

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW MEXICO

O CENTRO ESPIRITA BENEFICIENTE  
UNIAO DO VEGETAL, *et al.*,

*Plaintiffs,*

vs.

No. CV 00-1647 JP/RLP

JOHN ASHCROFT, *et al.*,

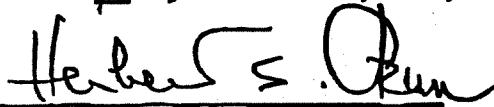
*Defendants.*

DECLARATION OF THE HONORABLE HERBERT S. OKUN

1. My name is Herbert S. Okun. From 1992 until May, 2002, I served as the United States member of the United Nations International Narcotics Control Board (INCB). I served in the Foreign Service of the United States of America from 1955 to 1991. Among other positions, I served as Ambassador to the German Democratic Republic, 1980-1983, and as Deputy Permanent Representative and Ambassador to the United Nations, 1985-1989. My other diplomatic, professional and academic positions are set forth in my biography contained in Who's Who in America, 2001, which is attached as exhibit A to this declaration. The Who's Who entry is correct except that I am no longer a member of INCB.
2. INCB is the international community's independent and quasi-judicial control organ for the monitoring and implementation of the three international drug control conventions, one of which is the United Nations Convention on Psychotropic Substances, 1971.
3. INCB was established in 1968 by the Single Convention on Narcotic Drugs of 1961, and had predecessor organizations going back to the early part of the 20<sup>th</sup> Century. One of the responsibilities of INCB is to promote the compliance of governments with the provisions of the international drug control conventions and to assist them in this effort.
4. INCB is widely acknowledged as a principal authority in interpreting the Conventions when questions arise about them. In doing so, INCB regularly consults with the Scientific Section and the Legal Advisory Section of the United Nations Office of Drugs and Crime (previously known as the United Nations International Drug Control Programme).
5. The Commentary to the United Nations Convention on Psychotropic Substances, 1971, is the principal written instruction regarding its interpretation. The Commentary is an official document and provides authoritative guidance to Parties in meeting their obligations under the Conventions, consistent with national laws and policies.

6. I have read the letter from Mr. Herbert Schaepe, Secretary of INCB, to Mr. Lousberg of the Ministry of Public Health, The Netherlands, dated 17 January, 2001, which is attached as exhibit B to this declaration. The substance of that letter is consistent with my understanding of the United Nations Convention on Psychotropic Substances, 1971, and the official Commentary to that Convention.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct and that this Declaration was executed this 7 day of December, 2002, at Geneva, Switzerland.



The Honorable Herbert S. Okun

**OKUN, HERBERT STUART**, diplomat, educator; b. N.Y.C., Nov. 27, 1930; s. Irving and Ida Muncel (Levine) O.; m. Lorraine Joan Price, Dec. 5, 1954 (div. 1985); children: Jennifer, Elizabeth, Alexandra; m. Enid Curtis Bok Schoettle, Dec. 27, 1990. AB with gt. distinction, Stanford U., 1951; postgrad., Syracuse U., 1951-52, Princeton U., 1952; Hochschule fuer Politische, Wissenschaft, Munich, Fed. Republic of Germany, 1956-57; MPA, Harvard U., 1959. Mem. U.S. Fgn. Service, 1955-91; vice consul U.S. Fgn. Service, Munich, Fed. Republic Germany, 1955-57; with Bur. Intelligence and Rsch., Dept. State Office Soviet Union Affairs, Washington, 1959-61, alt. dir., 1971-73; 2d sec. Am. Embassy, Moscow, 1961-63; consul, prin. officer Am. Consulate, Belo Horizonte, Brazil, 1964-65; 1st sec., prin. officer Am. Embassy, Brasilia, Brazil, 1965-66, counsellor embassy, prin. officer, 1967-68; assigned to Naval War Coll., 1968-69; spl. asst. to sec. of state Dept. State, Washington, 1969-71, dep. chmn. U.S. Del., U.S.-USSR Talks on Prevention Incidents at Sea, 1971-72; spl. asst. for internat. affairs to comdr.-in-chief NATO So. Command, Naples, Italy, 1973-74; min.-counsellor, dep. chief mission Am. Embassy, Lisbon, Portugal, 1975-78; dep. chmn. U.S. del. Strategic Arms Limitation Talks with Soviet Union, Geneva, 1978-79; vice chmn. U.S. del. to trilateral U.S.-U.K.-USSR Talks on comprehensive test ban treaty, Geneva, 1979-80; ambassador to German Democratic Republic East Berlin, 1980-83; amb.-in-residence Aspen Inst., Washington, 1983-85; amb., dep. permanent rep. of U.S. to the UN N.Y.C., 1985-89; rep. of U.S. to 40th, 41st, 42d and 43d sessions of Gen. Assembly of UN, to UN Security Coun., 1985-89, to 29th and 30th sessions of Com. on Peaceful Uses of Outer Space, 1986, 87, to Disarmament Commn. of UN, 1985-89, to Commn. Human Rights, to 27th and 29th session of com. on program and coordination of Econ. and Social Coun., 1987, 89; amb. in residence Carnegie Corp. of N.Y., 1989-90; mem. UN Sec. Gen's Expert Group on Enhancing UN Structure for Drug Abuse Control, 1990; founding exec. dir. Fin. Svcs. Vol. Corps, N.Y.C., 1990-97; vis. lectr. Yale Law Sch., New Haven, 1991—; spl. adviser to the personal envoy of the sec. gen. UN, Yugoslavia and Nagorno-Karabakh, 1991-92; spl. adv., dep. co-chmn. Internat. Conf. on former Yugoslavia, 1992-93; UN mediator Dispute between Greece & former Yugoslav Republic of Macedonia, 1993-97; U.S. mem. UN Internat. Narcotics Control Bd., Vienna, Austria, 1992—; adv. bd. Chazen Inst. Internat. Bus. Grad. Sch. Bus., Columbia U.; mem. bd. dirs. World Rehab. Fund; mem. adv. bd. Minority Rights Group U.S.A.; spl. advisor Carnegie Commn. on Preventing Deadly Conflict. Commr. U.S.-Poland Action Commn; mem. Internat. Coun., Found. Inter-Ethnic Rels., The Hague, The Netherlands, 1995—, mem. Adv. Com., Human Rights Watch, N.Y., 1995—; mem. group internat. advisors Internat. Com. Red Cross, Geneva, 1996-2000; bd. overseers Curtis Inst. Music., Phila.; adv. bd. internat. security studies Yale U., New Haven; mem. adv. bd. Portuguese-Am. Leadership Coun. U.S. Served with AUS, 1952-54. Recipient Meritorious Honor award Dept. of State, 1972, Superior Honor award Dept. of State, 1980, Presdl. Meritorious Svc. award, 1983. Mem. Am. Fgn. Svc. Assn., Am. Fgn. Policy (nat. com.), Am. Acad. Diplomacy, Lawyers Alliance World Security (nat. bd. dirs.), Washington Inst. Fgn. Affairs, Phi Beta Kappa. Home: 1133 Park Ave New York NY 10128-1246

EXHIBIT

A

tabbler

UNITED NATIONS  
INTERNATIONAL NARCOTICS  
CONTROL BOARD



NATIONS UNIES  
ORGANE INTERNATIONAL DE  
CONTROLE DES STUPEFIANTS

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Telephone: +43-1-2600, Telex: +43-1-26000-1067 / 0068, Telex: 130612 una o  
E-Mail: [secretariat@incb.org](mailto:secretariat@incb.org) Internet Address: <http://www.incb.org/>

Telex

To: Mr. Lousberg, Chief

Date: 17 January 2001

Address: Inspectorate for Health Care  
Ministry of Public Health  
Den Haag - The Netherlands

Ref: INCB-PSY 10/01  
File: 141/1 NET

Fax No.: 00031 - 70 - 340 71 59

No. of Pages: 1

From: Herbert Schaepe, Secretary  
International Narcotics Control Board

Subject: International control of the preparation "ayahuasca"

Dear Mr. Lousberg,

I would like to refer to your facsimile of 20 December 2000 concerning the traditional use of controlled substances, in particular the use of a preparation called "ayahuasca" by religious groups in the Netherlands.

The above mentioned issue was consulted by the INCB Secretariat with the Scientific Section and the Legal Advisor Section of the United Nations International Drug Control Programme (UNDCP). It is our understanding that "ayahuasca" is the common name for a liquid preparation (decoction) for oral use prepared from plants indigenous to the Amazon basin of South America, essentially the stem bark of different species of a jungle vine (*Banisteriopsis* sp.) and the tryptamine-rich plant *Psychotria viridis*. According to the scientific literature, ayahuasca commonly contains a number of psychoactive alkaloids, including DMT which is a substance included in Schedule I of the 1971 Convention on Psychotropic Substances.

No plants (natural materials) containing DMT are at present controlled under the 1971 Convention on Psychotropic Substances. Consequently, preparations (e.g. decoctions) made of these plants, including ayahuasca are not under international control and, therefore, not subject to any of the articles of the 1971 Convention.

Yours sincerely,

Herbert Schaepe  
Secretary of the Board

