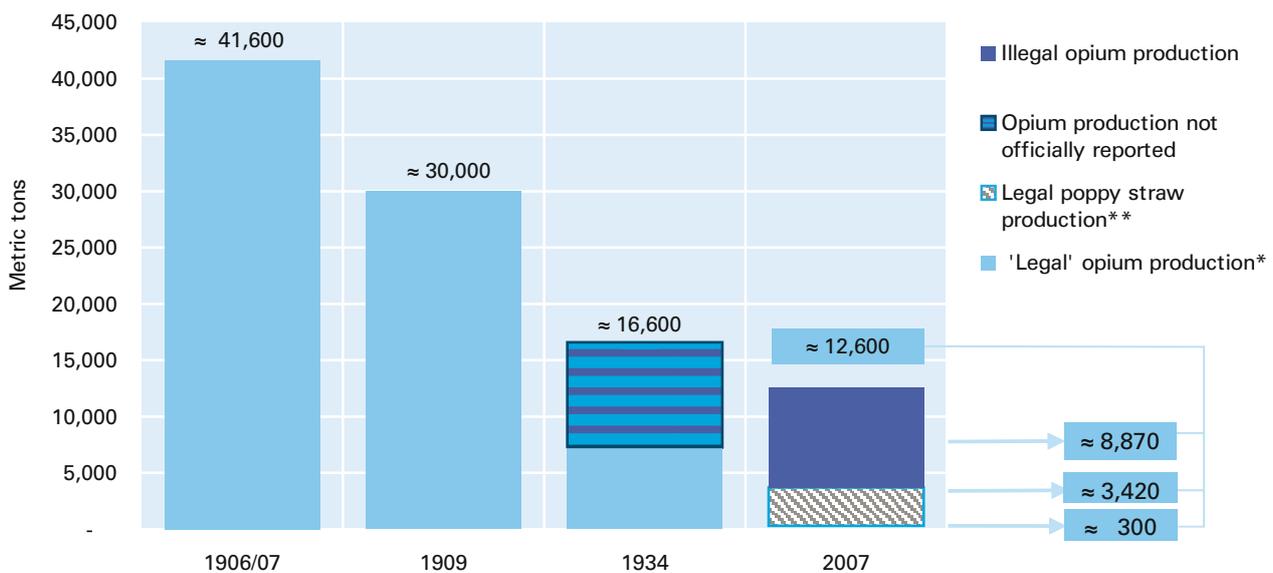
The global impact of control measures has been far stronger when opiates are considered. It appears that the system did succeed in the long term contraction of the opiates market – the central goal of its establishment.

Between 1906/07 and 2007 global licit opium production fell by 99%. Taken together over the same period, global licit and illicit opium production declined by 78%. This may not be directly comparable as, currently, most licit morphine is produced out of poppy straw rather than opium. When the production of poppy straw used for the manufacture of morphine is transformed into potential opium equivalents and added to the total, the overall decline, amounting to 70%, is still significant. This is impressive, notably if it is taken into account that, over the same period, the global population quadrupled from 1.7 bn to 6.7 bn.

Global opium production had declined 28% during the 1906 – 1909 preparation phase of the Shanghai Conference. The downward trend continued until the end of the Qing dynasty in China in 1911/12. Thereafter, opium production ‘recovered’ as local warlords in China used opium income to maintain and strengthen their power-base. By the 1920s opium had become the mainstay of the warlords who struggled with each other to control China<sup>349</sup>. The nationalist government under Chiang Kai-shek, may have embraced the warlords of Sichuan and Yunnan and, when taking over Shanghai in 1927, joined forces with some secret society groups known as the ‘Green Gang’ and the ‘Red Gang’ who controlled the opium business.<sup>350</sup>

From the mid 1930s onwards, the nationalist government, having gained a stronger grip on the country, changed its attitude toward opium and embarked on serious efforts (“Six-year opium suppression plan”, 1935-1940) to curtail opium production and consumption in China. Production estimates supplied by China to the Central Permanent

## Global licit and illicit opium production, 1906/07 – 2007



\* Legal status of opium before 1912 must be differentiated from opium after 1964 (when the Single Convention came into force)  
 \*\* converted into opium equivalents

Sources: International Opium Commission, Shanghai, INCB, UNODC.

Opium Board and to the Opium Section of the League of Nations reflect this change in attitude.

While the opium production figures which were officially reported to the international drug control bodies amounted to just 7,200 tons in 1934,<sup>351</sup> there was another 1934 estimate, also often cited, which, at 16,600 tons, was more than double the official estimates.<sup>352</sup> Taking the higher level (unofficial) estimate, global opium production would have declined by 45% as compared to 1909, and by 60% since the peak production in 1906/07. This reduction cannot have been coincidental to the intensive diplomatic efforts which were occurring during these three decades.

Officially reported global legal opium production fell from 7,200 tons in 1934 to 2,300 tons in 1937. During these four years, the proportion of Chinese production in global opium production declined from 82% to 39%. Other opium producers included Persia, India, Turkey, the Soviet Union and Yugoslavia, followed, at lower levels, by Korea, Japan, Indochina (i.e. Laos and Vietnam), Bulgaria, Thailand, Greece, Hungary, Chile and Formosa (Taiwan).

Global production data for the period from 1937-1949 are potentially misleading. China ceased to report production estimates to the international drug control bodies as of 1938, though there is evidence that substantial amounts of opium continued to be produced and consumed in China until 1949. Consumption and possibly production may have even gained in importance during World War II, with the regime installed by the occupying power using the opium income to finance some of the war efforts. It is known that the persons in command of the country during that period were later convicted as war criminals, *inter alia*

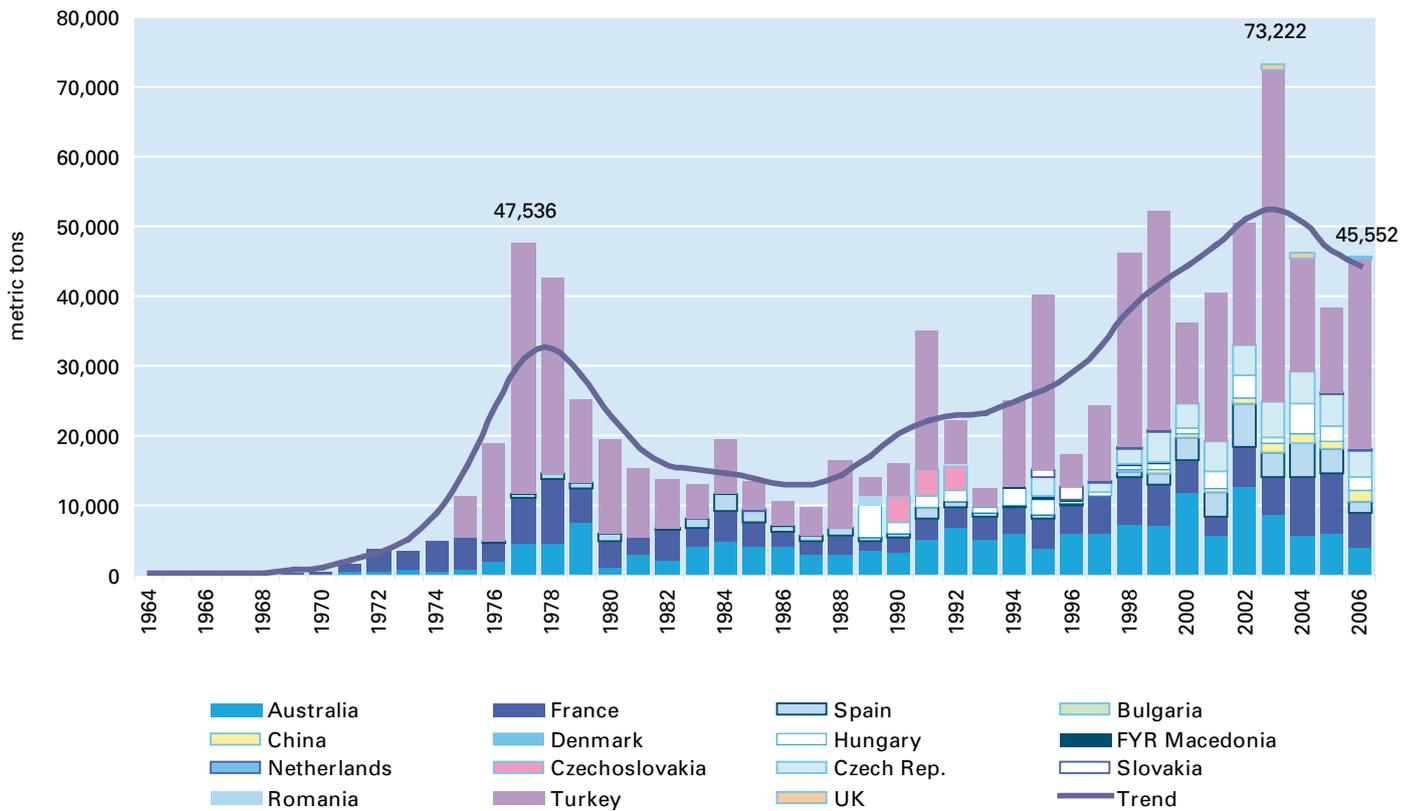
for having supplied opium and other opiates to the Chinese people in defiance of the international drug control treaties. Between 1949, when the Communist Government of Mao Tse-Tung came to power, and 1952, opium cultivation was completely eliminated by the authorities.<sup>353</sup>

India re-emerged as the world's largest licit opium producing country during this period. But production levels declined. While India produced 6000-7000 tons of opium around 1880, average production over the 1946-2006 period amounted to some 700 tons, falling to around 300 tons by 2006/07. Some diversion has taken place over the next few decades – but they did not really affect the international drug markets. Controls clearly improved and diversions are now the exception and not the rule.

Problems related to diversion were encountered, however, in Persia and Turkey until the end of the 1970's. Persia stopped its production after 1955, resumed it again in 1969 before ending it completely following the revolution in 1979. Turkey stopped its opium production in 1972 and, in 1974, began to manufacture morphine out of poppy straw.<sup>354</sup> Turkey became the largest producer of morphine from poppy straw and, due to its finely tuned regulatory system, experiences no diversion. Presently, the licit opium producing countries are India (345 tons in 2006), China (8.6 tons in 2006), the Democratic People's Republic of Korea (455 kilograms in 2006) and Japan (2 kg in 2006).<sup>355</sup>

In contrast to a declining trend of global licit opium production, licit production of poppy straw for the manufacture of morphine saw an increase over the last four decades. The overall shift towards the manufacture of morphine out of poppy straw reduced the likelihood of diversions of opium

Reported harvest of licit poppy straw used for the manufacture of morphine, 1964-2006



Source: INCB, *2007 Narcotic Drugs*, New York 2008 and official data published by the INCB, collected by Francois Xavier Dudouet for unpublished PhD Dissertation “Le contrôle international des drogues, 1921-1999”, Université Paris X Nanterre, 2002.

production into the illicit markets and, because of this, has been encouraged by the international community. Production of morphine out of poppy straw, expressed in opium equivalents, was equivalent 3,420 tons in 2006. This is about ten times the licit production of opium in 2006 (354 tons), and far lower than opium production in 1934 or at the beginning of the 20th century. The largest producers of poppy straw (for the manufacture of morphine) over the 1996-2006 period were Turkey (48%), followed by Australia (17%), France (13%), Czech Republic (9%), Spain (6%), Hungary (4%) and China (2%).<sup>356</sup>

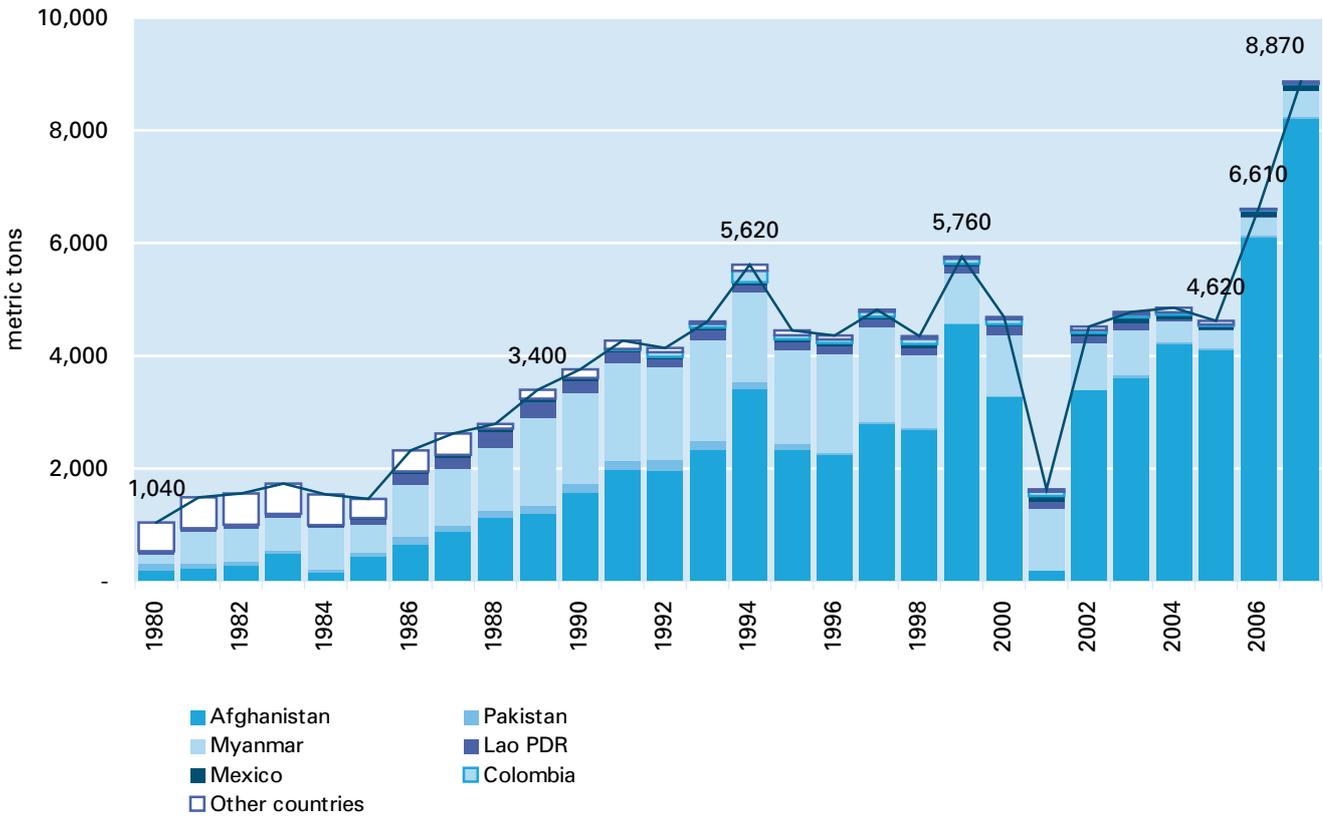
Smaller amounts of poppy straw are also produced for the manufacture of thebaine, another opiate which is converted into a number of other key opioids, including buprenorphine, oxycodone, naltrexone, naloxone, nalbuphine, oxymorphone, etorphine etc. Global harvest of poppy straw for the manufacture of thebaine was about one tenth of the global harvest of poppy straw for the manufacture of morphine (45,552 tons in 2006). The bulk of the thebaine rich poppy straw is produced in Australia (76% in 2006). Other countries of importance here are France, Spain, China and Hungary.<sup>357</sup>

The overall progress made in reducing supply of opium over the last century was primarily due to improved controls on

licit opiates. Declines in legal opium production were, however, partially offset by growing illicit opium production, notably from the mid 1980s to the mid 1990s and again over the 2005-2007 period. Overall illicit opium production rose from around 1,040 tons in 1980 to 8,870 tons in 2007 before falling slightly in 2008 to between 8,300 and 8,400 tons according to preliminary estimates. The importance of the illicit sector increased from basically negligible levels at the beginning of the 20th century to about 70% of global production (including licit, licit poppy straw and illicit opium production) in 2007.

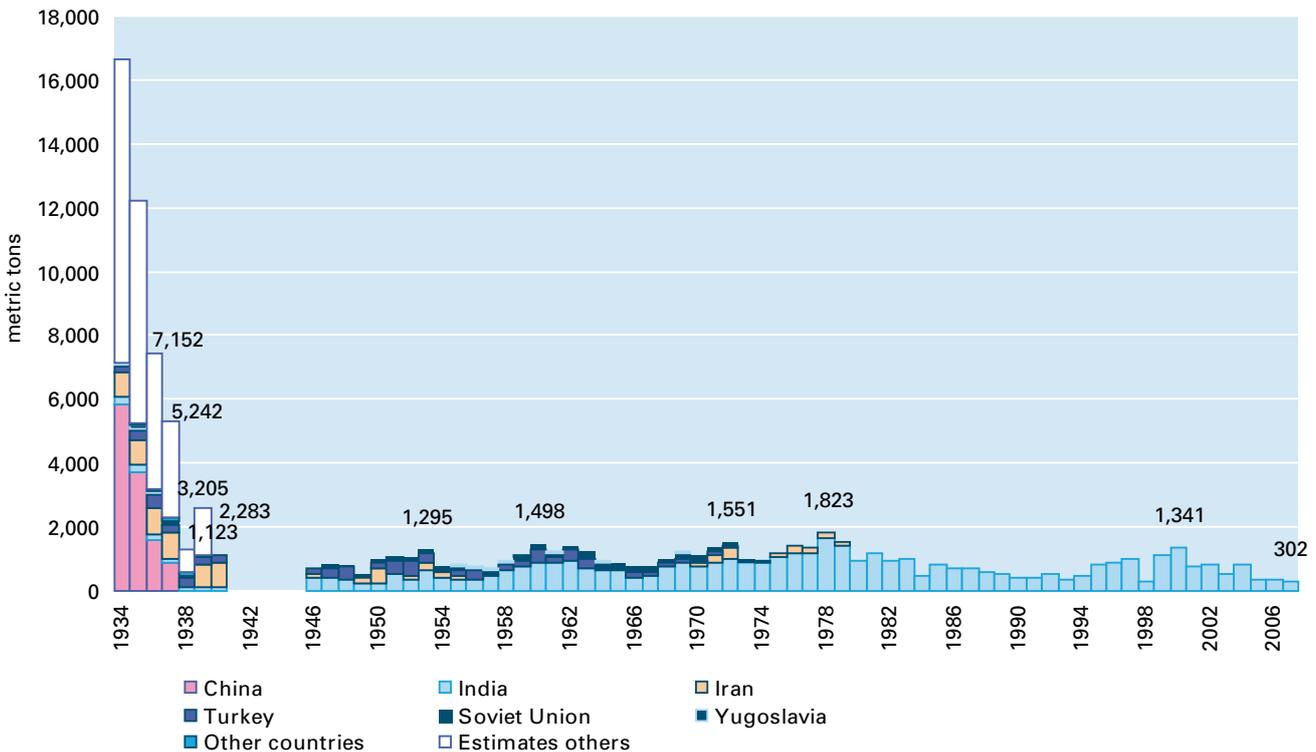
The bulk of illicit production - more than 90% - is now concentrated in Afghanistan. Production of Afghanistan at its peak level of 8,200 tons in 2007 was less than a quarter of the peak production of opium in China in 1906/07 (35,400 tons). Excluding Afghanistan, global illicit opium production would have declined by 70% between 1990 and 2007, mainly due to the strong decline of opium production in the Golden Triangle during this period (Myanmar, Laos and Thailand).

Global illicit production of opium, 1980-2007



Sources: UNODC, *International Crop Monitoring Programme (ICMP) data*, UNODC, DELTA.

Reported licit opium production, 1934-2007



Sources: INCB, *2007 Narcotic Drugs*, New York 2008 and official data published by the League of Nations, the Permanent Central Opium Board and the International Narcotics Control Board, collected by Francois Xavier Dudouet for unpublished PhD Dissertation "Le contrôle international des drogues, 1921-1999", Université Paris X Nanterre, 2002



## Achievements and unintended Consequences of the International Drug Control System

Despite many twists and turns, the history of international drug control elaborated above tells a relatively simple story. At the turn of the century, the world faced unregulated transnational markets in highly addictive substances. Free trade in drugs resulted in the greatest drug problem the world has ever confronted: the Chinese opium epidemic. Unilateral efforts to address this problem failed, and it was not until international pressure brought the drug producing nations to the negotiating table that a solution was found. By mid century, the licit trade in narcotics had been brought under control, a remarkable achievement given that many national economies had been as dependent on opium as the addicts themselves. Illicit markets were an unintended consequence of international controls, and these have proven extremely problematic.

Today, there is a higher level of international consensus in this field than ever before. The pace of normative development that the international community experienced between 1961 and 1988 could not have been so rapid otherwise. Adherence to the conventions is now virtually universal. One hundred and eighty-three countries, or 95% of all United Nations member states are parties to the three international drug control conventions.

Among multilateral systems, the one regulating illicit drugs has a powerful characteristic: when a State Party ratifies one of the three Conventions, it is obliged to bring its national laws in line with international law. Of course, the drug problems that confront the world are diverse, and standardised laws may not be optimal for addressing the individual needs of each country. But uniformity is absolutely essential to protect the multilateral system from its biggest vulnera-

bility: a unilateral action by a single State Party can compromise the integrity of the entire system.

### Changes in drug use over the last century

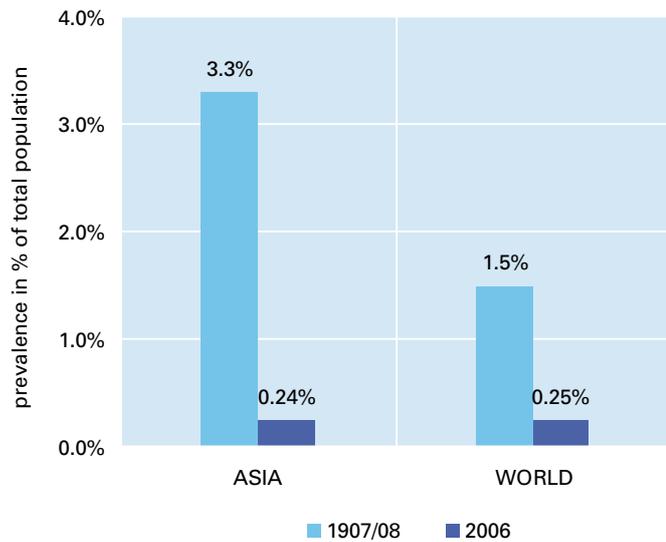
There is no way to tell what the world would have been like in the absence of this control system, if issues like the Chinese opium problem had been left to progress unaddressed. If opiate use prevalence had remained the same as in the early years of the 20<sup>th</sup> century, the world could have some 90 million opiate users, rather than the 17 million it must care for today.

The prevalence rate of opiate use declined in Asia from 3.3% of the population in 1906/07 to 0.24% in 2006/07. At the global level, the decline was from 1.5% in 2006/07 to 0.25% a century later.

Adding estimates for the use of cocaine and amphetamine-type stimulants, the combined prevalence rate for opiates, cocaine and ATS use fell from levels between 1.5% and 1.6% in 1906/07 to less than 1.0%<sup>am</sup> in 2006/07. This shows that the massive decline in the global prevalence rate of opiate use from 1.5% to 0.25% more than offset the increases in cocaine and ATS use over the last century, which rose from less than 0.1% of the global population to 0.37% for amphetamines, 0.24% for cocaine and 0.14% for ecstasy in 2006/07 (always expressed as a proportion of the total population). The best estimates suggest that the net decline in the combined prevalence rate for opiates, cocaine and ATS was some 40% over the last century.

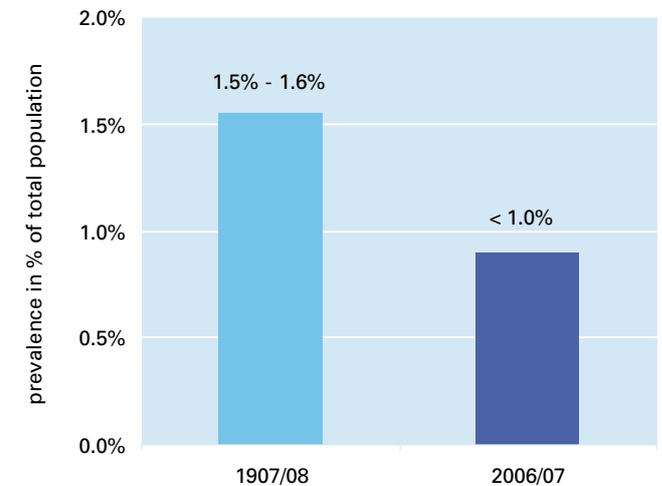
<sup>am</sup> The actual prevalence rate for 2006/07 is less than 1%, as poly-drug use is common in several parts of the world; a 1% estimate would result from simply adding up the individual prevalence rates for opiates (0.25%), cocaine (0.24%), amphetamines (0.37%) and ecstasy (0.14%) prevalence rates.

Estimates of annual prevalence of opiate use, 1907/08 and 2006/07



Sources: UNODC calculations based on International Opium Commission, Shanghai, February 1909, UNODC, *World Drug Report 2008*.

Estimates of annual prevalence of opiate, cocaine and ATS use at the global level, 1907/08 and 2006/07



Sources: UNODC calculations based on International Opium Commission, Shanghai, February 1909, UNODC, *World Drug Report 2008*.

Extending the analysis to all illicit drugs, the latest estimates show that less than 5% of the global population aged 15-64 dabbles with illicit drugs each year (or 3.2% of the world's total population), and only an estimated 0.6% of the planet's adult population (or 0.4% of the world's total population) are problem drug users.<sup>an</sup>

While the world is too complicated to attribute this containment exclusively to the process described above, there can be little doubt that the world is better equipped to deal with transnational drug problems due to the labours of the men and women who fought for so long to achieve global consensus on these issues.

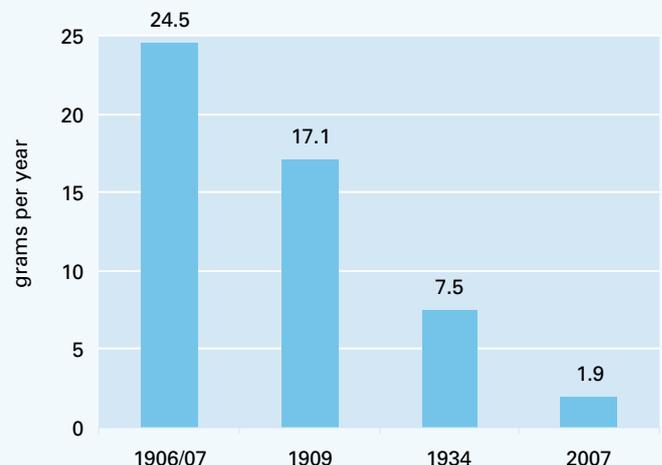
The decline in global opiate consumption can be linked to the strong decline in global opium production and the controls implemented by Member States to limit opium production. Comparing the situation in 1906/07 with the situation in 2007 shows a clear net improvement. Global opium production (licit and illicit) declined by 78%, despite the massive increases of illicit opium production in Afghanistan over the last three decades. Once morphine production via licit poppy straw cultivation is also taken into consideration, the decline amounted to 70%.

This decline is impressive as over the same period the global

<sup>an</sup> While the prevalence rate for problem drug users is – most likely – lower today than a century ago, the situation is clear for overall drug use, which is largely determined by the extent cannabis is being consumed. No reasonably good estimates exist for the extent of cannabis a century ago. It is, however, believed that cannabis use today may be more widespread than a hundred years ago. Nonetheless, the international drug control system appears to have contributed to containing overall drug use at just 3.2% of the total population (or less than 5% of the population age 15-64), clearly showing that the large majority of the world's population is not using drugs.

population quadrupled. Thus, global consumption of opiates, expressed in opium equivalents, fell from on average 24.5 grams per capita per year in 1906/07, to 7.5 grams in 1934 and less than 1.9 grams by 2007. Linking the amounts consumed to the potential harm, arising from opiates abuse, data indicate that the harm related to abuse of opiates could have been some 13 times larger if the per capita production levels of the peak year of 1906/07 had been maintained over the subsequent century. The social and economic consequences of having succeeded in preventing this harm are enormous. Thus, with regard to the key drug group, for which the international drug control system was created, major achievements can be seen.

Global per capita production of opiates\* (grams per year), 1906/07 and 2006



\* Licit and illicit opium, morphine and heroin and poppy straw, transformed into opium equivalents, on a per capita basis  
Sources: International Opium Commission, Shanghai, INCB, UNODC, United Nations.

## Global opium consumption 1907/08\* and 2006

	1907-1908					2006 or latest year available				
	Pop-ulation in million	Opium users	in % of total pop-ulation	Per cap-ita con-sump-tion (grams per year)	Estimates of opiates available for local con-sump-tion in mt	Pop-ulation in million	Potential No. of users today assuming unchanged prevalence rates	Latest current estimate of opiate users	in % of total pop-ulation	Year of esti-mate
Singapore**	0.26	43,300	16.4%	325.0	55.8	4.38	718,700	160	0.004%	2006
Macao / Macao SAR of China	0.10	8,430	8.4%	148.0	14.8	0.48	40,300	4,100	0.87%	2003
Hong Kong / Hong Kong SAR of China	0.33	26,200	8.1%	142.0	46.0	7.13	575,000	10,400	0.15%	2006
China	400.00	21,529,699	5.4%	74.0	26,690.5	1,320.86	71,094,300	2,348,800	0.18%	2005
Formosa / Taiwan Prov. of China	3.04	113,165	3.7%	46.0	**** 141.9 (146)	22.88	851,000	32,900	0.14%	2005
Persia / Iran	10.36	302,400	2.9%	15.0	151.0	70.27	2,051,100	1,333,300	1.90%	1999
Indochina (Vietnam, Laos, Cambodia)	14.65	250,000	1.7%	14.0	200.0	106.16	1,812,100	179,100	0.17%	2006
Siam / Thailand	7.20	110,000	1.5%	15.0	88.0	63.44	969,300	26,900	0.04%	2006
Burma / Myanmar	10.50	160,000	1.5%	6.6	69.7	48.38	737,200	130,900	0.27%	2007
Dutch East Indies / Indonesia	45.40	660,500	1.5%	3.9	raw 90.9; chandu 38	228.86	3,329,600	242,900	0.11%	2005
Philippines	7.64	63,400	0.8%	10.0	77.1	86.26	716,300	25,000	0.03%	2005
India	221.50	830,500	0.4%	1.9	422.3	1,151.75	4,318,400	3,091,200	0.27%	2001
Canada	6.10	24,200	0.4%	5.1	31.3	32.58	129,300	75,700	0.23%	2005
USA	87.01	206,000	0.2%	2.3	201.5	302.84	717,000	1,184,700	0.39%	2000
SUB-TOTAL	814.08	24,327,800	3.0%	38.5		3,446.28	88,059,600	8,686,060	0.25%	
Other countries	885.92	885,900	*** 0.1%	1.3		3,162.96	3,163,000	7,853,900	0.25%	
GLOBAL	1,700.00	25,213,700	1.5%	19.1		6,609.24	91,222,600	16,540,000	0.25%	
				Total consumption 1907/08 (average)			Potential total consumption, assuming unchanged per capita consumption data	Total consumption 2006/2007 (average)		
Total consumption of opiates (in mt of opium equivalents)			32,500			114,000		< 12,600 9,500	≈	

\* estimates based on production and average consumption per opium user, \*\* 2006 data from Singapore are registry data and thus not directly comparable with data from other countries, \*\*\* UNODC estimate [0.1 90 (Col. 3)], \*\*\*\* 141.9 - delivered to licensed opium merchants 1907; (146) - estimate of amounts of opium consumed in Formosa in 1907.

Sources: UNODC calculations based on International Opium Commission, Shanghai, February 1909.

### Changes of the drug problem over the last decade

Achievements may appear less impressive if the last decade is considered. But this may be misleading. Following increases in illicit drug production and consumption in the 1960s, the 1970s, the 1980s and the 1990s, the last decade,

notably the time since 2000, was characterized by a stabilization of the world drug problem at the global level.

Global production of cocaine, the amphetamines and ecstasy have all stabilized during the past half dozen years. Cannabis production increased strongly until 2004 but is currently

stabilising. Opium production has shown a steady downward trend in the Golden Triangle for almost a decade. The increase of opium production in Afghanistan is extremely problematic, although there are the first signs of stabilization or even small decline in 2008 and 2009.

Measuring changes in global demand over the last few years is more complex. Most countries – even a century after international drug control began – still lack reliable monitoring systems to estimate the extent of demand, or track changes in it over time. For countries that do have systems to monitor demand, the reported trends are encouraging. This is particularly the case for North America, which has had major achievements in stabilizing and/or reducing drug consumption over the last two decades – especially among the most vulnerable cohorts (age 14-20). The situation for Europe is mixed, with major achievements in stabilizing or reducing opiate consumption offset by rising levels of cocaine use. Cannabis use increased until a few years ago, but now shows some signs of stabilization or reduction in countries that had high levels of use, though it continues to increase in countries with lower prevalence rates. A similar pattern appears for the ATS.

Unfortunately, demand seems to be increasing in developing regions. This is the case for South America and Africa when it comes to cannabis and cocaine. It is also the case for South-West Asia and Central Asia as well as for East and Southern Africa when it comes to heroin. Supply increases in Afghanistan seem to have been primarily responsible for this. In contrast, countries in South-East Asia generally report a downward trend in opiate abuse, which follows the massive production declines in the Golden Triangle over the last decade. In the case of ATS, the trend is mixed and harder to quantify. Some reports indicate a general increase over the last few years, while others point to a stable or declining trend. The problem is most acute in South-East Asia and some countries in the Arabian Peninsula.<sup>358</sup>

The trends described above have also shown that some UNGASS goals described earlier have not been entirely achieved, and there is a consequent need to ‘finish the job’ on heroin and cocaine, a job which the international community began a century ago and to which the international community re-committed itself in 1998. The *Political Declaration* adopted at UNGASS committed States Members: “...to developing strategies with a view to eliminating or reducing significantly the illicit cultivation of the coca bush, the cannabis plant and the opium poppy by the year 2008.”

This objective has not yet been achieved. It is still distant, but the international community is further on the path, at least with coca and opium, than it was in 1998. The overwhelming majority of the world’s illicit opium production (92%) has been contained to a single country, Afghanistan. In that country, the lion’s share is grown in a handful of provinces. While one cannot deny the difficulty of stabilis-

ing Afghanistan, solving most of the world’s opium supply problem today means addressing production in just five provinces of a single country, a country where drug production is tied to political instability.

For the coca bush, cultivation was reduced by 18% between 2000 and 2007, and is confined to just three countries, which was not the case in the days when the international market was unregulated. About half of world coca cultivation happens in one country, Colombia, in which cultivation dropped by almost 40% between 2000 and 2007. As in Afghanistan, most of the production is taking place in areas affected by insurgency, so addressing drug production is linked to attaining political stability in these vulnerable countries.

With cannabis, the UNGASS objective is more difficult to assess, because the problem is even less well quantified than for the other illicit drug markets. Cannabis can be grown with minimal effort almost anywhere, so it is impossible to contain to a set number of countries and monitor in a way similar to the opiates and the coca bush. In addition, public and official opinion is confused about cannabis. In the Single Convention, the drug is treated the same as cocaine and the opiates. At the national level, this is seldom the case in practice, and many countries vacillate in the degree of control they exercise over cannabis. Cannabis-related policies may change in a single country over time as political power changes hands, a problem generally not experienced with other drugs. As a consequence, cannabis remains the most widely produced and the most openly used illicit drug in the world.

With the ATS, the international community has moved further since UNGASS, with production and consumption appearing to be stable since 2000, although, as with the other drugs, the data are less clear in the developing world. Supply control methods, tried and tested with the botanical drugs, do not work well with the ATS because there is no botanical raw material to target, and no geographical distance between areas of production and of consumption. Precursor control is the only effective way of controlling ATS supply. There is doubtless progress here, but the threat of displacement continues to offset the gains of a control regime that is less than two decades old.

In sum, while the drug problem has been contained, the fundamental objective of the Conventions – restricting the use of psychoactive substances under international control to medical and scientific use – has not yet been achieved. Some of the more ambitious targets set at UNGASS in 1998 remain elusive. In addition, looking back over the last century, one can see that the control system and its application have had several unintended consequences.

The *first* unintended consequence is the creation of a criminal black market. There is no shortage of criminals inter-

ested in competing in a market in which hundred-fold increases in price from production to retail are not uncommon.

The *second* unintended consequence is what one might call “policy displacement”. The expanding criminal black market demands a commensurate law enforcement response, requiring more resources. But resources are finite. Public health, which is the driving concern behind drug control, also needs resources, and may have been forced to take the back seat in the past.

The *third* unintended consequence is geographical displacement. It is often called the balloon effect because squeezing (by tighter controls) in one place produces a swelling (namely, an increase) in another place, though the net effect may be an overall reduction. Success in controlling the supply of illicit opium in China in the middle of the 20<sup>th</sup> century, for example, displaced the problem to the Golden Triangle. Later successes in Thailand displaced the problem to Myanmar. A similar process unfolded in South West Asia from the 1970s onward. Supply control successes in Turkey, Iran and Pakistan eventually displaced the problem to Afghanistan. Cocaine production trends in the Andean countries show a similar dynamic: as supply was reduced in Peru and Bolivia, in the second half of the 1990s it displaced to Colombia.

The *fourth* unintended consequence is what one might call substance displacement. If the use of one drug was controlled, by reducing either supply or demand, suppliers and users moved on to another drug with similar psychoactive effects, but less stringent controls. For example, cocaine is easier to control than the amphetamines: with the former, there is a considerable geographical distance between the raw material (the coca bush in the Andean countries) and the consumer (in North America or Europe). The latter can actually be produced in the user’s neighbourhood or, literally, in his kitchen. So it is with the retail market: cocaine has to be bought from a street dealer, while various forms of ATS can be bought online from an internet pharmacy. The increasing popularity of synthetic drugs over the last few decades can be better understood in this light. Substance displacement can, of course, also move in the opposite direction. In the past couple of years, cocaine has been displacing amphetamine in Europe because of greater availability and higher status. Substance displacement also happens with precursor chemicals, where the same kinds of dynamics apply.

The *fifth* unintended consequence is the way the authorities perceive and deal with the users of illicit drugs. A system appears to have been created in which those who fall into the web of addiction find themselves excluded and marginalized from the social mainstream, tainted with a moral stigma, and often unable to find treatment even when motivated to seek it.

These unintended consequences constitute some of the international community’s most challenging problems. In order to address them, the multilateral system needs to be re-invigorated and, in a sense, modernized. The three currently valid drug conventions were developed over three decades, from the 1960s to the 1980s. The foundation of the whole system is the 1961 Convention: it came into effect in 1964, nearly half a century ago. The authority of the nation state has diminished and today the term *international* covers much more than just the multi-state system. Globalization of commerce, finance, information, travel, communications, and all kinds of services and consumer patterns accelerates daily. These changed circumstances will therefore have to be considered in answering any question about implementation of the international drug control system in the 21<sup>st</sup> century.

Building on the recent past, forward progress is possible if at least three objectives are advanced:

- the basic principles must be reaffirmed;
- the performance of the drug control system must be improved;
- the unintended consequences must be confronted, contained, and addressed.

Public health, the first principle of drug control, has receded from that position, over-shadowed by the concern with public security. Probably the most important reason why public health has receded back-stage is that the power of the international conventions has not always been harnessed to give it unequivocal support. This is because the Single Convention left the issues surrounding the demand for narcotic drugs to individual States to deal with in their own specific cultural contexts, an approach that was reasonable at the time. The Single Convention was formulated at the height of the era of decolonization and new states were being built. The membership of the UN more than tripled from 60 States Members in 1950 to 192 in 2008. This sensitivity to cultural context is not surprising. There was also a scientific reason for not detailing provisions on the treatment of drug addicts in the 1961 Convention: to allow for the possibility of scientific and medical progress. Finally, many of the modern public health challenges of drug abuse were not yet manifest when the early Conventions were drafted. The HIV virus and the Hepatitis C virus were both identified in the 1980s, after the 1961 and the 1971 Conventions were drawn up and came into effect.

The unintended consequence of all this was that demand for illicit drugs and related public health issues did not get the international focus and attention they would have if they had been detailed in the Single Convention. If the treatment of public health issues had been more specific, national institutions advocating prevention and treatment would have gained more legitimacy and resources. States did, of

course, deal with public health in their own contexts, but there was little sense of the international community moving in one direction. The need for international cooperation was consequently less apparent. The international community had to wait until 1998 and the *Guiding Principles of Demand Reduction* before a clear global agenda was described. Powerful as these *Guiding Principles* may be, adherence to them is less stringent than it is to an international convention. While the need for a balanced approach was recognised at least as far back as the International Conference on Drug Abuse and Illicit Trafficking (June 1987), the emphasis on law enforcement to the detriment of public health remains an issue to be addressed.

Improving the performance of the system is about getting several things right simultaneously: *First*, enforcing the laws; *Secondly*, preventing the behaviour (drug use); *Thirdly*, treating and rehabilitating those who are neither deterred (by the laws) nor prevented (by prevention education) from entering into drug use; and, *Fourthly*, mitigating the negative consequences of drugs, for both the addicts and society at large – including the countries caught in the crossfire of drug trafficking and related crimes.

None of these four things is revolutionary; all of them have been suggested before. What appears to have been missing, however, is appreciating the need to do them simultaneously, and the empirical evidence on which to base efforts. With regard to undoing unintended consequences, focus should be kept on areas where there is sufficient international consensus to go forward in refining the control system and making it more ‘fit for purpose’. There appear to be three areas: crime prevention, harm reduction and human rights.

There is a huge corpus of knowledge in the world, accumulated over centuries, in crime prevention and criminal justice. Since its very inception, the United Nations has been active in the development and promotion of international standards and norms for crime prevention and criminal justice. Eleven World Crime Congresses over the last half century have been instrumental in benchmarking progress towards a more humanitarian, caring and democratic way of administering justice. This knowledge and expertise must be harnessed and applied to control the criminal market for drugs. Doing this, in a multilateral framework, has become easier due to the passage of five binding legal instruments brokered by UNODC and adopted between 2000 and 2003: the UN Convention against Transnational Organized Crime, its three supplementary protocols (on Trafficking in Persons, Smuggling of Migrants and Illicit Manufacturing and Trading in Firearms), and the UN Convention against Corruption. Institutionally, the support structure for this multilateral machinery was put in better order by merging drugs and crime in UNODC in 2002. The need to treat drug trafficking, organized crime, corruption and terrorism

as linked phenomena is increasingly recognized and has moved up high on international priority concerns.

The concept of “harm reduction” is often made into an unnecessarily controversial issue as if there were a contradiction between prevention and treatment on one hand, and reducing the adverse health and social consequences of drug use on the other hand. This is a false dichotomy. These policies are complementary.

Improving the performance of the drug control system, it was noted above, requires four things simultaneously: enforcement of the laws; prevention of drug-related behaviour; treatment of those who are neither deterred or prevented from entering into illicit drug use; and mitigation of the negative consequences of drugs, both for those who are caught in the web of addiction, as well as for society at large. The last of those four is what is normally called ‘harm reduction’. There cannot be anything wrong with it provided it is done along with the other three things: enforcement, prevention and treatment. If “harm reduction” is done exclusively, namely without the other three components, it will make a mockery of any control system, send the wrong message and only perpetuate drug use.

The 1961 Single Convention put it unequivocally: “...*Parties shall give special attention to and take all practicable measures for the prevention of abuse of drugs and for the early identification, treatment, education, after-care, rehabilitation and social integration of the persons involved.*”

As early as 1993, the International Narcotics Control Board pronounced that harm reduction programs can be part of a comprehensive demand reduction strategy, but they should not be carried out at the expense of – or considered substitutes for other important policies (such as prevention) to reduce the demand for illicit drugs. Yet, for all of this clarity, an unhelpful debate has raged on, lost in the need to find certainty between the polarities of ‘zero tolerance’ and ‘harm reduction’.

The production, trafficking and consumption of illicit drugs can only be understood properly if they are seen in their many different dimensions: the political, the social, the economic and the cultural. The drugs issue thus intersects many different domains: law, criminal justice, human rights, development, international humanitarian law, public health and the environment, to name but a few. In each of these domains, the United Nations has standards, norms, conventions and protocols. Their status varies, ranging from “soft” to “hard” law, from non-binding standards to obligatory conventions. While it is not always easy to establish a hierarchy between these different instruments, it is clear that the constituting document of the Organization, the *Charter of the United Nations*, takes priority over all other instruments. Article 103 of the Charter states: “...*In the event of conflict between the obligations of the Members of the United Nations*

*under the present Charter and their obligations under any other international agreement, their obligations under the present Charter shall prevail.*” In the context of drug control, this means that the drug Conventions must be implemented in line with the obligations inscribed in the Charter. Among those obligations are the commitments of signatories to protect human rights and fundamental freedoms.

The protection of human rights is further enshrined in another foundational document of the United Nations, the *Universal Declaration of Human Rights*, which is now 60 years old. In Article 25 of the *Universal Declaration*, health is listed as a basic human right. It stands to reason, then, that drug control, and the implementation of the drug Conventions, must proceed with due regard to health and human rights. The former was discussed above in the context of public health and the drug control system. The issue of human rights, the protection of which is a growing international movement, is now also becoming salient in the implementation of certain drug control measures. The use of the death penalty (among others for drug offences) presently divides the membership of the United Nations. The recent General Assembly moratorium on the application of capital punishment is a way forward, but the gaps between international standards and the law of individual nations need to be bridged by means of negotiation and the promotion of good practice in this difficult area.

The international drug control system is an extremely valuable piece of political capital, enjoying virtually universal adherence. It has succeeded in containing the illicit drug problem across the span of a whole century, as well as over the last decade. Yet it has not solved the problem it was created to resolve. The ways in which the drug control system has been implemented have had several unintended consequences: the criminal black market, policy displacement, geographical displacement, substance displacement and the marginalization of users. As the international drug control system continues its development, moving forward will require a triple commitment: reaffirming the basic principles (multilateralism and the protection of public health); improving the performance of the control system (by doing enforcement, prevention, treatment and harm reduction simultaneously); and mitigating the unintended consequences.

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