Toward an International System of Drug Control

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TOWARD AN INTERNATIONAL SYSTEM OF DRUG CONTROL

By any measure the ongoing explosion in the abuse and trafficking of illicit drugs must be viewed as alarming. The past few years have seen a dramatic upsurge in the use of heroin and other opiates, the re-emergence of cocaine as a popular drug, and expansion of the use and availability of synthetic and psychotropic substances, and, perhaps of greatest international concern, the penetration of illicit narcotics into markets hitherto relatively free from drug involvement. Western Europe, Canada, and most recently the Soviet Union\(^1\) have reported the growth of drug-consuming populations.

At the same time, there has been an awakened interest in the problems of drug addiction. Recognition of the essentially international nature of the problem is spreading, albeit slowly. With this recognition have come the rudiments of an international approach to the solution. As drug abuse continues to encompass increasingly large numbers over an expanding geographic area, a growing number of national leaders conclude that it is in their interest to cooperate in bilateral, regional, and multinational agreements aimed at curbing such abuse.

I. THE DRUGS

A. Opium, Morphine, and Heroin

Throughout it all, heroin has remained the single greatest challenge, the "ultimate drug of addiction, the most magnetic factor in the drug scene and the one with the most tragic . . . results . . . ."\(^2\) The profits from the sale of heroin are staggering. In 1972 an

\(^1\) Michigan Daily, May 25, 1974, at 8, col. 1.

estimated ten to twelve tons of heroin were consumed by the 560,000 addicts in the United States.³ With daily sales in excess of $17,000,000,⁴ the sale of heroin is one of the largest businesses in the country. Fully half of the addicts in the United States live in New York City, where heroin overdose is the most common cause of death for males between the ages of fifteen and thirty-five.⁵

1. Growth and Production.—Heroin is processed from opium gum, the extract of the opium poppy (*popaver somniferum*). The plant, which grows best in warm, dry climates, reaches a height of three to four feet, and bears purple blossoms and egg-sized pods. There may be anywhere from five to twenty pods on a plant. Opium growing is a labor intensive process, and sowing and harvesting are done by hand. Two weeks after the harvest, the pods are lanced and a white, gummy substance drains. This is an extremely delicate operation requiring experienced workers. The pods must be lanced at precisely the right moment, and a delay of even a few days can destroy the yield entirely. Weather is also critical. Too much rain will wash the opium off the pods and too much sun will melt it. The draining gum is scraped from the pods and formed into cakes.⁶ This is raw opium, which may be consumed without further processing.

Alternatively, the opium may be refined into morphine base and then into heroin. The first stage, that of converting the opium into morphine base, is normally done near the harvesting area, and the second, that of converting the morphine base into heroin, in “heroin labs” at transit points along the smuggling network.⁷ Neither process demands great technical skill and neither requires high pressure or temperatures, or large quantities of raw materials.

³ *Comptroller General of the United States, Heroin Being Smuggled into New York City Successfully* (1972), at 11 [hereinafter cited as *Comptroller General*].
⁴ Id. at 1.
⁶ Id. at 111. See also *McLaughlin & Quinn, Drug Control in Iran: A Legal and Historical Analysis, 59 Iowa L. Rev.* 469 (1974), at 473 [hereinafter cited as *McLaughlin & Quinn*].
⁷ *Spong, Heroin: Can the Supply be Stopped?, Report to the Senate Comm. on Foreign Affairs, 92d Cong., 2d Sess.* (Comm. Reprint 1972), at 5 [hereinafter cited as *Spong*]. The reason that opium is processed into morphine base near the place of harvest is probably ease of transit. Ten pounds of opium reduces to one pound of morphine base, making concealment much less difficult. There is no further reduction in bulk in the conversion of morphine base to heroin.
Most heroin labs are operated by a single "heroin chemist," who has learned his trade through apprenticeship under other heroin chemists, together with an unskilled assistant. It has been estimated that a heroin laboratory capable of processing 100 kilograms of heroin per week may be established for as little as $4,000.9

2. The Licit Markets.—There are two world markets in opium. The licit market consumes roughly 1,500 tons of opium annually and is slowly expanding. Price and quantity vary according to a more or less consistent supply-demand curve between government enterprises and large pharmaceutical firms. Governments license farmers to grow specific quantities of opium, and buy the yield at previously established prices. Although there is some diversion of crops at this level, security measures become increasingly stringent as the opium passes from the farmer to the governments and thence to the large pharmaceutical firms. These firms, principally from the United States and Western Europe, are extremely closely regulated, and there is believed to be little "seepage" of processed opium into illicit channels.10 By far the greatest proportion of licit opium is used in the production of morphine and codeine for legitimate medical purposes. India enjoys a near monopoly position in the supply of opium for this purpose.11

3. Illicit Markets.—a. Southeast Asia. The illicit market is far more complex. Because of the nature of the market, accurate statistics are difficult to obtain, but estimates of total annual production range from 1,00012 to 1,80013 ons. Easily half of this

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8 U.S. CABINET COMM. ON INT'L NARCOTICS CONTROL, WORLD OPIUM SURVEY (1972), at 15 [hereinafter cited as WORLD OPIUM SURVEY].
9 Id. at 15. See also McLaughlin & Quinn, supra note 6, at 477.
10 WORLD OPIUM SURVEY, supra note 8, at 5. See also Spong, supra, note 7, at 2-3.
11 Spong, supra note 7, at 3. The six largest producers of licit opium were India, with 943 tons; U.S.S.R., with 200 tons; Iran, with 156 tons; Turkey, with 150 tons; the People's Republic of China, with an estimated 100 tons; and Pakistan, with 12 tons. In 1972 Turkey ceased all production and has not participated in licit opium sales since that time. The Soviet Union consumes its production for domestic purposes. Iran devotes its production to supplying its addict maintenance program. See notes 60-65 and accompanying text infra.
12 WORLD OPIUM SURVEY, supra note 8, at 5.
13 Spong, supra note 7, at 2.
amount is produced in the area known as the "fertile triangle"—the border region encompassing northern Burma, Laos, and Thailand. At least 750 tons of opium are harvested from this region annually, the bulk of which (approximately 400 tons) is consumed by the local populations. The population is properly classified as a "user," rather than an "addict" population. Opium is eaten or smoked rather than injected, is used in its unrefined (and therefore less addictive) form, and appears to function principally as a "social" drug, much the same way that alcohol is used in the West.

The remainder of the harvest is collected in northern Thailand and shipped south to Bangkok, Vientiane, and Hong Kong, which are the major wholesale centers. Trafficking in the fertile triangle is controlled by a number of unattached military forces. The most notorious of these is composed of the remnants of the third and fifth divisions of the Kuomintang, which controls the trade routes through northern Thailand. In Burma traffic is conducted under the aegis of the Kha Kweyel (Burma Self-Defense Forces), and independent armed units in quasi-alliance with the Burmese army. Also influential are the private armies of the major traffickers. One of the largest of these, employed in the service of the narcotics trafficker Lo Hsing Han, numbers over 1,000 men.

Attempts to stem the flow of drugs from the fertile triangle have been hampered by corrupt and incompetent Thai officials. There have been signs of progress, however. A resettlement of some guerilla forces in northern Thailand, together with the confiscation and burning of their opium stocks, was accomplished in 1972 by the Thai government. Thai officials were able to arrest Lo Hsing following a battle between his army and the Burmese army, and he was extradited to Burma for trial. Burma has recently passed laws barring the cultivation, processing, or trafficking of opium poppies and hemp. Whether these and similar actions will have any significant impact on the flow of illicit drugs from the region is questionable, but they do provide a basis of some measure of hope.

14 World Opium Survey, supra note 8, at 25. See also Spong, supra note 7, at 4.
15 World Opium Survey, supra note 8, at 29.
16 Id. at 28.
17 See note 20 infra.
19 INCB Report, supra note 2, at 24.
Having arrived at the wholesale distribution centers, the opium is then dispersed throughout the Southeast Asia drug community. Hong Kong supplies an estimated ten tons of morphine base and fifty tons of opium annually to its 150,000 addicts, as well as supplying large addict populations in Macao and the Philippines. From Laos flows fifteen tons of opium annually to the Cholon district of Vietnam, and lesser amounts to other areas in South Vietnam and Laos. Bangkok supplies the 150,000 Thai addicts and a small but growing number of Burmese users.

The Southeast Asia network experienced a period of rapid growth during the Vietnam conflict. With the withdrawal of American troops from South Vietnam, the market was suddenly reduced. This, coupled with the severe curtailment in the supply of heroin entering the United States through Europe, gave rise to speculation that the organized enterprises of Southeast Asia would attempt to expand their scope of operations to include the United States domestic market. That such an attempt has occurred is now confirmed, but, to date, large scale trafficking in opiates from Southeast Asia to the United States has not materialized. This appears to be due to the fact that while the Asian enterprises may have the ability to bring heroin to the United States, they have no distribution network for their goods within the market.

b. Middle East/South Asia. 1. The South Asian Sub-Continent. Second only to Southeast Asia in sheer volume of opium productions is the loosely defined "Middle East/South Asia" region. As in Southeast Asia, most of the opium produced within this region is consumed domestically. The patterns by which opium moves throughout the region are complex, and the levels of sophistication both of illicit trafficking and of governmental activity against it vary widely from state to state within the region. India and Iran are the two principal consuming states, with Pakistan and Afghanistan accounting for a relatively minor proportion of

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22 World Opium Survey, supra note 8, at 27.
23 Id. at 28.
24 Id. at 27. See also Spong, supra note 7, at 12. For many years the Thais were the only non-Chinese ethnic group to engage in the widespread use of opiates.
25 See note 100 infra.
26 Id.
27 See notes 75-105 and accompanying text infra.
29 Spong, supra note 7, at 4. The region includes the nations of Turkey, Iran, India, Afghanistan, Pakistan, and Nepal.
the regional consumption.\textsuperscript{30} Virtually all of India’s illicit opium production is channeled into its domestic black market.\textsuperscript{31} Additional opium enters India from Nepal\textsuperscript{32} and, increasingly, from Afghanistan.\textsuperscript{33} For the most part, however, India may be regarded as a closed subset of the region, at least insofar as international traffic is concerned. Little Indian opium leaves the subcontinent; little non-Indian opium enters.\textsuperscript{34}

2. Iran. Iran has, at the same time, one of the world’s largest addict populations and a government deeply committed to eradicating drug addiction within its borders. Through its efforts the addict population has been reduced from an estimated 1.5 million addicts in 1955 to approximately 400,000 at the present time.\textsuperscript{35} During this time, Iran went from a policy of indifference to drug abuse, to an absolute ban on all drug consumption, to a massive drug maintenance program coupled with severe punishments for drug traffickers.\textsuperscript{36} Like the United States, Iran is a “victim country,” in that opium is illegally smuggled into the country despite the government’s preventive efforts.\textsuperscript{37} Until the Turkish ban on opium production,\textsuperscript{38} opium primarily entered Iran from Turkey and Afghanistan. Since the ban, Afghanistan and Pakistan have become the major sources of smuggled opium in Iran.\textsuperscript{39} With respect to Iran, at least, the fears that Afghanistan would supplant Turkey as a source of illicit opium\textsuperscript{40} have been confirmed.\textsuperscript{41} Afghani officials apparently regard drug addiction as a purely foreign problem,\textsuperscript{42} and are perhaps somewhat lax in their antinar-
cotics program. Indeed, in 1973 Afghani farmers harvested a bumper crop of opium on newly irrigated land developed with aid from the United States.

The principal drug smuggled over the Turkish border is not opium, but morphine base, to be converted into heroin in western Iran. The difficulties involved in preventing such smuggling are enormous.

Almost 300 miles long, the Turkish border is highly mountainous, making effective aerial or ground reconnaissance difficult. Even if smugglers could be spotted, it would be difficult to intercept them because there are so few roads running along the border. Compounding an already impossible situation are the many Kurdish tribesmen who live along the frontier. These nomadic herders provide an ideal cover for smuggling drugs as they move back and forth across the border with their flocks. The government has to handle the Kurds with care since historically there have been tensions between the intensely independent Kurds on the one hand and the Iranians on the other . . . .

Since morphine base is much less bulky than opium, it can be carried over the border by individual smugglers . . . thus every man and woman who crosses the Turkish border is a potential smuggler.

Yet even these problems appear minor when compared to those of patrolling the 500-mile long Afghani-Iranian border.

Composed of mountains and deserts, the border is frequently impassable in winter due to snow and in summer due to heat and dust . . . .

The Afghans do not smuggle drugs individually but in large bands. Moreover these Afghan tribesmen are desperate and will take greater risks than their Turkish counterparts. . . . Stories abound of Afghan chieftains who will hold a man’s family hostage in order to force him to smuggle drugs. If the smuggling operation fails . . . groups of smugglers have been known to attack Iranian villages to bring ransom money back to the chieftains . . . .

When they cross the border, these bands of Afghan tribes-

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43 INCB REPORT, supra note 2, at 20-21.
44 See note 41 supra. It has been suggested that the Afghani Royal Family, since overthrown, was implicated in the opium trade.
45 McLaughlin & Quinn, supra note 6, at 510. The Government of Iran estimates that there are about 10,000 heroin addicts in the country. Most are concentrated in urban areas. Id. at 478.
46 Id. at 510.
men number anywhere from 10 to 100 and carry as much as two tons of opium or hashish tied to animals’ backs. The smugglers carry military weapons and will fight to the death if intercepted by the Gendarmes, with large gun battles being the rule . . . . 47

The Imperial Iranian Gendarmerie has recently been strengthened by the acquisition of large quantities of mechanized equipment, including motorcycles, helicopter gunships, and night vision devices. 48 In addition, both the United States and the United Nations have provided technical advisers. 49

In 1969, following a fourteen-year attempt to eradicate addiction by the total prohibition of opium growth and consumption, 50 the Iranian government decided to revise its strategy. Total prohibition, while reducing the number of addicts, had failed to eliminate the problem of addiction. Being unable to supply their habit from domestic sources, the remaining addicts were compelled to buy imported opium—at substantially higher prices. A sizeable international black market had grown up to service the demands of these addicts. 51 The more proficient the government became at eliminating domestic sources of supply, the more profitable became the international black market, until it became so lucrative that the amount of money leaving the country began to affect the balance of payments. 52 In addition, the apprehension and incarceration of thousands of Iranian addicts was having a deleterious effect on the economy. 53 It was for these reasons that the government decided to shift its emphasis away from the user and toward the smuggler.

The policy, which remains in effect at the present time, has two elements. In order to make the smuggling operation itself more difficult, Iran has increased the quality and quantity of border patrols, provided the Gendarmerie with mechanized capability and sophisticated weaponry, and adopted military trial and the death penalty for convicted smugglers. 54 In order to eliminate the

47 Id. at 511.
48 Id. at 512.
49 Id. at 510.
50 Id. at 495-98.
51 Id. at 497.
52 Id.
53 Id. at 498.
54 Id. at 513.
55 Id. at 498. One effect of this policy has been to induce Afghani smugglers to travel in still larger bands and to carry greater firepower. With little chance of pardon, there is little reason not to fight to the death. Id. at 514.
market for illicit drugs, the Government permits limited opium production under careful government supervision and distributes this opium to registered addicts.\textsuperscript{56}

Every year the Government licenses farmers to grow opium on condition that they agree to sell the entire harvest at a price fixed by the Ministry of Land Reform.\textsuperscript{57} In order to prevent crops from being diverted to illicit buyers, the Government pays the farmers far more for their opium than the black market can afford.\textsuperscript{58} This practice is coupled with very strict security controls before and during harvest.\textsuperscript{59} After harvest, the gum is processed into prepared opium. Although the controls are rigid, it is estimated that there may in fact be as much as 5 percent leakage at this stage.\textsuperscript{60} Once processed, the opium is made available to registered addicts under a government maintenance program. An addict may register in the program if he is over sixty years of age or is too ill to undergo withdrawal and detoxification.\textsuperscript{61} Officials claim that there are now 110,000 registered addicts.\textsuperscript{62} Estimates of the number of unregistered addicts range from 90,000 to 190,000.\textsuperscript{63}

The most serious deficiency in this scheme is the severe lack of drug treatment facilities. For a total addict population of 400,000 there are probably less than 400 beds set aside exclusively for addiction withdrawal.\textsuperscript{64} There is almost no after-care treatment available.\textsuperscript{65} The government is now in the process of constructing

\textsuperscript{56} \textit{Id.} at 498.
\textsuperscript{57} \textit{Id.} at 499.
\textsuperscript{58} In 1972 the Iranian Government purchased opium from their farmers at the price of approximately $120/kilogram. \textit{Id.} at 500. As a rule of thumb, illicit buyers must pay twice the licit price to induce farmers to divert their opium to them.
\textsuperscript{59} McLaughlin & Quinn write:

When acreage is approved for cultivation, it is roped off. As the crop appears, anything growing outside the ropes is uprooted and destroyed. Shortly before harvesting, the farmer or rural cooperative on whose land the opium is being grown must notify a representative of the Ministry or the Imperial Iranian Gendarmerie of the impending harvest. In order to prevent possible diversion, the gendarmes may often billet themselves near the opium fields . . . . As the bowls of gum are collected, they are delivered directly either to the representative of the Ministry or to the gendarmes . . . . If any illegal conduct is uncovered, the poppy fields are to be destroyed.

\textit{Id.} at 501.
\textsuperscript{60} \textit{Id.}
\textsuperscript{61} \textit{Id.} at 503.
\textsuperscript{62} \textit{Id.}
\textsuperscript{63} \textit{Id.} at 506. In an attempt to induce these addicts to register without incarceration, a system of civil penalties has been devised. For example, a student who is found to be an addict is suspended from school until he can prove he is no longer addicted, and the matter is reported to his parents. \textit{Id.} at 506-07.
\textsuperscript{64} \textit{Id.} at 508.
\textsuperscript{65} \textit{Id.}
six new rehabilitation centers. Although the first center was completed in 1971, it remains empty because there are no trained personnel to staff it.66

Iran has promised to cease opium production when its neighbors agree to do so as well. The Turkish opium ban, had it remained in effect, might well have elicited some response from Iran.67 However, in light of the decision to partially rescind it,68 and in light of the present inability of Pakistan and Afghanistan to promulgate or to enforce such a ban, it is unlikely that Iran will act on its promise in the foreseeable future.69

c. The United States. In all the world, there is no drug as deadly or as far-reaching in its consequences as heroin. In all the world, no nation consumes more heroin than the United States. Yet it has only been within the last few years that the United States has even begun to undertake a serious commitment to deal with domestic heroin addiction. As long as the ravages of addiction were confined to the inner city, the problem was largely ignored. Only with the spread of heroin out of the core cities into suburban areas did the problem gain national recognition and merit a concerted national response.70

Prior to the Turkish ban on poppy growth71 the various ways in which heroin was smuggled into the United States were well

66 Id.
67 Id. at 502.
68 See notes 124-140 and accompanying text infra.
69 McLaughlin & Quinn, supra note 6, at 502. Neither Pakistan nor Afghanistan controls the tribal areas in which most of their poppies are grown, and thus even if imposed, a ban on poppy growth could not be enforced without outside aid. The United Nations International Narcotics Control Board has stated that a regional approach to the problem is absolutely essential. See INCB REPORT, supra note 2, at 16. Complicating the problem is the apparent high level corruption in Afghanistan (see notes 34-37 supra) and the beleaguered state of the Afghani police force. Only 10-20 percent are literate, the average wage is $2.00 per month, and they are ill equipped. In addition, quite apart from the problems of corruption and enforcement, the tribal chiefs exert enormous political influence on the governments, and the economic hardships of an effective ban on poppy production would be severe. McLaughlin & Quinn, supra note 6, at 515.

. . . [W]e have attacked drug abuse on all fronts—supply, trafficking, and demand. The Federal Government, for example, now spends 10 times as much . . . as it did on the treatment of drug addiction four and a half years ago.

Cf. 1971 Hearings, supra note 5, at 180:

They knew they had the problem in Harlem. Most of us didn't know what the problem was until it moved into the other areas such as the middle-class neighborhoods and the more wealthy neighborhoods.

71 See notes 103-106 and accompanying text infra.
established and well known. Approximately 80 percent of the heroin entering the United States had its origin in the poppy fields of Turkey; of the remaining 20 percent, most came from Mexico. Almost all of the illicit Turkish heroin came from diversion from the licit crop. Once harvested, the opium was converted to morphine base in southern Turkey. Two routes developed to carry the morphine base from Turkey. Morphine being smuggled by sea was shipped out of ports on the south coast of Turkey or from those in Lebanon or Syria, and was delivered to the port of Marseilles. With the increase in free movement through Europe and the increased pressure applied by French and United States officials against traffic in the Marseilles area, an overland route developed. Morphine base, carried in sealed trucks, was transported through Bulgaria and Greece either to Austria and the Federal Republic of Germany or through Italy into France. Morphine entering France was processed in heroin labs located in the vicinity of Marseilles and increasingly in other urban areas as well. Drugs moving through the Federal Republic of Germany were refined in cities along the route and were shipped out of German North Sea ports.

There are three routes for the transportation of heroin from Europe to the United States. The oldest and most active was that of direct shipment from Europe to the United States, usually through the Port of New York. The vast quantities of cargo and

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72 Spong, supra note 7, at 8. See also N.Y. Times, March 13, 1974, at 8, col. 4.  
73 World Opium Survey, supra note 8, at A57.  
74 Id. at 18; see also Spong, supra note 7, at 7.  
75 World Opium Survey, supra note 8, at 18.  
76 Id. at 20.  
78 Spong, supra note 7, at 7-8: Operating in great numbers under international customs agreements, these sealed trucks are usually allowed to travel across various national frontiers with little or no control; systematic inspection is precluded both by the vastness of the task and the growing emphasis within Europe upon free movement of people and goods.  
79 World Opium Survey, supra note 8, at 21.  
80 Id. at 22. This diversification is largely in response to the pressure being brought to bear by narcotics officials in the Marseilles area. See note 8 and accompanying text supra.  
81 Id. at 20.  
82 In 1971, U.S. authorities seized 1309 pounds of heroin, or about 6 percent of the total demand. Of this amount, 537 pounds were seized in Region II, which is roughly coextensive with the Port of New York. The Marseilles-New York narcotics traffic has come to be popularly known as the "French Connection." See Comptroller General, supra note 3, at 2.
individuals moving through the Port Authority has led the Controller General to conclude that:

Although the existence of an inspection function provides some deterrent, the enormous customs workload and the many responsibilities of inspectors render it doubtful that customs inspections can have a significant impact on heroin smuggling.83

The enormous difficulties in inspection alone are illustrated:

An appreciation of this "needle in a haystack" situation can be obtained from the following theoretical, but typical example. One cargo invoice covers a shipment of 10 containers, each container holds 100 cartons, each carton contains 24 teapots, in individual boxes, and one teapot contains heroin.84

The Port of New York processes more than 1.4 million invoices every year.85 In addition, there are hundreds of miles of coastline where small boats can land surreptitiously and thereby entirely avoid the minimal danger of a customs seizure.

The two principal dangers to smugglers of the direct Europe-United States route are that seizures, when made, tend to be quite large86 and that there is a greater possibility that an arrest of a drug courier in New York might implicate an entire smuggling operation in Europe.87 In order to minimize this danger, alternate routes through Canada, Mexico, and Latin America came into being.88

In 1970, the United States intensified its diplomatic effort to secure bilateral and multilateral drug enforcement agreements aimed at disrupting the flow of heroin into the United States. The drive had three goals: the securing of agreements to halt the growth of opium; the securing of agreements to make smuggling itself more difficult; and the unilateral strengthening of customs and other domestic anti-smuggling activities.89

83 Id. at 19.
84 Id. at 16.
86 Id.
86 Out of the thirty-eight seizures in Region II in 1971, five seizures accounted for 537 pounds and thirty-three for the remaining two pounds. Id. at 29.
87 SPONG, supra note 7, at 8. See also Agreement, supra note 77, at 336.
88 SPONG, supra note 7, at 8. Following the increased pressure on the direct Europe-U.S. route and the Turkish ban on opium cultivation, the South American and Mexican routes became much more important.
89 See 1971 Hearings, supra note 5, at 76. Also included was a broadly stated goal of drug education and rehabilitation. This includes everything from the Methadone Maintenance Programs to the dissemination of drug information to youth. It has been suggested that the results of these programs, as put into effect, has been to increase rather than decrease interest and experimentation in drugs.
The program has had mixed success. Although claimed at the time to have been a successful cooperative venture between the United States and Mexico,90 "Operation Intercept," the first major attempt to interdict drug traffic at the borders, was later acknowledged to have been essentially counterproductive not only because it failed to intercept narcotics, but also because it unnecessarily exacerbated relations between the United States and Mexico.91 The operation was described as "an example of an 'economic squeeze' which prompted a foreign government to enforce tighter control."92 Shortly thereafter, the two countries initiated "Operation Cooperation." Widely lauded, "Operation Cooperation" was a program under which, with United States technical assistance, Mexico undertook to eradicate the illicit growth of opium and marijuana in the Mexican interior.93

The United States Congress entertained a number of proposals authorizing the President to suspend military and economic assistance to any nation refusing to cooperate in interdicting the flow of drugs to the United States.94 This power has never, in fact, been utilized. The doubtful utility of such a proposal has been suggested.

Withdrawal of aid will not directly affect dollars taken into the economy from the sale of opium, because no nation, not even India, makes any significant gain in its coffers from opium. Withdrawal of aid will not be directed at cutting down opium revenues; instead it will affect all programs financed by

90 Id. at 171.
91 WORLD OPIUM SURVEY, supra note 8, at A58.
92 Operation Intercept was described in the following terms:
For weeks, Customs Bureau officials searched all vehicles at certain checkpoints, causing a traffic holdup which dissuaded American tourists from crossing the border and thus badly hurting the Mexican economy .... Obviously, illegal traffickers have gone elsewhere as a result of such close scrutiny but the fact remains that Operation Intercept succeeded in that it jogged the Mexican Government itself into action.

See 1971 Hearings, supra note 5, at 171. It is difficult to understand this operation as a cooperative venture between the Mexican and United States Governments, as it was portrayed. This was observed in discussion during the course of the hearing:
It was no cooperative effort with Mexico. It was strictly a unilateral project. Mexico had no idea that Intercept was coming .... Unfortunately we have almost 2000 miles of border with Mexico .... and you cannot patrol all that border effectively. Most of the illicit drugs that come from Mexico do not come through ports of entry .... Children coming across to school or just coming across with a lunch box would be stopped, their sandwiches opened .... They even looked in babies' diapers .... I don't know that it did too much for good will and understanding between the two nations.

Id. at 180.
93 Id. at 171, 181. See also WORLD OPIUM SURVEY, supra note 8, at A58.
94 1971 Hearings, supra note 5, at 222.
foreign aid. This means that in Pakistan, for example, all health programs, all school programs, and all construction programs will be eliminated because the country cannot seem to cope with an illicit drug program within its borders. Quite simply, if a country were not able to control illegal opium, it would not be reasonable to suppose that the denial of funds used for meeting the basic living needs of the populace would spark the transference of other funds to an opium control system. Rather, other funds would be shifted to take the place of the retracted money.\textsuperscript{95}

Pressure has been brought to bear on a number of opium growing and processing countries, with some success. Nepal has been induced to ban poppy cultivation;\textsuperscript{96} Panama, known for years as a major transshipment point of heroin and cocaine, has substantially improved its antinarcotics efforts;\textsuperscript{97} Colombia has vowed to "commit the necessary economic resources" to fight against narcotics;\textsuperscript{98} Thailand, Burma, and South Vietnam claim to have made progress in breaking up drug traffic;\textsuperscript{99} Laos has formally prohibited the growing of opium;\textsuperscript{100} and Chile has taken steps against the movement of cocaine destined for the United States through Santiago.\textsuperscript{101} Agreements have been concluded with France, the Republic of Germany, and Italy enhancing bilateral cooperation in drug enforcement efforts.\textsuperscript{102}

\textit{(I) The Turkish ban: implementation and effects.} By far the most significant achievement of the United States effort was the agreement with Turkey in which the Turkish government agreed to ban poppy cultivation and opium production. The ban was formally announced on June 30, 1971, by decree of Prime Min-

\textsuperscript{95} Id. at 192.
\textsuperscript{96} N.Y. Times, July 8, 1973, at 30, col. 4; N.Y. Times, August 13, 1973, at 8, col. 3.
\textsuperscript{98} N.Y. Times, Jan. 15, 1973, at 17, col. 4.
\textsuperscript{99} On June 29, 1974, the United States signed an agreement with Burma to provide six civilian model utility helicopters for assistance in its narcotics control program. The helicopters, which are to be delivered in 1975, are to be used for narcotics suppression purposes, and, specifically, to attack heroin laboratories and large groups of heavily armed smugglers. Provision is made for an additional twelve helicopters to be delivered to Burma in 1976 and 1977, contingent on appropriations and the successful utilization of the initial six. See U.S. DEP’T OF STATE, Press Release No. 274, July 1, 1974. For the agreement itself, see U.S. DEP’T OF STATE, Press Release No. 278, July 2, 1974. See also N.Y. Times, July 12, 1973, at 7, col. 6 (Thailand); N.Y. Times, July 5, 1973, at 32, col. 2 (South Vietnam); N.Y. Times, Sept. 13, 1973, at 8, col. 3 (Burma).
\textsuperscript{100} Hearings on Executive J Before the Senate Comm. on Foreign Relations, 92d Cong., 2d Sess. at 64 (1972) [hereinafter cited as Hearings on Executive J]. These were the hearings on the ratification of the Protocol to the Single Convention on Narcotic Drugs, 1961.
\textsuperscript{101} N.Y. Times, Nov. 16, 1973, at 11, col. 1.
ister Erim, and was the culmination of a program begun in 1967; during that program, the number of provinces in which poppy cultivation was authorized was progressively reduced from twenty-one to nine. The decree limited poppy cultivation to four provinces in the 1971-1972 growing season, and thereafter prohibited cultivation altogether. In exchange, the United States agreed to give Turkey $35 million. Of this sum, $15 million was to compensate for losses in foreign exchange as a result of the ban and $20 million was to provide assistance for programs designed to provide alternative sources of income for Turkish poppy farmers.

The agreement was significant because Turkey was the source of a great deal of the heroin entering the United States. Although Turkey's total output of illicit opium was a relatively small fraction of the world's production, fully 80 percent of the heroin entering the United States originated in Turkey. While no one expected the Turkish ban to end the illicit entry of heroin into the United States, it was hoped that by denying traffickers 80 percent of their source materials, established traffic patterns would be disrupted, the amount of heroin entering the United States would diminish, lines of supply would be attenuated, and major traffickers would be exposed. At the same time, officials were acutely aware that smuggling operations would seek to reestablish themselves along new routes and with new sources.

Much of this has come to pass. The amount of heroin entering the United States directly from Europe has sharply declined, and for a time heroin was in short supply in New Jersey. The quality of the product suffered as well; it was estimated that street heroin was at one point only one-third as pure as it had been before the implementation of the ban. The use of methadone as a substitute was on the rise.

There is evidence that the anticipated development of Turkey as a transshipment point from fields further east appears to have

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103 SPONG, supra note 7, at 16-17; 1971 Hearings, supra note 5, at 131; Hearings on Executive J, supra note 100, at 64.
104 Then estimated at $3-5 million annually. 1971 Hearings, supra note 5, at 159.
105 SPONG, supra note 7, at 17.
106 Id. at 8; see also INCB REPORT, supra note 2, at 3.
107 N.Y. Times, Nov. 18, 1972, at 1, col. 6. See also SPONG, supra note 7, at 8, 17. It was anticipated that Bolivia, Colombia, Laos, Nepal, and Singapore were likely to become future sources of illicit drugs. Hearings on Executive J, supra note 100, at 66.
been confirmed.\textsuperscript{111} Also anticipated was the increased reliance upon South American smuggling routes. Routings through Montevideo, Buenos Aires, and Panama City, previously active, were subjected to increasingly heavy traffic.\textsuperscript{112} More recently, Dade County, Florida, has become a major entry point for both heroin and cocaine from South America and Mexico. From there it is brought to the New York area by individual couriers. The illicit traffic in Florida is apparently controlled by Cuban nationals and is extremely difficult to infiltrate.\textsuperscript{113}

(2) \textit{The Mexican traffic}. What was not foreseen was the enormous capacity of the illicit Mexican growers to fill the void created by the Turkish ban. If this ability is any indication, then "Operation Cooperation" must be adjudged a failure. Opium, although illegal in Mexico, is grown in remote, inaccessible mountain areas. The Mexican Government has been unable to prevent illicit opium growing. The first public acknowledgement by a federal official that the influx of Mexican heroin was becoming a serious problem did not occur until September, 1973.\textsuperscript{114} In December, Food and Drug Administration Regional Director Lewis charged that brown heroin from Mexico was beginning to appear in New Jersey.\textsuperscript{115} In Detroit, the largest heroin seizure in the city's history took place in June, 1974—of brown heroin from Mexico.\textsuperscript{116} A more dramatic demonstration of the increased volume of illicit drugs entering the United States from Mexico came earlier in 1974, when a massive five-week operation along the Mexican border resulted in the seizure of $16 million worth of illicit drugs.\textsuperscript{117}

On June 10, 1974, Drug Enforcement Administration (DEA) officials indicated that Mexico had supplanted Europe as the primary source of heroin entering the United States, and that Mexican heroin had become so popular that dealers were baking their

\begin{itemize}
  \item \textsuperscript{111} \textit{N.Y. Times}, Aug. 26, 1973, at 74, col. 8.
  \item \textsuperscript{112} \textit{SPONG}, \textit{supra} note 7, at 8. Cf. note 97, \textit{supra}.
  \item \textsuperscript{113} \textit{N.Y. Times}, Dec. 19, 1973, at 89, col. 5.
  \item \textsuperscript{114} \textit{N.Y. Times}, Sept. 12, 1973, at 20, col. 1. The statement was made by Mr. Bartels, then Acting Director of the Drug Enforcement Administration. It is interesting to note that on September 11, 1973 President Nixon announced, "We have turned the corner on drug addiction." \textit{Id.}
  \item \textsuperscript{115} \textit{N.Y. Times}, Dec. 21, 1973, at 74, col. 8. "Brown" heroin is distinguished from "white" heroin by the process by which it is refined. Mexican heroin is darker than Turkish (or European) heroin. There is no difference in potency attributable to the color or the refining process.
  \item \textsuperscript{116} "CBS Evening News," June 1, 1974.
  \item \textsuperscript{117} \textit{N.Y. Times}, Apr. 6, 1974, at 29, col. 2. Included in the seizures were twenty-six tons of marijuana.
\end{itemize}
stocks of European heroin to turn it brown. The respite, if ever there was one, brought about by the Turkish ban had ended.

The border between the United States and Mexico seems impossible to adequately patrol, and this is certainly a substantial part of the problem of interdiction. *Contrabandista* smuggling has been an established art for years, and the introduction of heroin smuggling through Mexico did not, therefore, require the establishment of a new smuggling network. Heroin was simply one more lucrative commodity to be smuggled. The thousands of private airfields in Texas make smuggling by light private plane virtually undetectable. In the absence of an "Operation Intercept," automobiles are also a reliable method of smuggling. Much smuggling is also done by individual couriers, crossing the Rio Grande on foot.

The effect of the Turkish ban in Europe has been mixed. In Yugoslavia it has become so difficult for pharmacists to obtain raw opium that the Government has undertaken a campaign to encourage Macedonian farmers to begin cultivating poppies as a cash crop. Elsewhere in Europe, the ban, while certainly affecting the trafficking organizations, does not appear to have had much effect of the use of drugs. Heroin, although in use, is still relatively uncommon. It may be that the limited quantity available is in itself a factor tending to keep the user population small. In any event, there is no indication that the addict populations have shown any propensity to dramatically increase since the ban, nor is there any evidence that they have experienced any sig-

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118 Interview with Mr. Vernier, Drug Enforcement Administration, "CBS Evening News," June 10, 1974.

119 The side panels of automobiles also appear to be a favored place of concealment for heroin smuggled from Europe to the United States via the Port of New York. *Comptroller General*, supra note 3, at 25. The resourcefulness of even small smuggling operations is illustrated by the following anecdote: Three soldiers stationed in Texas near the Mexican border decided to go into the business of bringing marijuana across the border into the United States. Accordingly, they carefully observed the automobiles being searched at the customs post, and noticed that certain types and models of automobiles were stopped more frequently than were others. Armed with this information, they pooled their resources and purchased the model they thought least likely to be stopped. Thereafter they made a most comfortable living transporting marijuana from Mexico to the base at which they were stationed, although only one of them drove the automobile. The operation continued until the driver left the army. As a token of gratitude for the added risk he had taken (although he was never stopped), the other two gave him the automobile. (Personal interview).

120 1971 *Hearings*, supra note 5, at 180.


122 *Spong*, supra note 7, at 18.
significantly greater difficulty in supplying themselves with heroin.\(^{123}\)

(3) Repeal of the Turkish ban. When the decree was first introduced, it was a subject of bitter controversy in Turkey. There is no addiction problem in Turkey,\(^{124}\) and the poppy is used for for any number of things. The oil is used for cooking, the seeds for flavor, and the plant itself for fuel and fodder. It is also by far the most lucrative cash crop available to the Turkish farmers,\(^{125}\) who have been planting it for literally hundreds of years. Moreover, there was a strong feeling that the Turkish government had capitulated under United States pressure.\(^{126}\)

At the time the ban was promulgated it was believed, in Turkey and the United States, that the controversy would diminish.\(^{127}\) Unfortunately, this was not the case. The poppy became a campaign issue, the challengers promising that, if elected, the farmers would be growing poppies again by 1974,\(^{128}\) and the government of Prime Minister Erim was defeated.

On February 14, 1974, Turkey notified the United States of its intention to resume the cultivation of the opium poppy.\(^{129}\) The claim was made that $35 million in U.S. aid was insufficient to compensate for the deprivations suffered by the farmers,\(^{130}\) and that the poppy shortage was to the Turks at least as important and as crippling as the gasoline shortage was to the Americans.\(^{131}\) Despite a threatened elimination of aid to Turkey,\(^{132}\) in March

\(^{123}\) This may be due to the fact that there were, and remain, unknown quantities of opium, morphine base, and heroin stockpiled from Turkish harvests prior to the 1972 ban. It is reasonable to assume that these stockpiles would be able to service the European addict population for years. Cf. note 132 infra.

\(^{124}\) SPONG, supra note 7, at 16.

\(^{125}\) Gross returns per acre:

<table>
<thead>
<tr>
<th>Crop</th>
<th>Return per Acre</th>
</tr>
</thead>
<tbody>
<tr>
<td>Opium (licit sales)</td>
<td>$160-200</td>
</tr>
<tr>
<td>Sugar beets</td>
<td>$142</td>
</tr>
<tr>
<td>Alfalfa</td>
<td>$73</td>
</tr>
<tr>
<td>Sunflower</td>
<td>$59</td>
</tr>
<tr>
<td>Wheat</td>
<td>$29</td>
</tr>
<tr>
<td>Barley</td>
<td>$27</td>
</tr>
</tbody>
</table>

\(^{126}\) Id. at 17.

\(^{127}\) Id.


\(^{129}\) N.Y. Times, Feb. 15, 1974, at 4, col. 4.

\(^{130}\) N.Y. Times, Mar. 13, 1974 at 8, col. 4; N.Y. Times, Feb. 21, 1974, at 8, col. 3.

\(^{131}\) N.Y. Times, Mar. 6, 1974, at 37, col. 3.

\(^{132}\) N.Y. Times, Mar. 14, 1974, at 40, col. 1. See also SENATE COMM. ON FOREIGN AFFAIRS, 93D CONG., 2D SESS., REPORT OF A STUDY MISSION TO TURKEY, MAR. 14-16, 1974 (Comm. Print 1974) ("The Politics of the Poppy"), discussing the history of the ban and the reasons for its repeal. Citing the enormous importance of the ban in breaking the "French Connection", the strong feelings that the ban has engendered among Turkish people and politicians, and the likelihood that poppy cultivation will again be permitted, the report suggests (at v) that the "possible rescission of the poppy ban could form the
1974 poppy cultivation resumed at six state farms in Anatolia. On the first of July, Premier Ecevit of Turkey formally rescinded the ban, authorizing the general resumption of poppy growing. On July 5, 1974 the United States recalled its ambassador to Turkey.

Congressional reaction was swift and angry. Within two weeks a resolution signed by 238 members of the House of Representatives urging the halt of all economic and military aid to Turkey was presented to President Nixon. Shortly thereafter both the House of Representatives and the Senate passed bills halting such aid to Turkey and all other opium-growing nations which fail to prevent the illegal diversion of heroin into the American market. The House of Representatives voted to order the United States Import-Export Bank to refuse to deal with Turkey until opium cultivation is ceased. It is too early to assess the effect of the Turkish decision. Only forty-five acres of poppies were sown, which is hardly enough to make any difference even if some is diverted into the illicit drug stream. It is unlikely that any opium will in fact be diverted; the small area involved, the fact that the poppy is being grown on state farms, and the intense international interest focused on the Turkish action combine to make it likely that the Turkish government will implement extremely strict security measures. The new crop will not be processed for some time, and Turkey has repeatedly pledged to implement strict controls to ensure that opium is sold only on the

most serious Turkish-United States crisis since the end of World War II." The report makes the following proposals in the hope of avoiding a "disastrous disruption" of Turkish-United States relations: vastly expanded and improved controls over any new crop planted, to be supervised by an international body; continued U.S. support of Turkish crop diversification programs and the abandonment of marginal farming areas in favor of industrialization of these areas; cultivation of poppies for their seeds and other by-products with a continued prohibition of opium gum; and encouraged Turkish understanding of the international nature of the drug problem. Acknowledging that these measures have practically no chance of avoiding a frontal confrontation between the United States and Turkey, the report concludes:

If Turkey disregards the real dangers which renewed poppy production presents to the American people then this matter must be brought before the Congress to review any and all agreements between the two nations.

Id. at 11. This report was issued prior to the Greek-Turkish dispute on Cyprus.

133 N.Y. Times, Mar. 26, 1974, at 8, col. 3.
134 N.Y. Times, July 2, 1974, at 4, col. 4.
137 N. Y. Times, Aug. 6, 1974, at 36, col. 2.
139 N.Y. Times, Aug. 1, 1974, at 3, col. 5.
140 See note 133 supra.
international pharmaceutical market.\textsuperscript{141} Certainly the Turkish action has damaged relations between the United States and Turkey. It remains to be seen whether sufficient pressure can be brought to bear to compel Turkey to reinstate the ban in the future. But the issue has now become a highly emotional one on both sides, and the repeal of the ban is now seen in Turkey as an expression of nationalism. In addition, other strategic factors may prevent the United States from bringing further pressure to bear. By any measure, it is a major set-back in the struggle against illicit narcotics.

\textit{B. Marijuana, Cocaine, and Psychotropic Substances}

While the control of opium and its derivatives remains the greatest and most urgent task confronting international drug control efforts, there has been a widespread increase in the use of all sorts of drugs. These drugs may be classified into three categories: marijuana and hashish, coca and cocaine, and a loosely defined group of psychotropic substances—drugs of synthetic origin. With the exception of certain of the psychotropics, none of these drugs are as devastating as heroin. With the exception of marijuana, none are as widespread.\textsuperscript{142}

1. Marijuana and Hashish.—Although traditionally classified along with more dangerous drugs, marijuana and hashish have not commanded the same attention in practice. They are not addictive, and the suggestion that they “lead to the use of other drugs” has long been disproven. Many countries that prohibit the use of other drugs have legalized the use of marijuana.\textsuperscript{143}

While international and national efforts to interdict traffic in marijuana and hashish have by no means been abandoned,\textsuperscript{144} as much emphasis is placed on the implications of the traffic as on the traffic itself. Thus, for example, the United States has expressed concern over the hashish smuggling route extending from Afghanistan through Iran and Turkey into Europe, not principal-}

\textsuperscript{141} N.Y. Times, July 9, 1974, at 19, col. 3; N.Y. Times, July 6, 1974, at 1, col. 6.
\textsuperscript{142} Although as a group psychotropic substances are surely more widely used than are opium or opium products, no single substance within that classification can claim such world wide popularity.
\textsuperscript{143} In the United States, the state of Oregon and several municipalities have either eliminated or drastically reduced penalties for the use of marijuana. Canada has from time to time given thought to removing all criminal penalties for marijuana use.
\textsuperscript{144} See note 115 supra.
ly because of the hashish, but because the route might easily be expanded to include opium and morphine base.\textsuperscript{145}

The marijuana plant grows to a height of three to four feet, and has variegated leaves and a tough, fibrous stem. It will grow in almost any climate, and may even be grown indoors, but thrives best in hot regions with plentiful rainfall. The very ease with which it may be grown (it requires practically no care) makes any attempt to describe specific smuggling networks an exercise in futility. The female plant is more potent than the male, and plants from tropical climates more potent than those grown in temperate regions. In the United States, the most popular imports come from Panama, Colombia, Jamaica, and Mexico.\textsuperscript{146}

After it has reached maturity, the plant is harvested. The stem is cut as near the base as possible, and the plant is hung upside down for several days in order to allow the resin in the stem to run down into the leaves.\textsuperscript{147} The leaves are allowed to dry, and if for export, are pressed into bricks. Only the leaves, flowers, and seeds are consumed; the stems, having almost no potency, are generally discarded.

The street price of marijuana in the United States fluctuates according to supply, quality, and place of origin,\textsuperscript{148} but generally stays within a range of from $15 to $25 per ounce. Because of this relatively low price, an entrepreneur who hopes to make a sizeable profit must deal in great bulk, dramatically increasing the chances of apprehension. These two factors have encouraged organizations to concentrate on more profitable and "safe" drugs, leaving marijuana smuggling to small groups and individuals. This, in turn, has tended to limit trans-oceanic smuggling, for these small groups and individuals rarely have either the contacts or the wherewithal to engage in such practices.

Hashish is the pure resinous extract of the flower of the female marijuana plant, and is as much as eight times more potent than marijuana.\textsuperscript{149} Quality varies widely, with the world's best hashish

\textsuperscript{145} N.Y. Times, Nov. 18, 1972, at 1, col. 6; see also McLaughlin & Quinn, \textit{supra} note 6, at 518.

\textsuperscript{146} Southeast Asian marijuana is reputedly very potent and highly desirable, but the cost of transportation makes the price prohibitive for all but the wealthier connoisseur.

\textsuperscript{147} Sometimes the plant is not cut but merely uprooted. Depending on the need for discretion the leaves may be baked in the sun or not baked at all, and the step involving hanging the plant upside down may be omitted.

\textsuperscript{148} For example, "Panama Red" commands a higher price than Mexican, which is in turn more expensive than domestically grown marijuana.

\textsuperscript{149} McLaughlin & Quinn, \textit{supra} note 6, at 479.

\textsuperscript{150} Accordingly there is at least one readily identified and well established smuggling network, originating in Afghanistan and servicing the Western European and United States market. Hashish is a popular drug among U.S. servicemen in the Federal Republic of Germany. \textit{See also} note 139 and accompanying text \textit{supra}. 
reputed to originate in Afghanistan. The retail price is between $20 and $30 per gram. While there is some organized smuggling of hashish into the United States from Europe, most enters the United States from Mexico, via contrabandista smuggling in small aircraft, fishing boats, and automobiles.

The subject of the effects of marijuana and hashish has long been a fruitful source of controversy, often bordering on hysteria. The short term effects include a sense of well-being, visual and auditory distortions, heightened awareness to music, craving for particular foods, and a feeling of relaxation and sleepiness. The effects last only a few hours, and there are no reported after-effects. Although there continues to be disagreement, it has been established that marijuana and hashish are not physically or psychologically addicting, do not lead to the use of other drugs, and are physically no more damaging than tobacco. Recently, however, a new form of hashish has appeared, known as "hash oil". It is the liquid distillate of pure marijuana resin, and is far stronger and far more expensive than either marijuana or hashish. It is not now widespread, perhaps because of its expense, perhaps because of its novelty, and little is known of its effects. A few drops of the substance placed on a cigarette is said to be equivalent in potency to the best marijuana. What its effects would be if taken in a more concentrated form, or what its long term effects may be, are open to question.

2. Cocaine and Coca.—Cocaine is produced from leaves of the coca bush, which is indigenous to the eastern slopes of the Andes Mountains. It may be found as far south as Chile and as far north as Venezuela, at altitudes of from 2,000 to 6,000 feet.

In appearance, the plant resembles a blackthorn bush and will normally grow to a height of six feet in the coca plantations. Harvesting of the plant may begin when the plant is two or three years old and continues for about twenty years. Due to the rapid growth of the vegetation on the lower slopes of the Andes, there may be as many as four harvests of the coca plant each year.

The leaves themselves are not addicting, and have long been

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150 The 1930's movie Reefer Madness is a good example of this phenomenon.
152 REPORT OF THE PRESIDENT'S COMMISSION ON MARIJUANA (1972).
153 McLaughlin, Cocaine: The History and Regulation of a Dangerous Drug, 58 CORNELL L. REV. 539 (1973), at 537 [hereinafter cited as McLaughlin: Cocaine].
154 Id. at 539 (footnotes omitted).
155 When the Peruvian army banned the use of coca, Indian recruits had no trouble giving up coca chewing when fed an adequate diet.
Id. at 542.
used by Indian tribes in the area as an appetite suppressant and as a stimulant.\textsuperscript{156} “Because the stimulating properties of cultivated coca plants are considered greater than those of wild plants, the leaves of the former are preferred for chewing.”\textsuperscript{157} Bolivia and Peru, the two largest coca growing countries, produce between 12,000 and 15,000 tons of coca leaves annually, most of which is consumed locally.\textsuperscript{158}

Cocaine is an alkaloid of the coca leaf, and was introduced as an anesthetic and as a cure for morphine addiction following the American Civil War.\textsuperscript{159} It also gained widespread popularity in intellectual circles and as an ingredient in patent medicines.\textsuperscript{160} Coca leaves were used as flavoring agents in soft drinks sold in the United States.\textsuperscript{161}

Use of cocaine has largely been confined to the United States, several South American states, and certain intellectual circles in Western Europe. More effective anesthetics have replaced cocaine in accepted medical practice. A growing awareness of its toxic effects, coupled with strong governmental regulations against its use and distribution, almost eliminated it from use, at least in the United States.\textsuperscript{162}

Several factors may have contributed to its recent growth in popularity. Former heroin addicts enrolled in methadone maintenance programs are said to use cocaine because it may be taken without visible signs of use.\textsuperscript{163} The drug is also becoming socially acceptable in professional classes, for whom its effects of reducing fatigue and increasing mental awareness are particularly attractive.\textsuperscript{164} With the increased pressure on heroin traffic, many deal-
ers and addicts turned to cocaine, and imports dramatically increased.\(^{165}\)

Although cocaine may be injected, it is generally taken by "snorting." The drug, a white crystalline powder, is placed in a small spoon and inhaled through one nostril while the other is held closed. Prolonged usage may cause bleeding from the nostrils.\(^{166}\) The drug is not properly classified as a narcotic, in that it does not depress the central nervous system;\(^{167}\) rather, it acts as a stimulant.

Physiologically, cocaine causes an increase in pulse and respiratory rates, a rise in body temperature, and blood pressure, constriction of the blood vessels, and dilation of the pupils. During this state of hyperexcitement, the cocaine user often becomes restless and talkative and experiences feelings of increased sexual desire and greater physical and mental prowess. He may find it difficult to measure time and distance. Appetite, thirst, and fatigue are forgotten.\(^{168}\)

The effect is brief, lasting no more than an hour, and leaving the user in a state of depression. Although not physically addicting, prolonged use of cocaine may produce hallucinations, paranoia, digestive disorders, nausea, insomnia, and malnutrition.\(^{169}\)

The routes by which cocaine enters the United States are reasonably well known. Most cocaine is manufactured in Chile and Cuba, with Chile being the largest single exporter of cocaine to the United States.\(^{170}\) Colombia, Panama, and Mexico are major transshipment points.\(^{171}\) Most cocaine enters the United States through Dade County, Florida, and is controlled by Cuban organizations who carry it north to the New York metropolitan area.\(^{172}\) A lesser amount is brought across the Mexican border. Once inside the United States, it is distributed through regular channels.
International activity against cocaine has met with limited success. Although there have been isolated achievements disrupting the traditional smuggling networks, almost no progress in limiting coca growth in Peru and Bolivia has been made. The International Narcotics Control Board in its 1972 Report described the situation as follows:

The situation... has undergone little marked change... and regrettably nothing has occurred to moderate international concern which is felt in regard to the extensive coca bush cultivation in the Andean region, especially in Bolivia and Peru.... [C]oca leaf chewing is a traditional indulgence which has been practiced for centuries in these regions and because of its long continuance it would in any case be difficult to eradicate;... its elimination can hardly be looked for in advance of major economic and social reforms....

The debilitating... effects of... excessive coca leaf chewing... make it essential on humanitarian grounds alone that organized cultivation of the coca bush should be terminated as soon as possible. But this need acquires additional sharpness and urgency from the fact that the present overproduction provides material for clandestine manufacture of cocaine to supply the illicit traffic. This outflow has expanded in recent times and present indications are that it will continue to grow in volume....

... In Peru some measure of reform has been achieved in recent years.... In Bolivia, so far as the Board is aware, there has been none.174

3. Psychotropic Substances.—There is no generally accepted definition of the term “psychotropic substances.” The proposed Convention on Psychotropic Substances175 lists in its schedules a wide variety of drugs of both medical and nonmedical value.176 In the street, they are the “chemicals,” drugs of synthetic origin, and their effects and composition vary as widely as the imaginations of the chemists who produce them. They are the plague of industrialized states, the premier drugs of students, the middle class, and the military.177 They include the tranquilizers and stimulants

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173 See notes 170 (Chile) and 97 (Panama) supra.
174 INCB REPORT, supra note 2, at 17-18.
175 See notes 283-313 and accompanying text infra.
176 The schedules include hallucinogenic substances such as LSD-25, mescaline, STP, and psilocybine; a variety of amphetamines and barbiturates; and many more benign drugs such as phenobarbitol.
177 SPONG, supra note 7, at 18.
upon which much of society relies in order to cope with the pressures of urban survival.

Those drugs having legitimate medical purposes may be readily obtained from legitimate sources, and are consumed in fantastic quantities. There is a flourishing black market in these drugs, and they are quite inexpensive. The accessibility of these drugs, combined with the low profit margin, has retarded the growth of large scale, organized trafficking in this area.

In small dosages, barbiturates may be used as tranquilizers, sleeping pills, sedatives, and hypnotics. In larger quantities, or combined with alcohol they may arrest the functioning of voluntary and involuntary muscles, inducing coma and death. Certain barbiturates, if taken over a sufficiently prolonged period of time, may be physically addicting.

That amphetamines have any legitimate medical use at all has been seriously questioned. When prescribed, they are intended for use as antidepressants and as an aid in weight loss. When consumed in large quantities, they induce a state of high excitement, in which the user is able to do without food and rest for days at a time, and during which he may be capable of functioning at an abnormally high level of efficiency. Heartbeat and respiration rate are increased. The user is inclined to be quite talkative.

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178 In most countries amphetamines and barbiturates may be prescribed by any licensed physician. Although the United States requires special permits of physicians who are authorized to dispense narcotics, no such permits are required for the dispensation of barbiturates or amphetamines. Nor are the strict procedures required for record keeping in the prescription of narcotics applicable to these drugs.

179 The following chart was compiled by the Narcotics Control Commission of the state of New York, indicating the estimated number of individuals taking drugs at least six times a month:

- Minor tranquilizers (e.g., Miltown) .................................... 525,000
- Marijuana ................................................................. 487,000
- Barbiturates ............................................................ 381,000
- Diet Pills (e.g., Dexadrine) ............................................ 222,000
- Sedatives, hypnotics (e.g., Doriden) .............................. 187,000
- Heroin ................................................................. 157,000
- Pep Pills ................................................................. 110,000
- Major tranquilizers (e.g., Thorazine) ............................. 71,000
- LSD ..................................................................... 45,000
- Antidepressants .......................................................... 39,000
- "Speed" (Methadrine) .................................................. 35,000
- Controlled narcotics (e.g., morphine) ......................... 17,000
- Cocaine ................................................................. 6,000

See 1971 Hearings, supra note 5, at 91.

180 In the United States it rarely costs more than one dollar to purchase most brands of barbiturates on the street.

181 The New Jersey Water Pollution and Public Health Commission has called for an outright ban on amphetamines, citing their extremely high potential for abuse, easy accessibility, and limited medical value. N.Y. Times, Dec. 21, 1973, at 74, col. 8.
and may believe himself capable of feats of enormous physical, mental, and sexual prowess. If taken continuously over a period of days, the user may literally drive himself until he collapses.

Drugs for which no medical use has been found are of course not produced by pharmaceutical firms; therefore, they must be illicitly manufactured. They are produced in small laboratories located in or near metropolitan areas.\textsuperscript{182} Although some skill is required, a graduate chemist is capable of producing most of these drugs at minimal cost. Most drugs so produced are properly classified as hallucinogenics. Quite apart from dangers inherent in the drugs themselves, there are other risks for the user. The drug may have been improperly manufactured and may contain impurities. More often, the drug may not be what it is said to be. Because these drugs come in pill or liquid form, it is impossible for the user to know what he is buying. Instances of strychnine being sold as mescaline and animal tranquilizers being sold as various drugs are quite common. The results of such sales are often tragic.

The United States is the principal producer of all types of psychotropic substances.\textsuperscript{183} Although most hallucinogenics produced in the United States are consumed domestically, there is a sizeable export of hallucinogenics to Western Europe, where barbiturates and LSD are the drugs of choice.\textsuperscript{184} In addition, there are fears that exports of amphetamines and barbiturates to developing countries, where new markets may be found for illicit drug use in the urban areas, are increasing.\textsuperscript{185}

\section*{II. The Drug Control Conventions}

The need for international cooperation in coming to grips with illicit drug traffic has long been recognized.\textsuperscript{186} Beginning with the Shanghai Opium Conference in 1909, the international community has repeatedly attempted to devise some sort of regime that would be capable of inducing the members of the international community to coordinate their efforts in controlling drug traffic while retaining sufficient flexibility to enable the large majority of

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\begin{itemize}
\item \textsuperscript{182} \textit{Id.} (referring to the spread of illicit chemists in New Jersey and Philadelphia).
\item \textsuperscript{183} 1971 \textit{Hearings}, supra note 5, at 81.
\item \textsuperscript{184} \textit{Spong}, supra note 7, at 18.
\item \textsuperscript{185} 1971 \textit{Hearings}, supra note 5, at 81.
\item \textsuperscript{186} \textit{E.g.}, \textit{Dowles, The Genesis of International Drug Control} (1966) [hereinafter cited as \textit{Genesis}].
\end{itemize}
states to adhere to it. The most recent and most successful attempt is the Single Convention on Narcotic Drugs, 1961, which went into effect December 13, 1964, and has been ratified by 104 nations.

A. The Single Convention on Narcotic Drugs

The Single Convention replaces all previous treaties in this field. It centralizes the international narcotics control machinery and places the cultivation and harvesting of plants used in the production of marijuana, cocaine, and opium under international regulations. Signatory states are required to establish criminal penalties for violation of the control provisions set forth in the treaty, and provision is made for extradition.

Primary responsibility for the administration of the terms of the Single Convention is vested in two bodies—the Commission on Narcotic Drugs of the Economic and Social Council, and the International Narcotics Control Board. The Commission has the authority to "consider all matters pertaining to the aims" of the Single Convention, including the right to modify the schedules of controlled drugs, to make recommendations furthering the aims of the Convention, to call the attention of the Board to matters relevant to its functions, and to approach nonparties to the Convention in order to encourage their compliance with its terms.

It has the duty to assist the Economic and Social Council in exercising general supervision over drug treaties, to advise the Council on all matters relating to narcotics, to prepare draft con-


189 As of March 31, 1974.

190 SINGLE CONVENTION, supra note 188, art. 44.

191 Id., art. 5. Other bodies and organs involved in the control regime include the Economic and Social Council, the General Assembly, the Secretary General, and the World Health Organization. Ultimate responsibility for the Convention's success or failure is given to the Parties themselves.

192 Id., art. 8.

193 Id., art. 3. See also notes 226-234 and accompanying text infra.

194 SINGLE CONVENTION, supra note 188, art. 8.
ventions as necessary, and to consider what changes may be needed in existing machinery for the control of narcotics.\textsuperscript{195}

It may also discuss problems involving substances not included in the Single Convention. In line with this right, the Commission adopted the Draft Protocol on Psychotropic Substances.\textsuperscript{196} It receives reports from the International Narcotics Control Board,\textsuperscript{197} requires parties to the Convention to furnish such information to the Secretary General as may be necessary for the performance of its functions, and specifies the dates by which such information must be supplied.\textsuperscript{198} The Commission prescribes the form which import certificates to be used by the parties are to take,\textsuperscript{199} and recommends safeguards to be adopted by countries of registry of ships or aircraft to prevent diversion of drugs carried by such vessels for emergency or first-aid purposes.\textsuperscript{200}

The International Narcotics Control Board is elected by the Economic and Social Council.\textsuperscript{201} Three of its eleven members are elected from a list provided by the World Health Organization; eight are chosen from a list provided by the Member Nations of the United Nations and of the Single Convention.\textsuperscript{202} Members are elected for a term of office of three years and may be re-elected.\textsuperscript{203} To the Board, the successor to the Permanent Central Board, and to the Drug Supervisory Body, falls the task of administering the Single Convention's estimate system, a task which the authors of the Single Convention felt would require at least two annual sessions.\textsuperscript{204}

The estimate system is intended to limit the quantities of nar-

\textsuperscript{195} \textsc{Secretary General, Commentary on the Single Convention on Narcotics Drugs, 1961, United Nations. New York (1973), at 125 [hereinafter cited as Commentary].
\textsuperscript{196} Id. at 126.
\textsuperscript{197} \textit{Single Convention}, supra note 188, art. 15, para. 1.
\textsuperscript{198} Id., art. 18.
\textsuperscript{199} Id., art. 31, para. 5.
\textsuperscript{200} Id., art. 32, para. 2.
\textsuperscript{201} Id., art. 9.
\textsuperscript{202} Id., art. 9, para. 1.

The right of non-parties to the Single Convention to nominate candidates for membership on the Board appears to be justified on the ground that they contribute to the budget of the United Nations and thus to the cost of maintaining the Board.

\textsuperscript{203} \textit{Single Convention}, supra note 188, art. 10, para. 1.
\textsuperscript{204} Id., art. 11, para. 2.

The inclusion in the Single Convention of the mandatory requirement of two annual sessions should relieve the . . . Board of the annual burden of justifying . . . the necessity of two sessions.

\textsuperscript{195} Commentary, supra note 195, at 133.
\textsuperscript{204} Id., art. 11, para. 2.
cotics which countries may obtain or produce to the amount needed for medical and scientific purposes.205 In a sense, it is the heart of the Convention. Every year, each party must furnish to the Board estimates of the quantities of drugs that it will consume for medical and scientific purposes, the quantity of drugs to be used in making other drugs or preparations, the quantity of drugs to remain in stock at the end of the year, and the quantity of drugs necessary for addition to special stocks.206 Parties are to inform the Board of the method used in determining the estimates. The Board sets the date by which these estimates shall be furnished,207 although parties have the right to furnish supplemental estimates.208 If a state fails to furnish estimates, the Board is to establish its own estimates for that state.209 The Board may require that parties furnish additional information. After receiving all such information, the Board must either confirm the estimates or, with the consent of the state concerned, amend them.210

No state may exceed its estimated drug requirements.211 If the Board finds that a country has manufactured or imported a greater quantity of a particular drug than it had estimated it would require for that year, the estimate for the next year is to be reduced by the amount of the excess.212 Similarly, drugs released from special stocks for civilian use and illicit drugs seized and released for legitimate use are to be deducted from the next year’s estimate.213 If the total amount of a particular drug exported to a country in a given year exceeds that country’s estimated requirement, the Board may notify other parties, who are then obligated not to

205 The estimate system is provided for in articles 12, 19, and 21 of the Single Convention, and in article 31, paragraph 1(b). The supplemental statistics system is found in articles 13 and 20.
206 SINGLE CONVENTION, supra note 188, art. 19, para. 1. Note that “for the purposes of this Convention a drug shall be regarded as ‘consumed’ when it has been supplied for retail distribution.” Art. 1, para. 2. “Special stocks” refers to drugs required by the armed forces and those necessitated in order to cope with major disasters. See COMMENTARY, supra note 195, at 232.
207 SINGLE CONVENTION, supra note 188, art. 12, para. 1. It has set August 1 of the year preceding that year to which the estimates refer as the date for all estimates to have been received by the Board. COMMENTARY, supra note 190, at 155-56.
208 SINGLE CONVENTION, supra note 188, art. 19, para. 3.
209 Id., art. 12, para. 3. This applies to all nations whether or not they are parties to the Single Convention. Accordingly, the Board is empowered to request estimates from governments of countries not party to the Convention.
210 Id., art. 12 paras. 4, 5.
211 Id., art. 19, para. 5.
212 Id., art. 21, para. 3.
213 Id., art. 21, para. 2.
authorize further exports of that drug to that country for that year.\textsuperscript{214}

In addition to the estimates, the parties are required to furnish to the Board statistical information with respect to the production or manufacture of drugs, the use of drugs in the manufacture of other drugs or preparations, the consumption of drugs, the imports and exports of drugs and poppy straw, the seizure and disposal of illicit drugs, and the stocks of drugs on hand at the end of the year to which the statistics refer.\textsuperscript{215} This information must be supplied annually, and is to be furnished to the Board by June 30 of the year following the year to which it refers, except that quarterly reports are to be made of drug imports and exports.\textsuperscript{216} Parties may, but are not required to furnish information regarding the amount of land used in the growing of opium poppies.\textsuperscript{217} Nor are they required to reveal information about special stocks, but must furnish information concerning drugs imported for special purposes or released from special stocks for general use.\textsuperscript{218}

The Board specifies the form in which these returns are to be furnished, and examines them "with a view to determining whether a Party or other State has complied with the provisions of this Convention."\textsuperscript{219} The Board must determine whether the statistics are complete and whether they are accurate. This may be done by a process of comparing interdependent data.

The Board may use facts from different sources in evaluating the accuracy and completeness of statistical returns. It may compare the import statistics of a particular country or territory with the export statistics of the countries of origin, or the export statistics in one return with the import statistics of the countries and territories of destination. It may study the returns in the light of information . . . from the annual reports on the workings of the Single Convention and from the reports on seizures of drugs, . . . from other communications furnished by Governments . . . to other intergovernmental organizations or organs, or from official data released by Governments to the public. Information from private sources . . . may not be used.\textsuperscript{220}

\textsuperscript{214} Id., art. 21, para. 4.
\textsuperscript{215} Id., art. 20, para. 1.
\textsuperscript{216} Id., art. 20, para. 2. Note that while the Board fixes the date for the receipt of estimates, the date for receipt of statistics is fixed by the Convention itself.
\textsuperscript{217} Id., art. 20, para. 3.
\textsuperscript{218} Id., art. 20, para. 4.
\textsuperscript{219} Id., art. 13, paras. 1, 2.
\textsuperscript{220} COMMENTARY, supra note 195. at 173-74. See also SINGLE CONVENTION, supra note 188, art. 14, para. 1.
If the information is not complete or accurate, the Board may require additional information.\textsuperscript{221} This information may be used not only to see whether a party has exceeded its estimates but also to evaluate its overall progress against illicit drugs. If the Board has reason to believe that the aims of the Convention are being threatened by the failure of a state to fulfill its obligations, it may ask for an explanation from the government of that state, and may call upon the state to take measures to correct the situation.\textsuperscript{222} If these measures fail, the Board may call the matter to the attention of the other parties, the Commission, and the Economic and Social Council\textsuperscript{223} and may recommend to the parties that they cease the import and export of drugs to the country in question.\textsuperscript{224}

The measures of control required by the Single Convention with respect to the drugs, preparations, and plants to which it is applicable vary according to two factors: the value of the substance for medical or scientific purposes and its potential for abuse. Each drug is classified into one of four schedules.\textsuperscript{225}

All drugs are classified in either Schedule I or Schedule II, with the most dangerous of the Schedule I drugs listed under Schedule IV as well. Drugs listed in Schedule I are subject to all restrictions and controls included in the Convention except those applicable to specific substances. With respect to Schedule IV drugs, parties may adopt additional measures beyond those specified in the Single Convention, and may prohibit their production, trade, or use.\textsuperscript{226} Schedule II drugs are subject to the same controls as are those in Schedule I except that they are exempt from certain restrictions at the retail level. They may be accumulated at retail distribution centers; medical prescriptions need not be required for their dispensation; and the exact drug content need not be

\textsuperscript{221} \textit{Single Convention}, supra note 188, art. 13, para. 3.

\textsuperscript{222} \textit{Id.}, art. 14, para. 1(a), (b). Note that this sanction is not confined to a failure of a state to keep production and imports within estimates, but may include other matters as well. This is a very delicate area, because it may lead to the recommendation of an embargo on the import, export, or both, of drugs to a state. Consideration is, accordingly, given to the political reality of the situation. The failure to comply must seriously endanger the aims of the Convention. Actions of the Board are to be kept confidential until it is necessary to inform the other parties of the situation, in order to avoid embarrassment and offense to the state in question. It is also noteworthy that the Single Convention does not authorize the Board to impose a mandatory embargo, as was permitted under the 1953 Opium Protocol, but merely to recommend to the parties that they do so. No embargo has ever been recommended by the Board under the authority of the Single Convention.

\textsuperscript{223} \textit{Id.}, art. 14, para. 1(c).

\textsuperscript{224} \textit{Id.}, art. 14, para. 2.

\textsuperscript{225} \textit{Id.}, art. 2. Note that Schedule IV drugs are also listed in Schedule I.

\textsuperscript{226} \textit{Single Convention}, supra note 188, art. 2, para. 5.
shown on the label. Additional controls are applicable to opium, coca leaf, and cannabis, and special provision is made for the control of poppy, poppy straw, cannabis plant and leaves, and the coca bush.

The control provisions applicable to drugs in Schedule I constitute the standard regime under the Single Convention. The principal features of this regime are: limitation to medical and scientific purposes of all phases of the narcotics trade (manufacture, domestic trade, both wholesale and retail, and international trade) in, and of the possession and use of, drugs; requirement of governmental authorization (licensing or state ownership) of participation in any phase of the narcotics trade, and of a specific authorization (import and export authorizations) of each individual international transaction; obligation of all participants in the narcotics trade to keep detailed records of their transactions in drugs, requirement of a medical prescription for the supply or dispensation of drugs to individuals; and a system of limiting the quantities of drugs available, by manufacture or import or both, in each country and territory, to those needed for medical and scientific purposes.

Drugs are rarely used in their pure, unadulterated form. Rather, they are almost always combined with other substances to form mixtures, or "preparations." Preparations are regulated according to the regime prescribed for the schedule in which the drug they contain is listed. Since the Board does not keep records of preparations as such, but only of their drug content, parties are not required to furnish specific information on preparations to the Board. Similarly, since permits are required for the production of drugs, there is no need to require special permits for the manufacture of preparations as well.

Schedule III substances comprise a class of preparations of

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227 Id., art. 30, paras. 2, 5, 6.
228 Commentary, supra note 195, at 51-52. See Single Convention, supra note 188, art. 4, para. c, the general provision limiting drugs to medical and scientific use; art. 29, controlling the manufacture of drugs, compelling licensing and permits; art. 30, regulating domestic trade, requiring licensing for trade and distribution of drugs, preventing accumulation of drugs, and setting out labelling requirements; art. 31, governing international trade, requiring stringent import/export controls and a separate license for each transaction; art. 34, governing licensure and requiring records keeping at all levels of drug manufacture and consumption; and article 37, providing for seizure of illicit drugs and equipment used in illicit trafficking. See also notes 205-24 and accompanying text, supra, for a description of the method of preventing overproduction.
229 A preparation is defined as "a mixture, solid or liquid, containing a drug." Id., art. 1, para. s.
230 Id., art. 2, para. 3. If a preparation contains drugs of more than one Schedule, the most rigorous regime applicable is to be implemented.
significant medical value and small potential for abuse. Controls on this class of preparations are, accordingly, somewhat relaxed.\textsuperscript{231} Government authorization is not required for the import or export of these substances. Estimates and statistics with respect to the quantity of drugs consumed in the manufacture of these preparations must be furnished to the Board, but no other information is required. Apart from this, Schedule III preparations are subject to the same controls as are those falling under Schedule II.

Opium, coca leaf, and cannabis are listed in both Schedules I and IV, and are subject to additional controls as well. If a party permits the cultivation of the opium poppy for the production of opium, or the coca bush, or cannabis plant for any purpose, it must establish a government agency to oversee the production and harvest of the crop.\textsuperscript{232} A licensing system for private individuals is not satisfactory, in that it would not be possible to establish with accuracy the quantity of the crop being grown and therefore would be far more difficult to prevent the sale of the crop to illicit buyers. "In fact, experience has shown that permitting licensed private traders to purchase the crops results in diversion of large quantities of drugs into illicit channels."\textsuperscript{233}

The agency must designate the areas in which these crops may be planted, license those authorized to plant them, and specify the extent of the land on which cultivation is to be permitted. The growers are required to sell their entire crop to the agency, which must take physical possession of the crop as soon as possible after the harvest. With certain medical exceptions, the agency is to have exclusive trading rights in the harvested crop as well as the exclusive right to maintain stocks in it.\textsuperscript{234}

Unlike the 1953 Opium Protocol, the Single Convention does not limit the number of states which are permitted to grow opium.\textsuperscript{235} Rather the aim of the Single Convention is to guard overproduction and to make certain that all opium exported is subject to international controls. Before initiating or increasing the size of an opium crop, a party must satisfy itself that such action will not result in illicit traffic or overproduction.\textsuperscript{236} If a party which did not export opium during the ten years prior to January

\textsuperscript{231} Id., art. 2, para. 4.
\textsuperscript{232} Id., art. 23 (opium), art. 26 (coca bush), and art. 28 (cannabis).
\textsuperscript{233} COMMENTARY, supra note 195, at 278.
\textsuperscript{234} SINGLE CONVENTION, supra note 188, art. 23, para. 2.
\textsuperscript{235} The 1953 Opium Protocol limited opium production to the nations of Bulgaria, Greece, India, Iran, Turkey, the U.S.S.R., and Yugoslavia.
\textsuperscript{236} SINGLE CONVENTION, supra note 188, art. 24, para. 1.
1, 1961, desires to do so, it must notify the Board, which may either approve the notification or recommend to the party that it not export opium.\(^{237}\) Parties which produced and exported opium during the ten years prior to January 1, 1961, may continue to do so.\(^{238}\) Only opium exported with approval of the Board, or by parties which had previously done so, may be imported by a party to the Convention.\(^{239}\) This does not, however, prevent a party from producing opium for its own requirements or from exporting illicit opium which has been seized.\(^{240}\)

The poppy, the coca bush, and the cannabis plant all have legitimate nonmedicinal uses. The poppy is widely grown for its oil and seeds, coca for use as a flavoring agent, and cannabis for use as hemp. The Single Convention recognizes these legitimate uses, and sets forth measures to insure that plants grown for them are not diverted for the production of illicit drugs. Accordingly, parties growing poppies for purposes other than the production of opium must take measures to prevent their use for opium and must subject the poppy straw to the same import and export restrictions applied to Schedule I drugs.\(^{241}\) Coca leaves may be used for flavoring agents only after all alkaloids have been removed.\(^{242}\) Wild coca bushes are to be destroyed.\(^{243}\) Parties are to adopt "such measures as may be necessary" to prevent illicit traffic in cannabis leaves.\(^{244}\) Estimates and statistics on the use of coca leaves for flavoring and statistics on the import and export of poppy straw must be provided to the Board.\(^{245}\) If a party comes to the conclusion that it cannot otherwise prevent the diversion of drugs produced from opium, cannabis, or coca grown in its territory into the illicit drug traffic, it is to prohibit the cultivation of these plants.\(^{246}\)

Although it is recognized that coordination among national po-

\(^{237}\) Id., art. 24, para. 2.

\(^{238}\) Id., art. 24, para. 3. "During" is defined as "at any point in", rather than as "throughout". See Commentary, supra note 195, at 293.

\(^{239}\) Single Convention, supra note 188, art. 24, para. 4.

\(^{240}\) Id., art. 24, para. 5.

\(^{241}\) Id., art. 25. "Poppy straw" is defined as "all parts (except the seeds) of the opium poppy, after mowing." Id., art. 1, para. 1(r). Raw opium may, through a mechanical process requiring some sophistication, be extracted from poppy straw.

\(^{242}\) Id., art. 27, para. 1.

\(^{243}\) Id., art. 26, para. 2.

\(^{244}\) Id., art. 28, para. 3.

\(^{245}\) Id., art. 27, para. 2 (coca leaves) and art. 25, para. 3 (poppy straw).

\(^{246}\) Id., art. 22. This article has given rise to the position that Turkey, being unable through other means to prevent the diversion of part of its opium crop into illicit channels, is obligated to prohibit all cultivation. See, e.g., 1971 Hearings, supra note 5, at 58, 109.
lice forces is essential to any international regime for the suppression of illicit drug traffic, the mechanics of establishing a system of international police cooperation present a difficult problem. If an agreement requires that major adjustments be made in national police and judicial systems, many states may be unwilling or unable to adhere to it. The Single Convention provides for a very flexible system of cooperation. Phrased in general terms, the Convention calls upon the parties to make arrangements for the coordination of national antinarcotics efforts; to provide assistance and cooperation to other nations and with international organizations, and to ensure that legal papers necessary for the prosecution of an offender in another country are provided expeditiously.

Subject to their constitutional limitations, parties to the Single Convention are required to enact laws and regulations making all forms of drug trafficking in violation of the terms of the Convention punishable offenses and to provide for serious violations "adequate punishment particularly by imprisonment or other penalties of deprivation of liberty."

The Convention provides that each element involved in the illicit cultivation, manufacture, possession, distribution, and sale of drugs shall, if committed in more than one country, be deemed a specific offense. Moreover, conspiracy and attempts to commit any of these specific offenses are themselves punishable offenses, as are "preparatory acts and financial operations in connection" with any of the offenses. The intent of these provisions is to establish national jurisdiction according to the territorial principle as broadly as possible, and thus to develop a network whereby every participant involved at any point in what might otherwise be regarded as a single crime might be prosecuted for his role. Offenders are to be prosecuted by the country in which the offense was committed or "if extradition is not accept-

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247 This is why the 1939 Convention received such a poor reception and failed to attain any measure of general applicability. See COMMENTARY, supra note 195, at 415-16; Bassiouni, supra note 187, at 724-25.
248 SINGLE CONVENTION, supra note 188, art. 35.
249 Id., art. 36, para. 1.
250 Id., art. 36, para. 2(a)(i). The offenses are enumerated in article 36, paragraph 1. They are:
- cultivation, production, manufacture, extraction, preparation, possession,
- offering, offering for sale, distribution, purchase, sale, delivery on any terms whatsoever, brokerage, dispatch, dispatch in transit, transport, importation and exportation of drugs contrary to the provisions of this Convention. ...
251 Id., art. 36, para. 2(a)(iii)).
able in conformity with the law of the Party to which application is made," by the country in which the offender is apprehended. Foreign convictions are to be considered as evidence of recidivism.

Extradition is not mandatory under the Convention, although it is recommended that parties include narcotics offenses in existing extradition treaties or grant it on the basis of reciprocity. Parties have the right to refuse to extradite offenders, if they do not regard the offense as sufficiently serious to warrant it. Any drugs or equipment used in committing narcotics offenses may be confiscated. To the extent possible, parties are to provide adequate facilities for the care and rehabilitation of drug addicts.

B. Weaknesses in the Single Convention

The Single Convention is the most important, most influential multilateral treaty ever adopted in the field of international narcotics control. As such, it represents a major accomplishment in the development of a coordinated approach to the problems of illicit drug traffic. Nonetheless, it has several significant weaknesses. It relies almost entirely on the voluntary cooperation of the parties and has no realistic enforcement mechanism. There is no precise control over the amount of opium grown, and only indirect control to prevent overproduction. By its very nature, the estimate system is incapable of revealing yearly overproduction until several months have passed; reporting delays can extend this period indefinitely. By the time the Board is in a position to act, the drugs may have already been filtered into illicit channels. The authority of the Board is restricted primarily to that of making recommendations and giving advice, and it may obtain its information only from governmental sources.

There are two more basic deficiencies. First, it does not deal at all with psychotropic substances, which are, at this time, regulated by no multilateral treaty. Secondly, its emphasis is almost exclusively on the prevention of diversion of drugs from legitimate

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252 Id., art. 36, para. 2(a)((iv)).
253 Id., art. 36, para. 2(a)((iii)).
254 Id., art. 36, para. 2(b).
255 Id., art. 37.
256 Id., art. 38.
257 See generally 6 VAND. J. TRANSNATIONAL L. 624, 626-27 (1973); Bassiouni, supra note 187, at 731.
sources, and gives little consideration to the suppression of illicit traffic itself. It devotes but a single article to measures of international police cooperation, and its terms are neither specific nor binding. No provision is made for extra-territorial jurisdiction or international enforcement machinery; extradition is not mandatory. There is nothing to compel the sort of cooperation that is necessary if the long established drug networks are to be disrupted.

A multilateral treaty is by definition a common denominator; the minimum acceptable to the greatest number of states. It fails, unlike bilateral treaties, in which there is a greater affinity of interest, to take the vigorous measures needed for progress in these areas. Nonetheless, at the initiative of the United States, a Conference was held in March, 1972, to consider amendments to the Single Convention to remedy these weaknesses. The result of this conference is the proposed Protocol Amending the Single Convention on Narcotic Drugs, 1961.

C. The Protocol to the Single Convention

The Protocol, which was adopted by a vote of 71 to 0 with

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258 See notes 77-82 and note 102 supra and accompanying text.
260 U.N. Doc. E/Conf. 63/9 (25 March 1972); Executive J. 92d Cong. 2d Sess.; 118 CONG. REC. 14, 853 (daily ed. Sept. 14, 1972). [Hereinafter referred to as Protocol]. The Protocol will take effect thirty days after it has been ratified by forty nations. As of March 31, 1974, 29 nations had done so. They are: Australia, Panama, Sweden, the United States, Finland, The Republic of Korea, Haiti, Kenya, Costa Rica, Brazil, Ivory Coast, Jordan, Paraguay, Ecuador, Tonga, Japan, Malawi, Dahomey, Kuwait, Fiji, Norway, Argentina, Cyprus, Niger, Rumania, Egypt, Israel, Syria, and Senegal.
261 Voting in favor were Malagasy Republic, Malawi, Mexico, Morocco, Netherlands, Nicaragua, Nigeria, Norway, Pakistan, Peru, Philippines, Portugal, Republic of Korea, Republic of Vietnam, Saudi Arabia, Senegal, Sierra Leone, Singapore, South Africa, Spain, Sweden, Switzerland, Thailand, Togo, Tunisia, Turkey, United Kingdom, United States, Venezuela, Uruguay, Yugoslavia, Afghanistan, Argentina, Australia, Austria, Belgium, Bolivia, Brazil, Canada, Ceylon, Chile, Colombia, Costa Rica, Cyprus, Dahomey, Denmark, Egypt, El Salvador, Federal Republic of Germany, Finland, France, Ghana, Greece, Guatemala, Holy See, India, Indonesia, Iran, Israel, Italy, Ivory Coast, Jamaica, Japan, Jordan, Khmer Republic, Kuwait, Laos, Lebanon, Liberia, Liechtenstein, and Luxembourg. Abstaining were Mongolia, Panama, Poland, Ukrainian S.S.R., U.S.S.R., Algeria, Bulgaria, Burma, Byelorussian S.S.R., Cuba, Czechoslovakia, and Hungary.

Dr. Babaian, the delegate from the Union of Soviet Socialist Republics, speaking in explanation of his vote, indicated that it was inappropriate that some of the Protocol's provisions extended to states which were not parties to the Single Convention; and that his delegation was opposed to "the granting of extensive powers to the Board which would make it a virtually supra-national body and were inconsistent with the sovereignty of states."

These sentiments were also expressed by delegates from Poland, the Ukrainian S.S.R., and Bulgaria.
12 abstentions, dramatically increases the power of the Board and the scope of the Single Convention. The size of the Board is increased from eleven to thirteen, in order to achieve a better geographic representation. The terms of office of individual members are extended from three to five years and staggered. The Board is explicitly given the function of endeavoring to limit the cultivation and use of drugs to medical and scientific purposes and to prevent their illicit use.

The scope of the information required by the estimate system is broadened. In addition to the information required under the Single Convention, parties to the Protocol are required to furnish estimates of the area and location of land to be used for the cultivation of the opium poppy, the amount of opium to be produced, the number of industrial establishments which will manufacture synthetic drugs, and the quantities of synthetic drugs to be produced by each establishment. Statistics on the ascertainable area of cultivation of the opium poppy must also be provided. In the event that the Board disagrees with the estimates furnished to it, it has the right to establish its own estimates. If the Board finds that a party to the Protocol has not limited opium production to its estimated production, and that a significant amount of this opium has entered the illicit traffic, it may deduct all or part of this amount from the amount to be produced in the next year in which such a deduction is technically possible. If the party fails to cooperate with the Board's decision, the Board may avail itself of the enforcement procedures provided in the Single Convention.

In addition to information obtained from governments, the Board is authorized to receive data from specialized agencies of

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The delegate from Burma said that while his delegation approved of the broad principles of the Protocol, the special circumstances in his country were such that difficulties would arise if outside authorities could impose acts upon his country.

No explanations were given by the delegates from Panama or Algeria.


262 Id., art. 20, para. 3, amending Single Convention art. 9, para. 1. The Single Convention assigns these functions to the parties themselves.

266 Id., art. 9, amending Single Convention art. 19, adding new paragraphs 1(e), (f), (g), and (h).

267 Id., art. 10, amending Single Convention art. 20, adding new paragraph 1(g).

268 Id., art. 5, amending Single Convention art. 12, para. 5.

269 Id., art. 11, adding new art. 21 bis; art. 21 bis, para. 2. Note that this substantially offsets the effect of delays in reporting information to the Board.

the United Nations, intergovernmental organizations, and international nongovernmental organizations which have direct competence in the subject matter and are in consultative status with the Economic and Social Council.\textsuperscript{271} If the Board, on the basis of this information, feels that the aims of the Convention are being seriously endangered by the failure of any country to meet its obligations under the Convention or if there is evidence that a country may become an important center of cultivation, manufacture, traffic, or consumption of drugs, it may propose the opening of confidential consultations between that country and the Board.\textsuperscript{272} In addition the Board may request that a study be conducted within the territory of the country in question.\textsuperscript{273} If the aims of the Convention are being seriously threatened and it has not been possible to remedy the problem in any other way, or if there is a serious situation requiring cooperative action, the Board must bring the matter to the attention of the parties, the Commission, and the Economic and Social Council, which may in turn bring the matter before the General Assembly.\textsuperscript{274} Although it was proposed that the Board have the right to impose an embargo on the import and export of drugs into any country in danger of becoming a center of illicit traffic, this proposal was defeated.\textsuperscript{275} and, as in the Single Convention, the Board may do no more than recommend such an embargo. The Board is given the specific authority to recommend to the appropriate United Nations organs that technical and financial assistance be provided to the country concerned in order to further its efforts to fulfill the provisions of the Convention.\textsuperscript{276}

\textsuperscript{271} Id., art. 6, amending Single Convention art. 14, para. 1(a).
\textsuperscript{272} Id.
\textsuperscript{273} Id., art. 6, amending Single Convention art. 14, adding new para. 1(c).
\textsuperscript{274} Id., art. 6, amending Single Convention art. 14, para. 1(d).
\textsuperscript{275} 6 \textit{VAND. J. TRANSNATIONAL L.}, supra note 257, at 628-29. It does not appear that the United States seriously pressed this point in discussions at the Conference. See \textit{PROTOCOL CONFERENCE, supra note 261}, at 71-81, and generally.
\textsuperscript{276} Protocol, \textit{supra} note 260, art. 7, amending Single Convention, adding new article 14 bis.

One such method is the United Nations Fund for Drug Abuse Control. Established in April, 1971, to provide emergency assistance to states in developing programs against drug abuse, the Fund is directed against the problems of demand, illicit production, and illicit traffic. The Fund, which is supported entirely by voluntary subscriptions, provides the United Nations with the means to respond directly to requests for aid from countries with drug abuse problems. To date funding has been rather inadequate. The United States, having contributed between $5 million and $6 million, is the leading subscriber; most other states have contributed only token amounts. Notwithstanding its limited resources, the Fund has achieved some measure of respectability as an efficient and valued organization and is expected to become increasingly significant as time passes and the level of subscriptions increases. See "U.S. Supports U.N. Program Against Drug Abuse," \textit{supra} note 70, at 126-27; \textit{INCB REPORT, supra note 2}, at 29; \textit{1971 Hearings, supra note 5}, at 71-72, 120.
Cooperative and penal provisions are also strengthened. Parties are encouraged to furnish the Board and the Commission information relating to illicit drug activities within their borders, and the Board is authorized to provide assistance to parties in furnishing this information and in helping to curtail such activity.\textsuperscript{277} Narcotics offenses are to be included as extraditable offenses in all extradition treaties between parties. If there are no such treaties, parties may consider the Protocol as such a treaty.\textsuperscript{278} However, the escape clause is preserved; parties retain the right to refuse to grant extradition where they feel the offense is not sufficiently serious to merit it.\textsuperscript{279} Treatment and rehabilitation may be provided either in addition to or instead of punishment.\textsuperscript{280} Parties to the Protocol undertake to give special attention to training personnel, to providing facilities for this purpose, and to educating the public to the problems of drug abuse.\textsuperscript{281} Finally, regional agreements for scientific research and education are encouraged; the Board is authorized to provide technical assistance in their establishment.\textsuperscript{282}

\textbf{D. The Convention on Psychotropic Substances}

Although the Protocol remedies many of the weaknesses of the Single Convention, it does not incorporate any control over drugs not included in the Convention itself. Specifically, it does not approach the problems of regulating psychotropic substances. A regime for their control is to be found in the proposed Convention on Psychotropic Substances.\textsuperscript{283} Although there are a number of modifications, it is basically quite similar to the Single Convention, and contains many of the same defects. As in the Single Convention, primary responsibility for administration of the agreement rests with the parties themselves, assisted by the

\textsuperscript{277} Protocol, supra note 260, art. 13, amending Single Convention art. 35, adding new para. f and g.
\textsuperscript{278} Id., art. 14, amending Single Convention art. 36, para. 2(b).
\textsuperscript{279} Id.
\textsuperscript{280} Id., art. 14, amending Single Convention art. 36, adding new para. 1(b). Note that the Single Convention calls for punishment "particularly by imprisonment".
\textsuperscript{281} Id., art. 15, amending Single Convention art. 38.
\textsuperscript{282} Id., art. 16, amending Single Convention art. 38 bis.
\textsuperscript{283} U.N. Doc. E/Conf. 58/6 (1971) [hereinafter cited as Psychotropic Convention]. The Convention comes into effect ninety days after the fortieth nation ratifies it. As of March 31, 1974, only seventeen had done so: Bulgaria, Chile, Egypt, Finland, Paraguay, Panama, South Africa, Sweden, Venezuela, Brazil, Mauritius, Spain, Ecuador, Yugoslavia, Nicaragua, Dahomey, and Cyprus. None of the major producers of psychotropic substances have done so. Although the United States had signed the Convention, the Senate has yet to ratify it.
Board. The responsibility for the classification of drugs is given to the Commission and the World Health Organization (WHO). Four schedules are established, and substances are classified according to

the extent or likelihood of abuse, the degree of seriousness of the public health and social problems and the degree of usefulness of the substance in medical therapy.

Any party or the WHO may request that a substance not classified as a psychotropic substance be so classified or that a substance be transferred from one schedule to another.

The World Health Organization must examine the substance. If it finds that the substance has the capacity to produce a state of dependence and an effect on the central nervous system, or that it resembles a substance previously placed in one of the schedules, and that the substance is likely to be abused, the WHO is to communicate its findings to the Commission for a final decision. The decision of the Commission takes effect 180 days after the parties are notified of it.

As in the Single Convention, the basic regime is directed at regulating the most dangerous (Schedule I) substances. As drugs are classified as progressively less dangerous, the controls applicable to them are progressively relaxed. Schedule I substances are to be prohibited except for limited medical purposes, and are to be carefully regulated and supervised at every point. Special licenses are required for manufacture, trade, distribution, and possession. Specific records are to be kept. Import and export of Schedule I substances are prohibited except under special authorization.

The Convention on Psychotropic Substances does not require

\[284\] Id., art. 2, para. 4.
\[285\] Id., art. 2, para. 1.
\[286\] Id., art. 2, para. 4.
\[287\] Id., art. 2, para. 5.
\[288\] Id., art. 2, para. 7. Cf. SINGLE CONVENTION, supra note 188, art. 3, para. 7, providing that the decision of the Commission becomes effective immediately upon notification of the parties. Note also that the Convention on Psychotropic Substances permits a party to exempt itself from the effects of a Commission decision adding a substance to the Schedules, except that it must still take certain minimum precautions. Id., art. 2, para. 7.
\[289\] Id., art. 5. Unlike the Single Convention, Schedule IV of the Psychotropic Substances Convention comprises those drugs thought to be least dangerous rather than those thought to be most dangerous.
\[290\] Substances so classified include LSD, LSD-25, mescaline, psilocybine, DET, DMHP, DMT, parahexyl, psilocine, psilotsin, STP, DOM, and the tetrahydrocannabinols (THC).
\[291\] Psychotropic Convention, supra note 283, art. 7.
parties to make unauthorized possession of Schedule II, III, or IV substances illegal, although it notes that it is "desirable" that they do so.\textsuperscript{292} For these substances, the basic elements of the control regime include licensing for trade, manufacture, and distribution;\textsuperscript{293} dispensation by medical prescription only;\textsuperscript{294} detailed record keeping by manufacturers, traders, and distributors;\textsuperscript{295} restriction of international trade in Schedule I and Schedule II substances to those specifically authorized for each separate transaction;\textsuperscript{296} and restrictions on methods of shipping and storage of substances in international trade.\textsuperscript{297} Parties retain a large measure of discretion in determining how to implement these provisions.

No provision limiting the manufacture of drugs, such as that found in the Single Convention, is included in the Convention on Psychotropic Substances. However, if a party decides to prohibit the import of psychotropic substances into its territory, other parties are bound to prohibit the export of such substances to that country in the absence of special authorization.\textsuperscript{298} Preparations are regulated according to the substance which they contain and may be exempted from certain control measures if found not to present a risk of abuse.\textsuperscript{299} Parties are advised, but not required, to establish a special administration to oversee the application of the Convention in their countries.\textsuperscript{300}

Although there is no estimate system, parties are required to furnish certain information to the Secretary General, including changes in domestic laws and regulations concerning psychotropic substances and developments in the abuse of and illicit traffic in these substances.\textsuperscript{301} In addition, parties are required to furnish to the Board statistical information with respect to the quantities of Schedule I and II substances manufactured, imported, or exported; the quantities of Schedule II and III substances used in the

\textsuperscript{292} Id., art. 5, para. 3.
\textsuperscript{293} Id., art. 8.
\textsuperscript{294} Id., art. 9.
\textsuperscript{295} Id., art. 11. Records of retail distribution must be kept of Schedule II substances, and parties are required to have access to information regarding retail activity in Schedule III substances as well.
\textsuperscript{296} Id., art. 12.
\textsuperscript{297} Id., art. 12, art. 14.
\textsuperscript{298} Id., art. 13.
\textsuperscript{299} Id., art. 13.
\textsuperscript{300} Id., art. 6. Cf. SINGLE CONVENTION, supra note 188, art. 17, in which this is made mandatory.
\textsuperscript{301} Id., art. 16, para. 1.
manufacture of preparations; and the quantities of substances used for industrial purposes.\textsuperscript{302}

The enforcement provisions of the Convention on Psychotropic Substances are substantially identical to those of the Single Convention.\textsuperscript{303} As in the Single Convention, the Board, which is charged with the duty of enforcement, is restricted to information obtained from governments and United Nations organs.\textsuperscript{304} The Board may ask for explanations, request that remedial measures be adopted, call the matter of a recalcitrant party to the attention of the other parties to the Convention, and ultimately recommend an embargo on the import and export of psychotropic substances to and from the country concerned.\textsuperscript{305}

Although the provisions for joint action against illicit traffic\textsuperscript{306} and the penal provisions\textsuperscript{307} are very similar to those provided for in the Single Convention,\textsuperscript{308} there are two significant distinctions. The Convention on Psychotropic Substances explicitly states that the sharing of information on illicit traffic is a duty of the parties,\textsuperscript{309} while the Single Convention does not. The Convention on Psychotropic Substances provides for the possibility of treatment as an alternative to punishment for abusers,\textsuperscript{310} which, while included in the Protocol,\textsuperscript{311} is not to be found in the Single Convention. The including of narcotics offenses in extradition treaties remains non-mandatory, and a party is free to refuse to extradite an offender if it does not believe the offense is sufficiently serious.\textsuperscript{312} Parties are to take "all practicable measures for the prevention of abuse of psychotropic substances" and the rehabilitation of users and undertake to provide the necessary facilities and personnel to achieve this end.\textsuperscript{313}

\textsuperscript{302} Id., art. 16, para. 4.
\textsuperscript{303} Id., art. 19. Cf. Single Convention, supra note 188, art. 14. See also notes 222-224 and accompanying text supra.
\textsuperscript{304} Psychotropic Convention, supra note 283, art. 19, para. 1(a).
\textsuperscript{305} Id., art. 19, paras. 1, 2.
\textsuperscript{306} Id., art. 21.
\textsuperscript{307} Id., art. 22.
\textsuperscript{308} Single Convention, supra note 188, art. 35, 36, and 38. See notes 247-56 and accompanying text supra.
\textsuperscript{309} Psychotropic Convention, supra note 283, art. 21(b).
\textsuperscript{310} Id., art. 22, para. 1(b).
\textsuperscript{311} See note 280 and accompanying text supra.
\textsuperscript{312} Id., art. 22, para. 2(b).
\textsuperscript{313} Id., art. 20. This provision is carried over into the Protocol as well. See note 275 and accompanying text supra.
III. THE SIGNIFICANCE OF THE CONVENTIONS

In assessing the strengths and weaknesses of the Single Convention, its Protocol, and the Convention on Psychotropic Substances, it is necessary to keep in mind the nature of a multilateral agreement. Such an agreement attempts to achieve two essentially contradictory goals: effectiveness in accomplishing specific objectives and broad acceptability. If it is to be effective, it must establish a regime sufficiently rigorous to be able to deal with the situation for which it was intended. It must enable nations to take concerted action. With respect to drugs, such an agreement must provide for the effective control of production and distribution on a global scale and for the focusing of pressure on governments unwilling to fulfill their obligations under the terms of the agreement.

[T]he application of the narcotics treaties is primarily a function of governments and the degree of success attaching to their operation depends first and last on how effectively and how conscientiously the provisions are applied by national administrations. Yet however precisely individual countries may comply with the obligations they have assumed in becoming Contracting Parties, the underlying purpose of the treaties will obviously fall short of fulfillment unless national control measures are everywhere brought to a high standard of efficiency and are interwoven into an international control system.314

The agreement must be acceptable to as many states as possible. If it is too restrictive or if it demands too much, then it will fail to attract the general support necessary for successful implementation. Unlike bilateral and multilateral treaties, where the contracting parties share a commonality of interests and may therefore agree to place substantial restrictions on themselves individually in order to further the collective end, an agreement which purports to be global in scope must be attractive to countries of vastly different levels of development, philosophies, and aspirations.

A treaty [is] an agreement among States and any conclusions reached must always reflect the difficulties of arriving at an agreed compromise among parties whose interest[s] and approach[es] are not always the same.

It would seem, therefore, that those who sought a water-

314 INCB REPORT, supra note 2, at 8.
tight scheme of control must realize that its very rigidity would make it impossible for it to be applied universally.

Progress at the international level in the control of drug abuse and illicit traffic has been disappointingly slow, and cooperation frequently not all that might be desired. The United States must accept a certain measure of responsibility for this condition. For even as the United States has established itself as the leading advocate of international efforts against drug abuse and illicit traffic, its own domestic efforts with respect to these matters have hardly comprised an exemplary model for others to follow. When the commander and one-fifth of the New York City narcotics investigatory unit are indicted for narcotics violations, it does not provide a very good example. When a person reputed to be a major figure in organized heroin smuggling is released on a $250 bond and when charges against the leader of a group arrested for smuggling $10 million worth of cocaine are dropped at the request of the district attorney and no member of the group is sentenced to more than one year in prison, it is permissible to question the dedication of the American judicial system to punishing illicit drug trafficking by "imprisonment or other penalties of deprivation of liberty." When an investigation into heroin smuggling is discontinued because it appears to be implicating an associate of high government officials, when the leading Ameri-


Another area in which the United States believes that international cooperation is vital is in the field of drug abuse. I would be less than candid, however, if I did not admit to our disappointment in the response of many United Nations member governments.

It has been said that drug abuse is a problem only of the developed countries, who therefore are the only ones who need be concerned. I need not tell you what a similar attitude of indifference would do to the work of this organization if this argument were applied to the problems of poverty, illiteracy, and disease.
can undercover agent in a joint French-American anti-corruption investigation admits to having committed bribery, perjury, and to having served as a liaison to organized crime, then the public attitude of the United States toward eliminating administrative corruption may be questioned. Similarly, when the United States, as the largest producer and distributor of psychotropic substances in the world, fails to ratify the Convention on Psychotropic Substances, it is perhaps understandable that other nations whose economies rely heavily on the production and sale of other drugs have not rushed to ratify the Protocol or to undertake the considerable effort and sacrifice to bring drugs under control.

Limited cooperation and less than full implementation of multilateral agreements are not, however, particularly new phenomena. If they are to be effective, such agreements must take these factors into account. It is possible to make several observations from this perspective about the value of the multilateral drug abuse conventions.

For the foreseeable future, it must be left to the bilateral and regional treaties to attain the sophistication and mutual restraint necessary for effective, direct action against drug abuse and illicit traffic. The multilateral conventions must aim for more modest goals, remaining sufficiently flexible to encourage adoption by a large majority of states and sufficiently rigid to bring about an improvement in the situation.

In this context, the Single Convention has achieved a reasonable measure of success. It has proven to be invaluable in at least three respects. First, it has provided an effective mechanism for the collection of information concerning virtually every aspect of both licit and illicit drug traffic. Information on the quantities of drugs produced; the sources of these drugs; the quantities of drugs exported, and consumed; the laws and regulations adopted by states in the field of drug abuse; and the patterns of illicit traffic, including seizures, is now available on a world-wide scale. The accessibility of such information is a basic prerequisite to any realistic attempt at controlling the illicit traffic.

Secondly, the Single Convention has provided a method whereby the weight of global public opinion may be brought to bear on nations which are reluctant to take action against illicit drug traffic. Although the effect of such opinion is not susceptible to precise measurement, it is not to be discounted.

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321 N.Y. Times, July 2, 1974, at 1, col. 5.
322 Public opinion forced the British to accede to the first opium treaty in 1912 at The
Finally, the Convention has fostered an atmosphere of international cooperation and reliance in the area of drug abuse, together with the awareness that drug abuse is a problem that cannot be solved unilaterally. This atmosphere, together with heightened concern about drugs, has not only contributed to the signing of a number of bilateral treaties, but has also made possible the drafting of the more sophisticated and stronger Protocol to the Single Convention.

That the Protocol could be adopted at all is a gratifying development. That it could be adopted without a single dissenting vote is among the more hopeful signs for the future of multilateral treaties in the field of drug control. It is a demonstration that, although more slowly than might be desired, progress is possible; that with accumulated experience in the realities of international cooperation, nations are increasingly willing to move toward a uniform application of higher standards against drug abuse and illicit traffic, and more are willing to bind themselves to meet them. It is unfortunate that the Convention on Psychotropic Substances predated the Protocol to the Single Convention, for had it been otherwise, possibly the Convention on Psychotropic Substances would be better equipped to meet expectations when it is adopted. Yet it is not too much to presume that in time it, too, will benefit by strengthening amendments.

Perhaps the value of the multilateral drug control conventions is best appreciated by envisioning the situation had they never been adopted:

Treaties of themselves [do] not resolve a problem. It was only too apparent that the treaties on narcotic drugs, which had been replaced, by and large, by the 1961 Single Convention on Narcotic Drugs, and which had been generally accepted by a large number of states, had not per se solved the problem of drug abuse and illicit trafficking, but the experience of international life had made it clear that without the international cooperation they generated, the situation would have been catastrophic.

—Louis Lessem

Hague, and later induced them to abandon the lucrative India-China opium trade, which had been responsible for up to 25% of the Crown Colony's annual revenues. See Genesis, supra note 186.

323 INCB Report, supra note 2, at 12.

324 See note 261 supra.