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COMMISSION ON NARCOTIC DRUGS

First special session

Volume II\*

SUMMARY RECORDS OF THE SIX HUNDRED AND SIXTIETH TO  
SIX HUNDRED AND SEVENTY-FOURTH MEETINGS

held at the Palais des Nations, Geneva,  
from 22-30 January 1970

The list of representatives and observers attending the session appears in the report of the Commission to the Economic and Social Council (see Official Records of the Economic and Social Council, Forty-eighth Session, Supplement No. 8 (E/4785), annex I).

<u>Chairman:</u>	Mr. BERTSCHINGER	Switzerland
<u>Rapporteur:</u>	Mr. JOHNSON-ROMAULD	Togo

\* The minutes of the 645th meeting and the summary records of the 646th-659th meetings, held from 12-21 January 1970, are in volume I.

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## ABBREVIATIONS

The following abbreviations are used in this document.

<u>Abbreviation</u>	<u>Full Title</u>
GATT .....	General Agreement on Tariffs and Trade
ICPO/INTERPOL .....	International Criminal Police Organization
INCB .....	International Narcotics Control Board
UPU .....	Universal Postal Union
WHO .....	World Health Organization
1912 Convention .....	International Opium Convention signed at The Hague on 23 January 1912
1925 Convention .....	International Opium Convention signed at Geneva on 19 February 1925, as amended by the Protocol signed at Lake Success, New York, on 11 December 1946.
1931 Convention .....	International Convention for limiting the manufacture and regulating the distribution of narcotic drugs, signed at Geneva on 13 July 1931, as amended by the Protocol signed at Lake Success, New York, on 11 December 1946
1936 Convention .....	Convention of 1936 for the suppression of the illicit traffic in dangerous drugs, signed at Geneva on 26 June 1936, as amended by the Protocol signed at Lake Success, New York, on 11 December 1946
1946 Protocol .....	Protocol of 1946 amending the Agreements, Conventions and Protocols on Narcotic Drugs concluded at The Hague on 23 January 1912, at Geneva on 11 February 1925 and 19 February 1925 and 13 July 1931, at Bangkok on 27 November 1931 and at Geneva on 26 June 1936, signed at Lake Success, New York, on 11 December 1946
1948 Protocol .....	Protocol signed at Paris on 19 November 1948, bringing under international control drugs outside the scope of the Convention of 13 July 1931 for limiting the manufacture and regulating the distribution of narcotic drugs, as amended by the Protocol signed at Lake Success, New York, on 11 December 1946
1953 Protocol .....	Protocol for limiting and regulating the cultivation of the poppy plant, the production of, international and wholesale trade in, and use of opium, signed at New York on 23 June 1953
1961 Convention .....	Single Convention on Narcotic Drugs, 1961, signed at New York on 30 March 1961

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For the report of the Commission on Narcotic Drugs on its twenty-third session see Official Records of the Economic and Social Council, Forty-sixth Session, (E/4606/Rev.1 - E/CN.7/523/Rev.1)

INDEX OF ARTICLES OF THE REVISED DRAFT PROTOCOL  
ON PSYCHOTROPIC SUBSTANCES

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" 2 <u>bis</u> .....	(646), 651, 656, 666, 669, 671
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Schedules I - IV .....	664, 670, 674 (and during discussion of relevant articles, in particular articles 2 and 2 <u>bis</u> )

SUMMARY RECORD OF THE SIX HUNDRED AND SIXTIETH MEETING

held on Thursday, 22 January 1970, at 9.35 a.m.

Chairman: Mr. BERLSCHINGER (Switzerland)

THE DRAFT PROTOCOL ON PSYCHOTROPIC SUBSTANCES (agenda item 3):

(a) CONSIDERATION OF THE DRAFT PROTOCOL ARTICLE BY ARTICLE (E/CN.7/523/Rsv.1, E/CN.7/525 and Corr. 1 and Add.1 and 2; E/CN.7/L.311, E/CN.7/L.314 - L.316) (continued)

Mr. ANSAR KHAN (Secretary to the Commission) said that he would like to give an explanation of the symbol numbers on the documents distributed to them. The reports of the Technical Committee bore the symbol E/CN.7/AC.7/R..., the reports of the Working Party the symbol E/CN.7/AC.8/R..., and redrafts incorporating oral amendments submitted during the meetings the symbol E/CN.7/L....

Where there were two or more redrafts of an article, the version most recent in date cancelled the previous version as, for instance, in the case of articles 8 and 12, originally distributed together in document E/CN.7/L.313, which was now replaced by E/CN.7/L.314 for article 8 and E/CN.7/L.318 for article 12.

Article 8 (E/CN.7/L.314) (resumed from the 653rd meeting)

The CHAIRMAN invited the Commission to begin the second reading of article 8 paragraph by paragraph.

Paragraph 1

Mr. KUSEVIĆ (Director, Division of Narcotic Drugs) observed that as the Commission had decided at the 658th meeting to include a definition of the term "therapeutic" in article 1, the foot-note relating to paragraph 1 was now superfluous.

Paragraph 2

No comment.

Paragraph 3

The CHAIRMAN invited the Commission to decide whether paragraph 3 and the square brackets in the body of the paragraph should be retained or deleted.

Mr. JOHNSON-ROMUALD (Togo), Mr. SHIMOMURA (Japan), Dr. AZARAKHCH (Iran), Dr. DANNER (Federal Republic of Germany), Mr. ZEGARRA ARAUJO (Peru), Mr. MILLER (United States of America), Mr. KEMENY (Switzerland), Mr. CHAPMAN (Canada), Dr. MARTENS (Sweden), Mr. MOUJAES (Lebanon) and Mr. HUYGHE (Observer for Belgium) and Mr. SAMSOM (Observer for the Netherlands), speaking at the invitation of the Chairman, said that they were in favour of the retention of paragraph 3 and the deletion of the square brackets in the body of the paragraph.

Dr. ALAN (Turkey) said he shared that view. Though he had not supported the paragraph at the first reading, he was now satisfied with the redraft, since it expressly stated that the public-health authorities would, if local conditions so required, designate other licensed retailers to supply small quantities of substances in schedules III and IV to individuals at their discretion without prescription.

Dr. MABILEAU (France) said that he too was in favour of the retention of paragraph 3 and the removal of the square brackets. He suggested, however, that in the French text the phrase "les autorités de la Santé publique", in the third line, should be amended to read "les autorités chargées de la Santé publique".

Mr. ANAND (India) said that he also considered that paragraph 3 should be retained and the square brackets removed. He further proposed that the reference to schedule III should be deleted, so that other licensed retailers should be authorized to supply without prescription small quantities only of substances in schedule IV.

Mr. NIKOLIĆ (Yugoslavia) and Mr. FOURATI (Observer for Tunisia), speaking at the invitation of the Chairman, said that they supported that proposal.

Dr. BABAIAN (Union of Soviet Socialist Republics) said that he agreed with the two previous speakers because, like the Indian representative, he considered that licensed retailers who were not pharmacists ought not to be given discretion to supply without prescription substances as dangerous as those in schedule III, namely the barbiturates.

Mr. SAGOE (Ghana) explained that though he had been one of those against the retention of paragraph 3 at the first reading, the arguments in favour of retaining "or other licensed retailers" in order to allow for conditions peculiar to several developing countries, of which Ghana was one, had induced him to support the redraft of the paragraph. The proposal just made by the representative of India was, he thought, an acceptable compromise, since, like the Soviet Union representative, he was firmly convinced that non-qualified persons ought not to be given the responsibility of supplying at their discretion substances as dangerous as the barbiturates. He urged delegations to take into consideration the danger which the barbiturates presented to public health.

Dr. BÖLCS (Hungary) said he supported the Indian representative's proposal, and suggested that the last sentence in paragraph 3 should be deleted. Were that sentence to be retained, however, he would propose that it should not include the word "pharmacists", since pharmacists were already responsible to the health authorities as a matter of course. It would suffice to specify that only other licensed retailers should be required to maintain a record.



Mr. MILLER (United States of America) said that he could not accept the Indian representative's proposal.

Mr. CHAPMAN (Canada) said that he could not accept it either. He wished schedule III to be mentioned in the paragraph because of the problems arising in the northern part of his country where, for lack of pharmacists, medicines were sold by "lay dispensers" from special stocks.

Mr. STEWART (United Kingdom) said that he too was against the Indian proposal. He was in favour of the retention of paragraph 3 and the removal of the square brackets. He must point out, however, that the words "for consumption", though included in paragraph 1, were not to be found in paragraph 3, and he proposed that they should be inserted.

Mr. ZEGARRA ARAUJO (Peru) and Mr. CHAPMAN (Canada) supported that proposal.

Mr. MILLER (United States of America) said that he too supported the amendment by the United Kingdom representative. He suggested that the words "or dispensed for consumption" should be inserted in the third line, after the word "supply".

Dr. ALAN (Turkey) said that he agreed with the United Kingdom representative, and proposed that the expression "for their own consumption" should be used in both paragraph 1 and paragraph 3.

The CHAIRMAN observed that the Commission seemed to be in general agreement that paragraph 3 of article 8 should be retained, and that the square brackets in the body of the paragraph should be deleted. The paragraph would be redrafted to take account of the proposals by the representatives of France and the United Kingdom.

He invited those members of the Commission who had not yet done so to express their views on the Indian representative's proposal.

Mr. ANAND (India) observed that most members of the Commission seemed to be in favour of retaining the reference to schedule III in paragraph 3. He wondered whether, instead of drafting the Protocol in accordance with the views of the majority, it would be possible to take into account the opinions of delegations which were in a minority by placing the wording they preferred between square brackets, so that the plenipotentiary conference responsible for adopting the Protocol would know about them and be able to take the final decision on them.

Mr. HUYGHE (Observer for Belgium), speaking at the invitation of the Chairman and referring to the Indian representative's proposal, said he wondered whether any real problem was involved, since paragraph 3 stated that "notwithstanding the foregoing

paragraph, a Party may, if in its opinion local conditions so require, authorize pharmacists ... to supply ... small quantities of substances in schedules III and IV". That provision therefore gave each Party sovereign discretion to decide what measures were or were not required by local conditions.

The CHAIRMAN said he must once more ask members of the Commission, as he had done at the beginning of the session, to avoid scattering square brackets throughout the text of the Protocol, since that would only delay its preparation.

Dr. BABAIAN (Union of Soviet Socialist Republics) said he would like to reiterate his support of the Indian representative's proposal. He was surprised that a number of delegations which had seemed to accept that view at the first reading appeared to have changed their minds.

Dr. MABILEAU (France) observed that the Indian representative's proposal raised a matter which indubitably was a matter for domestic law, each country being free to take such measures as were necessary to protect public health in its territory. It was for each country to take stricter measures than those provided for in the Protocol if in its opinion such measures were required. He did not think there was any need to put schedule III back between square brackets. By way of compromise, he proposed that the views of delegations which were in a minority should be stated in foot-notes, so that the plenipotentiary conference responsible for adopting the Protocol would be made aware of them by a procedure which had been used in the past; the Commission would thus avoid using square brackets, the removal of which invariably caused considerable difficulties later.

Mr. SOLLERO (Brazil) and Mr. SAMSON (Observer for the Netherlands), speaking at the invitation of the Chairman, expressed agreement with that view.

Mr. JOHNSON-ROMUALD (Togo) drew the attention of the members of the Commission, and in particular of the Indian representative, to article 19 of the Protocol, which specified that a Party would not be precluded from adopting stricter measures of control if in its opinion such measures were necessary or desirable for the protection of public health. Referring to the Soviet Union representative's remarks, he expressed surprise that that representative was not satisfied with the redraft of article 8, since it specified, in accordance with his own wishes, that the other licensed retailers would be designated by the public health authorities.

He agreed with the representative of France that it would be enough to give the views of delegations which were in a minority in foot-notes, or to mention their reservations in the Commission's final report.

Mr. NIKOLIC (Yugoslavia) said he supported the French representative's proposal concerning foot-notes reflecting minority opinion. To avoid making the document unnecessarily cumbersome, however, delegations would not be named.

Mr. ANAND (India) proposed a different compromise, namely that paragraph 3 should provide that licensed retailers might dispense only the substances in schedule IV, but that when local conditions so required, a country would be able to authorize retailers, in exceptional circumstances, to dispense also substances in schedule III. It was essential to ensure that at least a minimum of control was exercised by all countries.

While he would support the Chairman's final decision on paragraph 3, he would like to point out, in a general way, that the Commission should take its decisions as nearly unanimously as possible, and not by a bare majority. When a number of delegations expressed themselves in favour of an alternative which affected the substance, the two alternatives should be submitted to the plenipotentiaries responsible for taking the final decision. A foot-note was not a very good means of expressing a minority opinion.

Mr. MILLER (United States of America), referring to a remark by the Indian representative, said that the retention of the paragraph was not essential to the United States, where licensed pharmacists alone were authorized to dispense the substances in schedules II, III and IV. His delegation had supported the retention of paragraph 3 only because it considered the paragraph necessary for the developing countries and for the less developed areas of other countries. Like the French representative, he considered that, rather than leave phrases between square brackets, it would be better to take a decision, and to set out the minority opinion in a foot-note; it would thus appear in the Commission's report and in the summary record.

Mr. SAGOE (Ghana) said he supported the Indian representative's proposal that licensed retailers should be able to supply only the substances in schedule IV, but that countries which considered it necessary might in certain cases authorize such retailers to dispense substances in schedule III as well.

Mr. NIKOLIC (Yugoslavia) asked that the Commission should take a decision on the French representative's suggestion that minority opinion should be set out in foot-notes.

The CHAIRMAN noted that most members of the Commission considered that minority opinion should be set out in foot-notes.

Dr. ALAN (Turkey) said he was against the Hungarian representative's proposal that the word "pharmacists" in the last sentence in paragraph 3 should be deleted, for it was essential that a control should be exercised over the quantities supplied by pharmacists.

Referring to the statement by the observer for Belgium, he suggested that the phrase "in schedules III and IV" should be retained in paragraph 3.

Mr. ZEGARRA ARAUJO (Peru) said that his delegation was still against the retention of paragraph 3. If some countries, however, considered the paragraph necessary, it would be desirable, first, that there should be some restriction on the powers granted to pharmacists and licensed retailers and, second, that both pharmacists and licensed retailers should be obliged to maintain a record of the quantities they supplied.

Mr. NIKOLIC (Yugoslavia) and Mr. JOHNSON-ROMUALD (Togo) said they were opposed to the Hungarian representative's amendment to the effect that the word "pharmacists", in the last sentence of paragraph 3, should be deleted.

The CHAIRMAN noted that the Commission had decided in favour of the retention of paragraph 3.

Article 10 (E/CN.7/L.315) (resumed from the 654th meeting)

Paragraph 1

Dr. AZARAKHCH (Iran), Mr. SAGOE (Ghana), Dr. M<sup>o</sup>RTENS (Sweden), Mr. ANAND (India) and Mr. JOHNSON-ROMUALD (Togo) said they were in favour of deleting the square brackets in the first line of paragraph 1.

Dr. MABILEAU (France) said he was surprised to find that the square brackets were still there in the first line of paragraph 1 of the text under consideration, for he had received the impression that at the first reading the Commission had been almost unanimously in favour of retaining schedule IV.

Mr. KEMENY (Switzerland) said that, at the first reading, a considerable number of representatives and observers had opposed the inclusion of any reference to schedule IV in paragraph 1, and it had been decided (653rd meeting) to keep the words "and IV" in square brackets until the second reading of the article.

He also recalled that, at the same meeting, he had proposed that the concluding part of the last sentence, from the word "date", should be replaced by the words "such other particulars as may be necessary to trace transactions in these substances from the stage of manufacturing to that of retail trade", in order to allow for the ever-increasing use of electronic recording methods.

Mr. STEWART (United Kingdom) said he, too, was in favour of deleting the square brackets in the paragraph; but he pointed out that if wholesalers were required to keep detailed records of information concerning the substances and preparations in the three schedules, the procedure would be extremely onerous for them. He therefore proposed that the paragraph should be re-worded to read:

"In respect of substances in schedules II, III and IV, the Parties shall require manufacturers and producers to keep records, in a form which may be determined by each Party, showing the amounts of such substances manufactured, produced, imported, exported or otherwise supplied. They shall also require wholesalers to keep records showing the amounts of substances in schedules II and III acquired or supplied by them, including import or export, the date and quantity of each acquisition and supply and the names of the supplier or recipient, as the case may be".

Mr. HUYGHE (Observer for Belgium), speaking at the invitation of the Chairman, emphasized the difficulties which would be created for wholesale distributors by the obligation to keep records of a considerable number of substances and preparations: it would be virtually impossible for them to do so. Control could be carried out in other ways. In Belgium, schedule II substances had since 1946 been subject to the same legislation as narcotic drugs, and control was mainly effected in the pharmacy, since most of the products involved were sold on medical prescription only.

Dr. MABILEAU (France) said he thought the expression "tiennent registre", in the French version of the text, might cause confusion and give the erroneous impression that manufacturers, producers, wholesalers, etc., were being asked to do some extra work. In fact, all manufacturers, producers, etc., kept accounts of all the articles they manufactured or produced, and they were not being asked to make a copy of that information: they were simply being asked to keep some kind of records so that they could give the required information on the amounts of substances they manufactured, produced, etc. Perhaps the French text should be brought into line with the English.

Mr. NIKOLIĆ (Yugoslavia) expressed the wish that the amendment proposed by the United Kingdom representative should be submitted in writing.

It was so decided.

Paragraph 2

Mr. KUSEVIĆ (Director, Division of Narcotic Drugs) said there were two mistakes in paragraph 2, which should read: "... in respect of substances in schedule II, but in respect of substances in schedules III and IV, they need only...".

Dr. MABILEAU (France) said that the essential control was that effected when the medicament was disposed of; he proposed that the words "or disposals" should be added at the end of the paragraph.

Mr. KUSEVIĆ (Director, Division of Narcotic Drugs) said he thought that would entail an enormous amount of work. In some countries, but in by no means all, records were kept in the prescription book.

Dr. MABILEAU (France) said that if the words "records of acquisitions or disposals" were used, each country would be free to adopt either solution according to the professional customs which prevailed.

Mr. TOFFOLI (Observer for Italy), speaking at the invitation of the Chairman, said that his delegation was opposed to the idea of obliging pharmacists and wholesale distributors to keep records, for the reasons given by the Belgian representative.

Mr. ANAND (India) said that pharmacists and hospitals should keep records of the quantities of substances in schedules II and III which they supplied. Retailers would be required to keep records of acquisitions and disposals of such substances.

Mr. NIKOLIĆ (Yugoslavia) said that, if he had understood aright, the Commission had already decided at the first reading to retain schedule II only.

The CHAIRMAN said that there was no question of reopening the discussion on the words "and III", which should have been dropped from the new text.

Mr. KEMENY (Switzerland) said he thought that, as indicated in paragraph 1, the records required by paragraph 2 could take whatever form each Party preferred, and that the records already kept by retailers under existing regulations would be sufficient.

Paragraph 3

Mr. SAMSOM (Observer for the Netherlands), speaking at the invitation of the Chairman, said his country would have great difficulty in accepting the obligations laid down in paragraphs 1 and 2 if they were applicable to substances other than those included in schedule II, since, with the amendment proposed by the United Kingdom, they would impose a very considerable extra task on the civil service.

The CHAIRMAN said that the Commission could reach a decision once it had the text submitted by the United Kingdom before it.

Article 14 (E/CN.7/L.316) (resumed from the 654th meeting)

The CHAIRMAN invited the Commission to consider the new text of article 14, paragraph by paragraph.

Paragraphs 1 and 2

Mr. BARONA LOBATO (Mexico) said he could not accept the translation, in paragraph 1, of the word "developments" in the English version by the word "novedades" in the Spanish version. The terms "amendment", "modification" or "reform" of laws and regulations could be used, but hardly the word "innovations."

The CHAIRMAN said that the Spanish text would be corrected, and asked the Mexican representative to submit a proposal for that purpose to the Secretariat.

Mr. KEMENY (Switzerland) said he was surprised to find that the new text did not incorporate a proposal which he had made, and which had been supported by several delegations - a proposal to the effect that the information supplied to the Secretary-General should be submitted annually, in summary form, to the Commission and the Parties.

Mr. WATTLES (Office of Legal Affairs) said it would be difficult to incorporate a provision of that kind in paragraph 2, which related to the reports of seizures from the illicit traffic, for such seizures had to be notified immediately. The Swiss representative's proposal should not, however, give rise to difficulties so far as concerned the measures provided for in paragraph 1.

Mr. KUSEVIĆ (Director, Division of Narcotic Drugs) pointed out that the Commission could ask the Secretariat to prepare any report in whatever form it desired.

Paragraph 3

Mr. KUSEVIĆ (Director, Division of Narcotic Drugs) said that, at first reading, the Commission had not made its position very clear. Some delegations had proposed that schedule IV should be added and some that schedules III and IV should be deleted, while some had been of the opinion that the last phrase of subparagraph (a) should be deleted. That deletion would appear to be logical, since, by virtue of the earlier provisions, it would be easy to calculate the level of consumption from stocks.

Dr. ALAN (Turkey) said he would like to have more specific details of what was meant exactly by "statistical reports". He asked whether it was a matter of calculating the difference between the quantities manufactured and the quantities in stock, or whether all retailers would have to be asked to indicate the quantities they had sold. In the 1961 Convention, the retailing stage had been considered as already forming part of consumption.

Mr. KUSEVIC (Director, Division of Narcotic Drugs) said that the term "consumption" was defined in article 1, which the Commission had not yet considered. According to the 1961 Convention, however, quantities supplied by wholesalers to hospitals were regarded as consumed. In his view, it was not essential to require data on consumption, for that could be calculated with mathematical precision from the quantities in stock, which hardly varied from one year to another.

Dr. ALAN (Turkey) said he was satisfied by the explanations given by the Director of the Division of Narcotic Drugs. He recalled that, at the first reading of article 14 (654th meeting) the Commission had decided in favour of the text proposed by the United States of America for paragraph 3. He was ready to accept that text, but he did not think it necessary to retain, at the end of subparagraph (a), the provision regarding the quantities of substances consumed, or the reference to schedule IV in subparagraph (b). On the other hand, if the reference to schedule III in subparagraph (a) were deleted, the reference to it in subparagraph (b) should be retained.

Mr. NIKOLIC (Yugoslavia) said he preferred that schedule III should be mentioned in subparagraph (a). Unlike the Director of the Division of Narcotic Drugs, he did not think it necessary to mention stocks every year. It was, on the other hand, his opinion that stocks varied from year to year; that was the case in Yugoslavia with respect to codeine, for instance.

Dr. BABALAN (Union of Soviet Socialist Republics) said he had already asked that the secretariat of the Board should prepare a questionnaire which would be addressed to the Parties so as to show them exactly what kind of statistical data they should supply.

Mr. KEMENY (Switzerland) said there would be a contradiction between subparagraphs (a) and (b) if the phrases in square brackets and the words "and III" at the end of subparagraph (a) were deleted.

Mr. ROBERT (Observer for Luxembourg), speaking at the invitation of the Chairman, said he was a little concerned at the complexity of the control measures included in the draft Protocol. The observer for Belgium had clearly explained that the application of those provisions would encounter practical difficulties, as was shown, incidentally, by the lively discussions that had taken place on the subject of retaining or deleting one schedule or another. While it seemed possible to agree that all the provisions would apply to the substances in schedules I and II, they should, so far as schedules III and IV were concerned, apply only to the substances and not to preparations



containing them, which would be controlled by applying the provisions of article 8, namely, through compulsory medical prescription. If the Commission wished to make progress in its work, it should avoid raising difficulties which would render impracticable the control it was trying to establish.

Dr. DANNER (Federal Republic of Germany) said that the words in square brackets in paragraph 3 should be deleted.

Dr. MARTENS (Sweden), supported by Mr. SOLLERO (Brazil), Mr. STEWART (United Kingdom) and Dr. WALSHE (Observer for Australia), speaking at the invitation of the Chairman, said that the words "and III" should be deleted, as well as the last phrase in square brackets concerning the quantities consumed; the provision relating to stocks, on the other hand, should be retained.

Dr. AZARAKHCH (Iran) said he agreed so far as the phrases in square brackets were concerned, but would like the reference to schedule III to be retained.

Mr. ANAND (India) said that, to be of any use, the information supplied should be complete and should include indications of stocks held by manufacturers, producers and wholesalers and of the quantities consumed, without which it would not be possible to evaluate misappropriations. The provisions in square brackets should therefore be retained. On the other hand, since it did not seem to be the wish of the majority of delegations that the substances in schedule IV should be subjected to such control, he proposed that the provisions of subparagraph (a), but not those of subparagraph (b), should apply also to the substances in schedule III.

Mr. SAGOE (Ghana) said he would like the words "and III" and the provision relating to stocks, to be retained.

Dr. MABILEAU (France) said that the members of the Commission, anxious to protect public health, were tempted to adopt very strict measures in the Protocol under consideration. As the observer for Luxembourg had so **rightly** stressed, however, they should weigh without delay the terms of the provisions to be adopted, so as to ensure that they were practicable and met the needs of the greatest possible number of countries. If the majority insisted that the provisions of subparagraph (a) should apply to substances in schedule III, the ~~reference~~ to that schedule in subparagraph (b) should obviously be deleted. As to the substances in schedule IV, the suggestion by the observer for Luxembourg that statistical data should be furnished for the substances only, and not for preparations containing them, could be accepted, for in the case of those substances a knowledge of the general development of consumption was enough to indicate the possible dangers and abuses, so that they could, if necessary, be placed under stricter regulations.

Mr. JOHNSON-ROMUALD (Togo) said that, in the course of the discussion, his delegation had several times recalled the conditions peculiar to the countries of West Africa, where the idea of a frontier was completely theoretical. In such circumstances, third parties settled in a country could take advantage of the flexibility of the Protocol's provisions to export massive quantities of psychotropic substances to a neighbouring country. He was therefore of the opinion that all the provisions in article 14 should be retained, even if that meant extra work for the authorities in producing countries responsible for supplying the information requested. The Protocol was intended for the international community as a whole, and due account must be taken of the dangers facing countries which could be the victims of fraudulent practices.

Mr. SHIMOMURA (Japan) said he was in favour of the wording of paragraph 3 without the square brackets.

Mr. SAMSOM (Observer for the Netherlands), speaking at the invitation of the Chairman, explained that his Government was prepared to accept the application of paragraph 3(a) to substances in schedules I and II, but would be very dubious about schedule III and subparagraph (b).

Mr. MILLER (United States of America) said it would be extremely difficult for many countries to furnish the information required with respect to substances in schedule III, which were in very wide medical use and had millions of consumers. Wholesalers stocked countless varieties, and it was for that reason that the Government of the United States had decided to require an inventory only every two years. It would, he thought, be sufficient if the provisions of paragraph 3 applied to substances in schedules I and II; and the Commission should reconsider the question of the inclusion of schedule III, taking care to avoid making the requirements unduly strict.

Dr. MARTENS (Sweden) observed that since the question whether the substances in schedule III should be subjected to the strictest measures of control had invariably given rise to controversy, and was likely to continue to do so during the discussion of the articles which still had to be considered, the Commission was in danger of producing a Protocol whose text was bristling with square brackets. The representative of the Office of Legal Affairs had warned the Commission about the undesirability of that. Sweden was neither one of the producing countries which wished more flexible provisions to be applied to substances in schedule III, nor one of the consuming countries with which the representative of Togo wished the producers to display solidarity. Its position on what should go into the Protocol was based only on an awareness of the

greater or lesser danger presented by the substances to be controlled. It was quite certain that the substances in schedule II were far more harmful than those in schedule III, and that the measures of control prescribed by the Protocol in respect of them ought to be really effective. But an unduly large number of secondary provisions would be liable to make the Protocol cumbersome, to retard its entry into force and to impair the efficacy of its application.

Mr. JOHNSON-ROMUALD (Togo) asked whether the provisions of paragraph 3 should be construed as applying to preparations or to substances.

Mr. WATTLES (Office of Legal Affairs) replied that, under the wording adopted for paragraph 3, preparations were subject to the same measures of control as the psychotropic substances contained in them. If, however, the Commission decided otherwise, there was nothing to prevent the inclusion of other provisions to the effect that they should be treated differently. In that case, however, it would be necessary to define what was meant by "preparations", and that would be extremely difficult.

Mr. JOHNSON-ROMUALD (Togo) said that such a course would nevertheless make matters easier, as it would enable certain preparations to be exempted from the Protocol, thus meeting the objections of those who were apprehensive of the volume of administrative work.

Mr. DITTERT (International Narcotics Control Board) said that it would be better to avoid providing for too many different control systems. The Commission had already considered the possibility of not subjecting substances and certain preparations or groups of preparations to the same régime. To introduce a third category would merely complicate matters.

Mr. CHAPMAN (Canada) said he would prefer the deletion of the reference to schedule III in paragraph 3(a) and of the words "and the quantities consumed".

Mr. NIKOLIĆ (Yugoslavia) said he was surprised that the Commission, after recognizing at its twenty-third session that the preparation of a protocol separate from the 1961 Convention would be justified by the advances of drug dependence due to psychotropic substances throughout the world, and in Sweden in particular, and by the complexity of the problem itself, now seemed to harbour grave doubts about placing substances in schedule III under control. There would have been no point in convening a special session or drafting a separate instrument simply for the substances in schedules I and II. It was true that the substances in schedule III gave rise to more complex problems, but it was precisely in order to solve them that the Commission

had come together. It was its duty to safeguard public health, even if that imposed additional work on the producing countries. The Protocol should apply strict measures of control to the substances in schedule III in precisely the same way as to those in the other schedules, or else it would be totally meaningless.

The CHAIRMAN said he did not wholly share the Yugoslav representative's apprehensions. It was not the control of substances in schedule III that was controversial, but the control of preparations containing those substances, which gave rise to a much more complex problem. A compromise might perhaps be found in the suggestion by the observer for Luxembourg, which had been supported by the representative of France, to the effect that preparations containing the substances listed in schedules III and IV should not be subject to control.

Dr. BABAIAN (Union of Soviet Socialist Republics) said it was disturbing to see that, in order to attract the largest possible number of signatures to the Protocol, consideration was being given to the idea of not placing under control preparations containing substances for which nevertheless it had been argued at the twenty-third session that stricter measures of control should be imposed than those provided for in the 1961 Convention.

Mr. ANAND (India) and Mr. SAGOE (Ghana) said they shared the Yugoslav representative's apprehensions and agreed with him that the substances in schedule III should be firmly controlled under the Protocol.

Mr. MILLER (United States of America) said he was of the opposite opinion. The Protocol already contained many measures of control applicable to the substances in schedule III, in particular the provisions relating to licences, prescriptions, import and export declarations, records, inspection, warnings, measures directed against the abuse of psychotropic substances, the illicit traffic and penal provisions. The Protocol should be so drafted as to bring out the difference between the substances in schedule II and those in schedule III, with less severe measures of control for the latter. In article 14 all that was required was to delete what was unnecessary. The difficulties to which the application of the provisions of paragraph 3 of the article to substances in schedule III would give rise could not be justified in the United States in view of the very large number of manufacturers, producers and wholesalers.

Dr. ALAN (Turkey) said that he too considered it unnecessary to subject the substances in schedule III to the same régime as those in schedules I and II simply for the purposes of furnishing statistical information.

Mr. NIKOLIĆ (Yugoslavia) said that he could not see why, if statistics relating to quantities consumed were unnecessary, it had been thought proper to include a provision regarding them in the 1961 Convention. Nor could he see where lay the difficulties and complications which some delegations were invoking in order to plead that the measures provided for in the paragraph should not apply to substances in schedule III. To ask an industrialist or a trader what he produced, what he consumed and what he had in stock was perfectly natural. On the other hand, he was well aware of how useful simple statistics could be in giving a general idea of acquisitions and disposals of the substances to be controlled.

The CHAIRMAN noted that the majority of the members of the Commission had decided in favour of the deletion of the words "and III" and "and the quantities consumed" in paragraph 3(a) and of the retention in that subparagraph of the words "and held in stock by manufacturers, producers and wholesalers". He suggested that it should be stated in a foot-note, as in the case of article 8, that a minority of delegations had been in favour of the retention of the reference to schedule III and the phrase relating to quantities consumed.

Mr. ANAND (India) observed that when the differences of opinion turned on a substantive question such as that which had just been debated, and the minority consisted of a considerable number of delegations, it would be more appropriate to indicate the view advocated by that minority between square brackets in the text itself, not in a foot-note, which might be overlooked. He therefore proposed that the controversial terms should be left between square brackets in the text.

Mr. JOHNSON-ROMUALD (Togo) said he wholeheartedly supported that view.

Mr. KUSEVIĆ (Director, Division of Narcotic Drugs) stated that by leaving too many square brackets in the text the Commission would delay the preparation of the Protocol and might consequently delay the meeting of the plenipotentiary conference. The General Assembly had asked the Commission to prepare a Protocol, and it should do so. It was to be feared that it might not manage to do so without night meetings or meetings at the week-end.

Mr. ANAND (India) said that the main thing was to prepare a Protocol which had some meaning.

Mr. JOHNSON-ROMUALD (Togo) said that was his opinion also. Time was the only criterion, and nothing would be gained by being over-hasty.

Dr. BABALIN (Union of Soviet Socialist Republics) said that, so far as he knew, no provision had yet been made for a plenipotentiary conference; it was to the Economic and Social Council that the General Assembly had asked the Commission to submit a Protocol without delay.

Mr. NIKOLIĆ (Yugoslavia) said that he appreciated the position of the representatives of India and Togo, but recognized, looking at it objectively, that foot-notes were to be preferred to square brackets in the interests of a clear text. The views of the minority, too, had everything to gain from being clearly expressed.

Mr. MILLER (United States of America) said he shared that opinion. Furthermore, the discussions would be set out in detail in the report. There was no danger, therefore, that the minority view would be overlooked.

Dr. REYED (Sweden) said he supported the views expressed by the Yugoslav representative.

Mr. JOHNSON-ROMUALD (Togo) pointed out that only two phrases were to be left between square brackets.

Mr. WATTLES (Office of Legal Affairs) replied that there would be others in other articles, and an undue number of square brackets would give the impression of an uncompleted text.

Mr. ANAND (India) said that, in any event, the Commission would be able to decide at the final reading.

Mr. NIKOLIĆ (Yugoslavia) proposed that the Commission should decide once and for all with respect to the whole Protocol whether the views of the minority should be given in foot-notes or left between square brackets in the body of the text. He himself was in favour of foot-notes.

Dr. MABILEAU (France) and Mr. MILLER (United States of America) said they supported that proposal.

Mr. ANAND (India) said that the question could not be settled in that way. Each instance would be a special case. Besides, if words were left between square brackets, the reader would have to take notice of them, whereas he might not trouble to read a foot-note.

Dr. ALAN (Turkey) and Mr. JOHNSON-ROMUALD (Togo) said they agreed.

Mr. STEWART (United Kingdom) said that if questions which it had not been possible to settle were left between square brackets every time, the Commission might as well stop discussing a matter as soon as differences of opinion emerged. It was absurd after a discussion lasting several hours to revert to the status quo on the ground that some delegations had not been able to join the consensus. It was a reasonable enough course to set out the minority view in the Commission's report and in a foot-note.

Mr. NIKOLIĆ (Yugoslavia) said he would withdraw his proposal in view of the difficulties to which it was giving rise.

Mr. STEWART (United Kingdom) formally proposed that the Commission should decide in principle that throughout the draft Protocol the opinion of the minority should be given in a foot-note.

The United Kingdom proposal was adopted by 15 votes to 2, with 5 abstentions.

Dr. BABAIAN (Union of Soviet Socialist Republics), in explanation of his vote, said he had abstained, since he considered that in some cases the text should show the two alternatives.

Dr. MABILEAU (France), explaining his vote, said he had voted in favour, since the issue had been a decision of principle, to which exceptions might be made.

The meeting rose at 1.20 p.m.





SUMMARY RECORD OF THE SIX HUNDRED AND SIXTY-FIRST MEETING

held on Friday, 23 January 1970, at 9.45 a.m.

Chairman: Mr. BERTSCHINGER (Switzerland)

THE DRAFT PROTOCOL ON PSYCHOTROPIC SUBSTANCES (agenda item 3): (a) CONSIDERATION OF THE DRAFT PROTOCOL ARTICLE BY ARTICLE (E/CN.7/523/Rev.1, E/CN.7/525 and Corr. 1 and Add.1 and 2; E/CN.7/L.311, E/CN.7/L.318, E/CN.7/L.320) (continued)

Article 12 (E/CN.7/L.318) (resumed from the 653rd meeting)

Dr. ALAN (Turkey) requested, as he had during the first reading of article 12, (653rd meeting), that the Commission wait until it had taken a decision on article 11 before it discussed article 12.

Paragraph 1

Mr. KUSEVIC (Director, Division of Narcotic Drugs) replied that the redraft of article 11 prepared by the Secretariat in the light of the discussion of that article at the first reading (655th meeting) would not be distributed until later in the day. In the meanwhile, the Commission might nevertheless decide whether article 12, paragraph 1, should be worded negatively or positively. If the control system applicable to substances and to preparations in the schedules mentioned in the article was to differ, as the Commission had in mind, it would be practically impossible for Parties to draw up a list of the preparations whose importation they prohibited, since there were nearly 20,000 of them, whereas the list of those whose importation was permitted would be much shorter. On the other hand, if the measures of control to be imposed on preparations and on substances were to be the same, it was immaterial whether the negative or positive form was used, since only the substances would have to be listed.

Mr. NIKOLIĆ (Yugoslavia) said that it would indeed be simpler, and so preferable, for the article to state that Parties might permit imports.

Mr. MILLER (United States of America) said a list of substances whose importation was permitted would be very long in the case of countries which regulated the matter in a liberal way. A list of prohibited substances would be shorter, even in the case of countries which wished to restrict imports severely, since they would be able to prohibit the preparations by referring only to the substances.

Dr. ALAN (Turkey) said that the point raised by the representative of the United States warranted further consideration and he would revert to it later.

Mr. NIKIĆ (Yugoslavia) said that the essential point was to know what substances and what preparations a country was not willing to have imported. A further course might be to leave it to Parties to choose between drawing up a list of permitted substances and preparations and prohibited substances and preparations, depending on whether they wished to apply restrictive or liberal measures to imports.

Mr. RIDDLE (United Kingdom) said that the root of the trouble was the attempt to draw a distinction between preparations and substances, despite the provisions of article 3, paragraph 1. The question immediately at issue was, however, whether to set up a system providing a selective control of preparations, in other words, to entitle Parties to prohibit the import of some preparations, but not other preparations containing the same active principle, in accordance with their composition. Unfortunately, that would certainly lead to the worst sort of complications; it would be better to confine the system to substances and to state that expressly and clearly.

Dr. RZĄD (Sweden) said he entirely agreed.

Mr. NIKIĆ (Yugoslavia) said that he could not support the United Kingdom representative's proposal.

Mr. HATHES (Office of Legal Affairs) said that he did not think that it was possible to dissociate a system applicable to substances from a system applicable to preparations so easily. It might, however, be possible to add an exception clause to and be part of a paragraph dealing specifically with preparations to article 12.

Mr. ELALI (Iran) said that it would be useful to mention preparations as well, since a country might wish to import substances in schedules II and III, but not preparations containing mixtures of substances in those two groups.

Dr. KAZAN (Union of Soviet Socialist Republics) said that if the first sentence of the paragraph were worded so as to stipulate that a Party permitted the import of only such substances in schedules II, III and IV as it had specified "and preparations containing them", it would automatically become unnecessary to list the preparations separately. The preparations were not in every case listed in the schedules, as the text seemed to imply.

Mr. KUBIĆ (Director, Division of Narcotic Drugs) said that both the United Kingdom representative's proposal and that by the Soviet Union representative amounted to applying the same control system to substances and to preparations containing them as provided in article 3; the whole difficulty arose precisely from the attempt to subject them to different systems.

Dr. BABELIN (Union of Soviet Socialist Republics) proposed that the phrase should read "or preparations containing them".

Mr. NIKOLIC (Yugoslavia) said he supported that proposal. The discussion could be simplified if the Commission decided once and for all what control system was to be applied to substances and what to preparations.

Mr. BEADON (United Kingdom) said he could not support the Soviet Union proposal. The whole difficulty arose from the fact that the phrase in square brackets read "substances or preparations" while the phrase not in square brackets read "substances and preparations" which was quite a different matter. The Soviet Union representative's proposal amounted to imposing a selective control of preparations. A country would prohibit the import, not of a particular substance, but of a substance in accordance with the composition of its preparations. He could quite see that some countries might refuse to import preparations whose components had different effects, and that they should wish to leave it to national practitioners to prescribe the combinations and quantities of substances most suitable for their patients; but he could not endorse the notion that a country which prohibited the import of a substance should permit the import of some preparations containing it but not others. A control of that sort would be far too selective.

Mr. CHAMBLIN (Canada) said he entirely agreed with the United Kingdom representative. He proposed that the square brackets in paragraph 1 be removed, that a full stop be placed after the words "in its composition", and that the remainder of the sentence be deleted. Paragraph 1 would then be brought into line with paragraphs 2 and 3, which spoke of prohibitions.

Mr. NIKOLIC (Yugoslavia) said he did not agree. An international instrument could not dictate to a country what it might or might not wish to import. It was for the national health authorities to decide that.

Mr. ANAND (India) said that he shared that view.

Dr. LABILLEAU (France) proposed in an endeavour to reconcile the conflicting views that the phrase in square brackets be deleted and that the text go on to state that a Party might permit the import of only "such substances listed in schedules II, III or IV as it had specified and/or preparations containing them". That wording left Parties free to import either substances only, or substances and preparations, or preparations only.

Dr. BABIAN (Union of Soviet Socialist Republics), Mr. SAGOE (Togo) and Dr. FAZELI (Iran) said they unreservedly supported the French representative's proposal.

Dr. REXFÖ (Sweden) said that he preferred the Canadian representative's proposal, since it was simpler for a country to draw up a list of the substances it wished to prohibit. In point of fact, if in the Canadian representative's proposal the phrase "containing them", suggested by the French representative, were inserted after the word "preparations", the substance of the two ways of putting it was virtually the same. Consequently, if the French representative's proposal attracted the support of the majority of the Commission, he himself would have no objection to supporting it too.

Dr. ANAN (Turkey) said that he agreed with the Swedish representative and believed that it should be possible to reconcile the Canadian and French proposals. The main point was to adopt a formulation which would result in the shortest list.

Mr. MILLER (United States of America) said that he agreed with the United Kingdom representative that the term "preparations" should not appear in the article. If a Party were left completely free to choose between preparations, he wondered whether there could be a question of discrimination between the different manufacturers who produced the preparation, and consequently discrimination in international trade. On that point it might be well to see, for example, whether the principles of GATT on non-discrimination were applicable.

Mr. NIKOČIĆ (Yugoslavia) said that he did not think the question had anything to do with GATT.

Dr. MARIEMU (France) said that his proposal had no discriminatory intention whatsoever. Inserting the words "containing them" after the word "preparations" did not give any specific indication of the quantity of substances listed in schedules II, III and IV contained in the preparation. Paragraph 1 left each Party completely free to decide whether it wished to import a preparation or to permit its manufacture in its territory. The words "containing them" related to a very large number of preparations, and there was no need to enumerate them.

The discussion showed once again how advisable it was to avoid using square brackets in the text of the draft Protocol too freely, for they simply led to confusion. He proposed therefore a form of words which, he thought, took account of all the views which had been expressed and would read "A Party may inform the other Parties through the Secretary-General that it prohibits the import into its country or into one of its territories of one or more substances listed in schedules II, III or IV which it has specified and/or preparations containing them".

Mr. NIKOLIC (Yugoslavia) said he supported that proposal.

Dr. BABAIAN (Union of Soviet Socialist Republics) said that, unlike the United States representative, he believed that the French proposal, which he supported, did not imply any discriminatory measure.

Mr. BENOIE (United Kingdom) said that he was ready to support the French representative's proposal, but before he did so would like to be certain as to precisely what was meant by the words "and/or". The article should make it quite clear that a country which had prohibited the import into its territory of substances listed in schedules II, III or IV used for the manufacture of preparations must in no case be able to import one or more preparations containing any quantity, regardless of how much, of those substances.

The CHAIRMAN suggested that the Secretariat might convene a small working party composed of the representatives of Canada, France, the Union of Soviet Socialist Republics, the United Kingdom and Yugoslavia to settle the drafting problems still outstanding in connexion with article 12, paragraph 1, with the representative of Canada as Chairman.

It was so decided.

Mr. MENON (India) said he regretted that the word "territory", which had been in the first draft of article 12, had been replaced by the phrase "its country or one of its territories". He was unable to see the point of the change.

Mr. WATLES (Office of Legal Affairs) said that the change had been made in response to the request of some delegations who wished to have the possibility, which was granted by the 1961 Convention, of dividing their territory into two or more territories for the purposes of export and import controls and statistics.

Dr. BABAIAN (Union of Soviet Socialist Republics) said that he agreed with the Indian representative that the first version of the text had been better.

Dr. HABIBEAU (France) said that the matter had already been discussed at the article's first reading and the present text was in conformity with the decision which had then been taken.

Paragraphs 2 and 3

No comment.

Article 5 (E/CN.7/L.320) (resumed from the 538th meeting)

Mr. BARCEL ROBERTO (Mexico) said he was surprised to see that the word "special" had been kept in the second version of article 5 despite the fact that at the first reading, the representative of Hungary (534th meeting) had asked for it to be deleted. The establishment of a special administration could cause difficulties for some countries. Each of them should be able to choose between establishing a new administration and making use of existing services. He proposed, therefore, that the word "special" in the first and third lines, and in the title of the article, be deleted.

Mr. NIKOLIC (Yugoslavia) said it was hard to understand the Mexican representative's proposal; Mexico had acceded to the 1953 Convention, article 17 of which used the word "special".

Dr. YILMAZ (Turkey) said that, like several of those who had spoken during the first reading of the article, he thought that the word "service" would be more appropriate than the word "administration". A measure of flexibility should be allowed in the provisions of the Protocol and the Parties should be left free to decide, according to their national administrative system, whether they would make use of an already existing service or establish a new one.

Mr. TALPANI (Observer for Italy), speaking at the invitation of the Chairman, said he, too, felt that the term "administration" was too broad and that it would be better to say "ad hoc service".

Dr. MARTELLE (France) said he thoroughly agreed with the Turkish representative. He proposed that, in the last line of the article, the words "should use" be replaced by the words "should be entitled to use".

Mr. NEWMAN (United States of America) proposed that the expression "it is desirable" be repeated in the second line before the words "that Parties which have already established special administrations" and that, in the English version, the word "should" in the first and fourth lines be deleted.

Mr. BELMONT (United Kingdom) proposed that the article be redrafted to read: "For the purposes of applying the provisions of this Protocol, the Parties shall maintain a special administration integral with or in close co-operation with the special administration which the Party has established pursuant to the provisions of conventions for the control of narcotic drugs".

Dr. BUBIAN (Union of Soviet Socialist Republics) proposed that, in the second line, the conjunction "and" be replaced by the conjunction "or".

Mr. SLOOE (Ghana) supported that proposal.

Dr. MABILLAU (France) said that the questions which remained to be settled in connexion with the article were of a purely drafting nature.

The CHAIRMAN said that the Secretariat now had sufficient information to be able to prepare a new version of article 5.

Article 6 (E/CN.7/L.32) (resumed from the 650th meeting)

Mr. ZUMSTEIN (Switzerland) said he was surprised to see the word "drugs" used in the title and in paragraph 7 despite the fact that, at its 650th meeting, the Commission had adopted a Swiss proposal to replace the word "drugs" by "substances".

Paragraphs 1 and 2

Dr. RUBIN (Union of Soviet Socialist Republics) said he noted that, in the Russian version the word for "approved" had been used in the last line of paragraph 1 as in the English version, instead of the word for "authorized", as in the French.

Paragraph 3

Mr. BARON LOBAT (Mexico) proposed that the word "health" should be deleted, the expression would then read "appropriate authorities", which would allow the police and other authorities to act in criminal and penal affairs where the health authorities did not always possess the necessary authority.

The CHAIRMAN said that, as he understood it, the amendment concerned only the first sentence of the paragraph. The expression "competent authorities" might also be used.

It was so decided.

Mr. JOHNSON-RUMUAD (Togo) said that if the word "health" were deleted from the first sentence, it should be inserted in subparagraph (b) concerning research on human beings.

It was so decided.

Dr. BUBIAN (Union of Soviet Socialist Republics) said that subparagraph (b) was difficult to accept, since it gave the impression that research on human beings in connexion with dangerous substances of that kind, including LSD, was authorized. That would be contrary to Council resolution 1234 (XIV) of 23 May 1950. The subparagraph should be more precisely worded.

Mr. CHAPMAN (Canada) said he did not agree. It was essential that provision should be made to enable experiments to be carried out on substances in schedule I, under strict control and with prior authorization, since it was the only way of determining both their therapeutic value, if any, and what dangers they involved.

Mr. MILLER (United States of America), Dr. MÅRTENS (Sweden), Dr. FAZELI (Iran) and Mr. BARONA LOBATO (Mexico) said they supported the view of the Canadian representative.

Dr. DANNER (Federal Republic of Germany) said he shared that opinion. A professor had discovered that LSD could be used to diagnose psychotic states in human beings.

Dr. MABILLEAU (France) said he thought the Commission was basically agreed and that it was simply a question of drafting.

Mr. JOHNSON-ROMUALD (Togo) suggested that subparagraph (b) be redrafted to read: "In the case of research on human beings, each project should be authorized in advance by the health authorities".

Mr. BEEDLE (United Kingdom) said he supported the views of the Canadian representative. He suggested that subparagraph (b) be reworded to read: "that each research project involving the administration of such substances to human beings be authorized in advance by these authorities".

Dr. BABAJAN (Union of Soviet Socialist Republics) said it was essential that in no circumstances should human beings be used as guinea-pigs for research on LSD. He was firmly opposed to any text which would enable scientists to administer LSD to human beings for experimental and non-therapeutic purposes.

Dr. CAMERON (World Health Organization) suggested that the word "clinical" be inserted before the word "research" in subparagraph (b).

Mr. BEEDLE (United Kingdom) said he was afraid that, if amended in that way, the text might give the impression that projects involving research on human beings other than clinical research did not require authorization.

Mr. ANAND (India) said it seemed to him that the difficulty was largely due to the fact that the paragraph had been divided into subparagraphs (a) and (b). He therefore proposed that the two subparagraphs be combined, so that the end of paragraph 3 would read: "that each research project on such substances be authorized in advance by these authorities".



Dr. MÅRTENS (Sweden) said, if it was specified in subparagraph (b) that clinical or therapeutic research was involved, provision should also be made for another important kind of research, namely, analysis of urine or blood to determine its content of substances such as tetrahydrocannabinol or even LSD. He wondered whether that kind of research was covered by the terms "clinical research" or "therapeutic research".

Dr. CAMERON (World Health Organization) said that his amendment was intended to improve the wording of subparagraph (b), but he thought it would be easier to solve the problem by combining the two subparagraphs, as the Indian representative had suggested. The report of the WHO Expert Committee on Drug Dependence included the following passage to which he would like to draw attention: "Commenting on Article 6, paragraph 3, of the Draft Protocol, the Committee suggested that it would be desirable to word the paragraph in such a way as to make it quite clear that the approval of research projects would be concerned only with their objectives, the safety of persons involved, and protection against diversion of dependence-producing substances, and that it would have no reference to the details of the research protocol" (E/CN.7/L.311, para. 3). It should be possible to find a wording which would take account of the view expressed by the Expert Committee.

Dr. FAZELI (Iran) said they should not lose sight of the role of LSD in diagnosis. It was true that it was not yet very important, but it was bound to develop. Subparagraph (b) should not be so worded as to put a brake on research in that field

Dr. BABAIAN (Union of Soviet Socialist Republics) said it was important to specify that research "for therapeutic and diagnostic purposes" was involved.

Mr. MILLER (United States of America) said that article 6 was directed not only at LSD, but also at numerous substances in schedule I. It would be extremely inconvenient for research workers if they were obliged to apply for authorization every time they wanted to administer one of those substances to an animal. He agreed that authorization was absolutely necessary for research on human beings, but not for research on animals. He was strongly opposed, therefore, to the Indian representative's proposal that the two subparagraphs should be combined.

Mr. MIRAS (Observer for Greece) speaking at the invitation of the Chairman, said it could be proved that dosing with tetrahydrocannabinol was sometimes one of the few ways of rehabilitating hashish addicts. Provision should be included in paragraph 3, therefore, for its use for such purposes under strict control.

Mr. HERRERA-ROJ (Dominican Republic) suggested that subparagraph (b) be amended to read: "that each project involving research on human beings and not covered by subparagraph (a) of this article be authorized in advance by these authorities".

Mr. CHAPMAN (Canada) proposed the following wording for subparagraph (b), based on the report of the WHO Expert Committee: "that each research project involving clinical research be authorized in advance by these authorities, giving full consideration to the safety of the persons involved".

Mr. BEEDLE (United Kingdom) said that the Commission should avoid adopting too stringent provisions in its anxiety to promote the safety of the consumer; the primary objective was to provide some machinery of control, and the suggestion by the Dominican Republic representative seemed excellent for that purpose.

Mr. CHAPMAN (Canada) said he supported the suggestion by the Dominican Republic representative. In his opinion, each protocol should include research on both the efficacy and the hazards of the substances under consideration.

The CHAIRMAN said that one day, perhaps, an hallucinogen might be discovered which had very valuable therapeutic effects; the possibility should therefore be left open for research to develop in that field.

Mr. KUSEVIĆ (Director, Division of Narcotic Drugs) said that as he understood it, the expression "in vitro" in paragraph 3(a), could be interpreted in various ways, depending on the country. Normally, the term was used to denote a reaction observed outside a living organism, but he wondered whether it could be applied to paper chromatography, for instance, a method frequently used in forensic medical research laboratories to determine, for example, whether a person had been poisoned by LSD?

Mr. HUYGHE (Observer for Belgium), speaking at the invitation of the Chairman, said that special authorizations should be granted to persons engaged in laboratory research and analyses, who must be able to obtain such substances. With regard to research on human beings, some of the substances were obviously very dangerous, but an endeavour must be made to strike a balance between danger and usefulness. Since such experiments could be carried out on volunteers, they should be authorized, subject to the necessary precautions to safeguard human dignity.

Dr. BABATIAN (Union of Soviet Socialist Republics) said he was glad that the observer for Belgium had raised the question of experiments on volunteers, which came dangerously close to resembling certain happenings in World War II. He was afraid that some States might take advantage of such a right in order to carry out improper experiments on volunteers or prisoners who in most cases would have no idea of the risk they were running and would be more or less gambling with their lives. He was convinced that medical and scientific research would not suffer in any way if the use of the substances in question was reserved exclusively for therapeutic purposes, to the exclusion of all experimental research.

Dr. REXED (Sweden), replying to a question by Mr. CHAPMAN (Canada), said that the Helsinki Declaration was an agreement which had been concluded on the initiative of the World Medical Association, concerning the ethics of experiments on human beings.

The CHAIRMAN said that the Secretariat would endeavour, with the assistance of the WHO representatives, to draft a text which would take account of the fears expressed by the representative of the Union of Soviet Socialist Republics.

Mr. WATTLES (Office of Legal Affairs) said that after a discussion like the one they had just listened to, it would be possible to draft not one but several texts but it would be difficult to ensure that any would give general satisfaction.

Dr. MABILEAU (France) said that it would be better to have just one text.

Paragraph 4

Mr. KEMENY (Switzerland) said that if the term "consumption" was retained subparagraph (n) of article 1, which defined the term, would also have to be retained.

Mr. MILLER (United States of America) said that the phrase "Except for consumption" should be retained, so that researchers were not obliged to request an authorization every time they had to administer a dose to a research subject. The words "for research" should be inserted after the word "substances".

Paragraph 5

Mr. KEMENY (Switzerland) said that the expression "and the details of the use" was not very elegant.

The CHAIRMAN said that the wording of the first draft, namely, "the date and mode of each use", was more appropriate.

Mr. WATTLES (Office of Legal Affairs) said that at the first reading (658th meeting) one representative had proposed the replacement of the end of paragraph 5 by the words "details of the use" and, in the absence of any vote, the Secretariat had understood that the Commission had accepted that amendment.

Paragraph 6

Dr. DINNER (Federal Republic of Germany) said he was in favour of deleting the passage in square brackets and inserting the word "administrative" before the word "authorities", in the second line.

Mr. HUYCHE (Observer for Belgium) speaking at the invitation of the Chairman, said that, in practice, most institutions importing those substances were commercial establishments. Consequently, it would be better to delete the word "scientific" in the third line.

Dr. MBLIEU (France) said he agreed with the observer for Belgium.

The CHAIRMAN said that the text would be amended accordingly, and the phrase in square brackets would also be deleted.

Paragraph 7

Mr. BRIDLE (United Kingdom), supported by Mr. NIKOLIC (Yugoslavia) and Mr. MILLER (United States of America), said he was afraid that the provisions in paragraph 7 conflicted with those of paragraph 1 and paragraph 3(b) and were tantamount to prohibiting all research on human beings with substances in schedule I. It would therefore be advisable to add at the end of the paragraph the words "except in research authorized pursuant to paragraphs 1 and 3(b) of this article".

Dr. MBLIEU (France), supported by Dr. ALIN (Turkey) and Dr. BABALIN (Union of Soviet Socialist Republics), said that in his opinion paragraph 7 was perfectly clear, at any rate from the technical point of view. He did not see how it could prevent patients from being treated with those substances, since the patient did not himself have to possess the drug, which was administered by a doctor or the hospital staff.

Mr. BRIDLE (United Kingdom) said he would not press his point, but thought that the difficulty mainly arose from the fact that the expression "personal consumption" could be interpreted in several ways. The aim of the provision was to prevent the non-medical consumption of the substances concerned to induce euphoria or as stimulants.

Mr. NICHOLS (Office of Legal Affairs) said that in that case the words "personal consumption" might, perhaps, be replaced by "administration" or even "self-administration."

Mr. MILLER (United States of America), supported by Mr. FAZALI (Iran), said that psychiatrists often tried certain drugs on themselves. The Protocol should not prevent that type of research, but paragraph 7 might give the impression that it was prohibited.

Mr. HERRERA-ROA (Dominican Republic) proposed the addition of the words "without medical or scientific control".

Dr. MIBILLEAU (France) said he thought it would be better not to use the expression "personal consumption", since otherwise it would be necessary to include a definition of it in article 1, because the word "consumption" had quite a different meaning in the Protocol.

Dr. ALAN (Turkey) suggested that the word "consumption" be replaced by the word "use".

Dr. BABIAN (Union of Soviet Socialist Republics) said he supported the Turkish representative's suggestion. The Commission should also recognize that the provision in question did not apply either to the cases covered by paragraph 3(i) or to experiments carried out by psychiatrists on themselves.

The CHAIRMAN said that the Soviet Union representative's proposal amounted to the same thing as the United Kingdom representative's.

Mr. HUCHE (Observer for Belgium) speaking at the invitation of the Chairman, pointed out that experiments carried out by a doctor on himself fall outside the category of authorized cases, since they were carried out for medical purposes.

Mr. MILLER (United States of America) said that, to avoid unnecessary complications, it would suffice to delete the end of the paragraph, namely, the phrase "and shall not authorize possession for personal consumption".

Mr. WATTLES (Office of Legal Affairs) pointed out that that particular provision had been inserted in application of a WHO recommendation.

Mr. BARONA LOBATO (Mexico) said that, after all, paragraph 7 was not absolutely necessary, since paragraph 2 already contained provisions whereby the manufacture, production of, trade in, and distribution and use of substances in schedule I without an authorization were prohibited, and the penal consequences of those prohibitions were set forth in article 18. If, however, the Commission still felt that the paragraph was essential, at least the end might be deleted from the words "and shall not authorize.....".

Dr. CAMERON (World Health Organization) in response to a question, said that at the first reading he had already expressed the opinion that the previous paragraphs of the article already virtually prohibited all forms of possession of substances in schedule I, except for medical and scientific purposes. Paragraph 7 dealt only with personal consumption.

Dr. BILIAN (Union of Soviet Socialist Republics) said he supported the United States proposal; the expression "for any purpose" was sufficiently explicit. He was also in favour of replacing the expression "unauthorized possession" by the expression "possession, without the authorization of the competent authorities", as it would be for each Party to decide which administration should grant the authorization.

Dr. MIBILLEU (France) said he agreed that, technically, the deletion of the end of paragraph 7 could quite well be conceded but, juridically, in view of the provisions of article 18, it would be preferable to retain the text and add "except for the cases referred to in paragraph 3".

Mr. MILLER (United States of America) said he withdrew his amendment and supported the French representative's amendment.

Mr. BEEDLE (United Kingdom) said he thought it would also be advisable to mention the cases referred to in paragraph 1.

The meeting rose at 1 p.m.

SUMMARY RECORD OF THE SIX HUNDRED AND SIXTY-SECOND MEETING

held on Friday, 23 January 1970, at 2.45 p.m.

Chairman:

Mr. BERTSCHINGER (Switzerland)

STATEMENT BY THE PRESIDENT OF THE INTERNATIONAL NARCOTICS CONTROL BOARD

Sir Harry GREENFIELD (President, International Narcotics Control Board)

said he hoped that the plenipotentiary conference would be held by January 1971 at the latest and that the draft Protocol would be ratified by as many countries as possible. He also urged the Commission to reconsider the question of the periodicity of its meetings. Some time ago, the Permanent Central Narcotics Board had expressed the view that the Commission should meet annually, and that view had been endorsed by its successor, the International Narcotics Control Board. The heavy additional responsibilities which would devolve on the Commission following the adoption of the draft Protocol was an additional argument in favour of annual sessions.

Mr. MILLER (United States of America) said that, in view of the additional responsibilities that would be placed on the Commission by the draft Protocol, his Government was prepared to reconsider the need for annual sessions.

THE DRAFT PROTOCOL ON PSYCHOTROPIC SUBSTANCES (agenda item 3): (a) CONSIDERATION OF THE DRAFT PROTOCOL ARTICLE BY ARTICLE (E/CN.7/523/Rev.1, E/CN.7/525 and Corr.1 and Add.1 and 2; E/CN.7/L.311, E/CN.7/L.320 - L.325) (continued)

Article 7 (E/CN.7/L.320) (resumed from the 658th meeting)

Mr. ANAND (India) proposed that the words "including foreign trade", in paragraph 1, should be replaced by "import and export".

The CHAIRMAN said that since the words "import" and "export" were used in the redraft of article 1 (E/CN.7/AC.7/R.4), it would be simpler to use the same language in article 7.

Dr. MABILEAU (France) supported the Indian proposal.

Mr. WATTLES (Office of Legal Affairs) said that the term "import and export" would undoubtedly have to be used in article 11 in referring to the respective rights and obligations of the Parties, but that in general it seemed reasonable to use the term "foreign trade".

Mr. NIKOLIĆ (Yugoslavia) said he had no strong feelings on the matter, since the two phrases were virtually synonymous.

Mr. BARONA LOBATO (Mexico) said that his delegation reserved its position with respect to the use of the term "production" in paragraph 1 of article 7 and its definition in the redraft of article 1. Peyote, for example, which was a raw material for the manufacture of mescaline, grew wild in his country and was very difficult to control.

The CHAIRMAN said that the Commission would discuss that matter in connexion with article 1.

Article 9 (E/CN.7/L.321) (resumed from the 658th meeting)

Dr. ALAN (Turkey) proposed that the words "any relevant regulations" should be replaced by "any relevant recommendations".

Dr. BABAIAN (Union of Soviet Socialist Republics) said he supported that proposal.

Dr. CAMERON (World Health Organization) said that he could agree to the Turkish proposal.

Dr. MABILEAU (France) said that he also favoured the use of the word "recommendations", which was a more comprehensive term than "regulations".

Mr. WATTLES (Office of Legal Affairs) said that since article 21 of WHO's Constitution stated that that organization should have authority to adopt "regulations", the latter term was obviously the appropriate one to use in article 9 of the draft Protocol.

Dr. DANNER (Federal Republic of Germany) said that WHO was authorized to make recommendations under articles 23 and 24 of its Constitution, but he was not sure whether it had a choice between making "recommendations" and adopting "regulations".

Mr. WATTLES (Office of Legal Affairs) said that, in his opinion, it was legally undesirable to omit a reference to "regulations", but that the Commission's wishes could perhaps be met by the expression "regulations or recommendations".

It was so decided.

Mr. ANAND (India) said that the original draft of article 9 in Annex IV of the report of the Commission on its twenty-third session (E/CN.7/523/Rev.1) required cautions and warnings to be indicated on the labels of retail packages, while the redraft of that article provided that such cautions and warnings should be indicated on the labels "or accompanying insert or leaflet". The alternative requirement of indicating warnings on an insert was unacceptable to his delegation, since



unscrupulous retailers could always discard the insert and sell the package in any way they pleased. He insisted that warning labels should be attached to retail packages unless the container was physically too small to permit it.

Mr. MILLER (United States of America) said that his delegation could not accept the requirement that every single prescription bottle issued to a patient should have a warning label attached to it. In his opinion, it would be sufficient if such warnings were attached to, or included in, the package which the retailer received from the wholesaler.

Mr. KUSEVIC (Director, Division of Narcotic Drugs) said that since retail containers were sometimes only two or three centimetres long, patients would need a magnifying glass in order to read any warning labels.

Dr. REXED (Sweden) proposed that the phrase in question should be amended to read: "including cautions and warnings, to be indicated on the labels or, when this is not practicable, on the accompanying insert or leaflet of retail packages".

Mr. ANAND (India) said that he had not meant to refer to small prescription bottles dispensed by pharmacists to patients. His point was that it was the duty of the manufacturer or producer to label his product properly. He could accept the proposal of the Swedish representative.

Mr. HUYGE (Observer for Belgium), speaking at the invitation of the Chairman, said that he also supported the Swedish proposal. In countries having more than one official language, such as his own, it might be difficult to require warning labels in every case. The matter was one which should be left to the discretion of each individual State.

Dr. ALAN (Turkey) said he thought there should be some warning on the label to draw the attention of users to a potential danger. That warning might be in the form of a sign referring to a leaflet included in the package. He did not think that the matter should be left at the discretion of States.

Mr. MILLER (United States of America) said that in his opinion the Turkish suggestion went too far, but that his delegation could accept the Swedish proposal.

Mr. CHAPMAN (Canada) and Mr. SAGOE (Ghana) said that they supported the Swedish proposal.

The Swedish proposal was adopted.

Article 13 (E/CN.7/L.321) (resumed from the 658th meeting)

No comment.

Article 16 (E/CN.7/L.322) (resumed from the 658th meeting)

Mr. ANAND (India) said he doubted if the word "abusers" in paragraph 2 was appropriate. The term "persons addicted to" used in the original text of the draft was more satisfactory.

Mr. TATLES (Office of Legal Affairs) recalled that there had been general criticism of the use of the terms "addict" and "addicted to", which had subsequently been dropped elsewhere in the draft. He had understood that his suggestion of the term "abusers" had been accepted by the Commission, but some other term could be sought.

Article 17 (E/CN.7/L.323) (resumed from the 658th meeting)

no comment.

Article 18 (E/CN.7/L.323) (resumed from the 658th meeting)Paragraph 1.

Dr. REKED (Sweden) recalled that, during the first reading, his delegation had suggested the insertion of the words "for distribution" after the words "possession" and "purchase" in the first sentence of paragraph 1, and he believed that suggestion had been accepted.

His delegation was strongly opposed to the inclusion of the word "consumption" in the same sentence. It could not be the intention of the Commission that addicts should be punished because they had become addicted to a substance.

Dr. KNIPSCHILDT (Observer for Denmark), speaking at the invitation of the Chairman, said he favoured the insertion suggested by the Swedish delegation.

Dr. MABILLEAU (France) said that if it was thought necessary to include the word "consumption" in paragraph 1, a different definition than that suggested by the Technical Committee in article 1 (E/CN.7/AC.7/R.4, footnote 2) would have to be provided.

Mr. BARONA LOBATO (Mexico) said he was in favour of deleting the word "consumption", but thought the addition of the words "for distribution" after the words "possession" and "purchase" might lead to misunderstanding. It ought to be made quite clear that the punishable offence was not possession in itself but possession for the purpose of sale or free distribution to persons not requiring a substance for therapeutic purposes, in other words, for the purpose of trafficking. If it was thought necessary to qualify the words "possession" and "purchase" at all, it would be better to be specific and use the words "for trafficking".

Mr. ANAND (India) said he had no objection to the deletion of the word "consumption". He did not think, however, that it was necessary to qualify the words "possession" and "purchase", since they were already adequately qualified by the clause "and any other action which in the opinion of such Party may be contrary to the provisions of this Protocol". Wrongful possession was contrary to the provisions of the Protocol; the further qualification suggested by the Swedish delegation would weaken, rather than strengthen, the text.

Mr. KEMENY (Switzerland) said that, in view of the explanations given by previous speakers, his delegation would withdraw the proposal it had made in first reading for the insertion of the word "consumption" in paragraph 1.

Dr. BABAIAN (Union of Soviet Socialist Republics) said he shared the views of the Indian representative.

Mr. CHAPMAN (Canada) said the wording of paragraph 1 as it stood was acceptable to his delegation. The provisions of article 4 governed possession, and the qualification in article 16, paragraph 1, to which the Indian representative had drawn attention, would thus meet the situation adequately.

Mr. MILLER (United States of America), Mr. NIKOLIĆ (Yugoslavia) and Mr. SAGOE (Ghana) said they agreed with the Indian representative that it was unnecessary to qualify the words "possession" and "purchase".

Dr. FAZELI (Iran) supported the Swedish proposal. His delegation further thought that a distinction should be made between possession of substances in schedule I and possession of those in schedules II and III. Substances in schedule I did not produce physical and psychological dependence and their consumption could be ended without intensive treatment. Substances in schedules II and III did, however, produce such dependence and persons becoming addicted to them required intensive treatment to wean them from their consumption. Possession of substances in schedule I, even if intended for the personal consumption of the individual concerned, could therefore be treated as a punishable offence, whereas possession of substances in schedules II and III for the same purpose should not.

Mr. STEWART (United Kingdom) said that his delegation had certain doubts about unauthorized possession being considered a criminal offence. However, it intended to bring up that point under article 4 which, if understood, had not yet been finally disposed of. On that understanding, it was prepared to accept the text of paragraph 1 as it stood, with the deletion of the word "consumption".

Paragraph 2

Dr. BABAIAN (Union of Soviet Socialist Republics) suggested the deletion of the word "domestic" before the word "law" in the preambular part of the paragraph.

It was so decided.

Paragraphs 3 and 4

No comment.

Article 19 (E/CN.7/L.324) (resumed from the 659th meeting)

No comment.

Article 20 (E/CN.7/L.324) (resumed from the 659th meeting)

Dr. BABAIAN (Union of Soviet Socialist Republics) said that the suggestion he had made during the first reading of the article was that a foot-note should be incorporated to the effect that the article should not be interpreted as justifying any increase in the budgets of the United Nations and WHO.

The CHAIRMAN requested the USSR representative to provide the Secretariat with the precise wording of the foot-note he desired.

Article 21 (E/CN.7/L.325) (resumed from the 659th meeting)

Dr. BABAIAN (Union of Soviet Socialist Republics) said that, during the first reading of the article he had drawn attention to its discriminatory nature and had requested that reference should be made to those views, which had been supported by other delegations, in a foot-note to be incorporated in the text of the draft Protocol which would be annexed to the Commission's report.

The CHAIRMAN requested the USSR representative to provide the Secretariat with the precise wording of the foot-note he desired.

Mr. CHAPMAN (Canada) suggested that the word "or" be inserted between paragraphs 1 (a) and 1 (b) and between paragraphs 1 (b) and 1 (c).

It was so decided.

Article 22 (E/CN.7/L.325) (resumed from the 659th meeting)

No comment.

Article 23 (E/CN.7/L.325) (resumed from the 659th meeting)

Dr. BABAIAN (Union of Soviet Socialist Republics) asked that the text of the draft Protocol to be annexed to the Commission's report should contain a foot-note to the effect that the Soviet Union and other delegations had expressed the view that the inclusion of article 23 in the draft Protocol was unacceptable.

It was so decided.

Article 23 bis

Mr. WATTLES (Office of Legal Affairs) read out the text of the additional article about territories, based on article 43 of the 1961 Convention, which the Commission had asked him to draft:

"Article 23 bis

"Territories for the purposes of articles ...

"1. Any Party may notify the Secretary-General that, for the purposes of articles ..., its territory is divided into two or more territories, or that two or more of its territories are consolidated into a single territory.

"2. Two or more Parties may notify the Secretary-General that, as the result of the establishment of a customs union between them, those Parties constitute a single territory for the purposes of articles ...

"3. Any notification under paragraph 1 or 2 above shall take effect on 1 January of the year following the year in which the notification was made."

He said that the numbers of the articles to be specified in the title and in paragraphs 1 and 2 could be inserted in due course.

The CHAIRMAN suggested that, if there were no objection, the text read out by the representative of the Office of Legal Affairs should be included in the draft Protocol.

It was so decided.

Article 24 (E/CN.7/L.325) (resumed from the 659th meeting)

Dr. BABAIAN (Union of Soviet Socialist Republics) asked that the text of the draft Protocol to be annexed to the Commission's report should contain a foot-note stating that the Soviet Union delegation had expressed the view that the words "on its own behalf or on behalf of a territory for which it has international responsibility, and which has withdrawn its consent given in accordance with article 23" should be deleted.

It was so decided.

Article 25 (E/CN.7/L.325) (resumed from the 659th meeting)

Dr. MABILEAU (France), referring to paragraph 3 (b), said that, in the French Government's view, the General Assembly was not an appropriate forum in which to discuss the revision of an instrument of so highly technical a nature as the draft Protocol. He did not, however, have any proposal to make on the subject.

Mr. WATTLES (Office of Legal Affairs) pointed out that the power conferred on the Economic and Social Council by paragraph 3 (b) derived from its powers under article 62, paragraph 3, of the Charter of the United Nations. If those powers were curtailed in any way, as would be the case if, for example, paragraph 3 (b) of article 25 was excluded, the United Nations would face a serious constitutional problem. The fact that the powers were curtailed by an international convention would not diminish the problem.

The CHAIRMAN said that the article seemed satisfactory as it stood.

It was so decided.

Article 26 (E/CN.7/L.325) (resumed from the 659th meeting)

Dr. BABAIAN (Union of Soviet Socialist Republics) said that the Commission had not reached a decision on the text of article 26 in first reading. His delegation had proposed the text given in the foot-note (E/CN.7/L.325) as an alternative to the wording proposed in annex IV to the report of the Commission on its twenty-third session (E/CN.7/523/Rev.1) and the Indian representative had expressed the view that disputes should be settled in accordance with article 33 of the Charter of the United Nations. The advantage of the Soviet Union proposal was that it left the field open for various means of settlement and did not make reference to the International Court of Justice compulsory.

Mr. ANAND (India) said that the Protocol would regulate highly technical matters in which strictly legal considerations were less important than the goodwill of the Parties. Consequently, in the event of a dispute, settlement by one of the means other than negotiation indicated in article 33 of the Charter would be preferable to immediate recourse to the International Court of Justice if negotiation failed. Reference to the Court should be available only as a last resort. He therefore proposed that the article on disputes should follow article 48 of the 1961 Convention.

Dr. MABILEAU (France) said that his delegation preferred the text reproduced in annex IV of the report of the Commission on its twenty-third session.

Mr. JOHNSON-ROMUALD (Togo) supported the Indian proposal and said he could not understand the objection to the use of all the means other than negotiation enumerated in article 33 of the Charter if negotiation failed. It was unnecessary to refer a dispute to the Court immediately that happened; in Africa, for example, there were various regional bodies which had been successful in settling disputes.

Dr. REXED (Sweden) said that the representative of the Office of Legal Affairs had pointed out in connexion with article 18 that the use in an international instrument of a formulation which differed from that on an earlier related international instrument would raise the presumption that the Parties to the former had different intentions from the Parties to the latter. He therefore supported the Indian proposal that the disputes article should follow article 48 of the 1961 Convention.

Mr. GUNEY (Turkey) said that his delegation could not accept the Soviet Union proposal, since, because of the difficulty of securing the agreement of all Parties concerned, its effect would be to make it almost impossible to refer a dispute concerning the interpretation or application of the Protocol to the International Court of Justice. The advantage of the wording as it stood was that a dispute could be referred to the Court at the request of only one of the Parties concerned. That was a simple and flexible formula. The Court was the supreme judicial organ of the United Nations and had made a wide contribution to the development of international law. Turkey therefore favoured the retention of the wording as it stood.

Mr. McCARTHY (Canada) agreed with the view expressed by the Turkish representative concerning the desirability of a formulation allowing for one Party only to refer a dispute to the Court. The wording as it stood would therefore be acceptable. His delegation could also accept a formulation based on article 48 of the 1961 Convention, provided that the stipulation in paragraph 2 of that article for compulsory reference to the Court was amended to provide for optional reference.

Mr. NIKOLIC (Yugoslavia) said that he favoured the wording of article 48 of the 1961 Convention.

Dr. BÖLCS (Hungary) said that his delegation supported the Soviet Union proposal, although it could also agree to the inclusion of a formulation based on article 48 of the 1961 Convention. In that case, however, it would have to enter a reservation with regard to paragraph 2.

Dr. MABILEAU (France) said that in view of the support expressed for the Indian proposal, his delegation would be prepared to agree to an article based on article 48 of the 1961 Convention.

Mr. WATTLES (Office of Legal Affairs) said that, in drafting the disputes article, the Secretariat had not followed the language of the 1961 Convention because

of the ambiguity of paragraph 2. As yet, there had been no reference to the International Court of Justice under the 1961 Convention to test that provision. It did not take the form which was customary in international instruments, because it did not provide for a reference to the Court by one Party only. Although it might have that meaning, the Secretariat had preferred to propose wording which was unambiguous.

Mr. SAGOE (Ghana) supported the Indian proposal.

Dr. ALAN (Turkey) said that his delegation was prepared to follow the lead given by the French delegation and accept an article based on article 48 of the 1961 Convention, provided its wording was improved to remove the ambiguity to which the representative of the Office of Legal Affairs had referred.

Dr. REXED (Sweden) proposed that the ambiguity should be removed by inserting the words "at the request of any one of these Parties" after the word "shall" in paragraph 2 of the text in the 1961 Convention.

Dr. BABAIAN (Union of Soviet Socialist Republics) asked the representative of the Office of Legal Affairs whether, in his opinion, article 48 of the 1961 Convention presupposed the consent of all Parties to recourse to the International Court of Justice.

Mr. WATTLES (Office of Legal Affairs) said that reference would have to be made to the preparatory work of the 1961 Convention to determine the intention of the Parties to that Convention. The fact that article 48, paragraph 2, of the 1961 Convention was ambiguous meant that the opportunity should be taken of clarifying the point as far as the draft Protocol was concerned. The Swedish and Soviet Union proposals would both have that effect.

The CHAIRMAN said it seemed to be the general wish that the disputes article should be based on article 48 of the 1961 Convention, with the changes suggested by the Swedish representative. The Secretariat would submit a new text worded accordingly.

Article 27 (E/CN.7/L.325) (resumed from the 659th meeting)

The CHAIRMAN observed that the Commission could not reach a decision on the numbers of the articles to be inserted in paragraph 1 until it had completed its second reading of all the other articles of the draft Protocol. He therefore suggested that the consideration of article 27 should be deferred.

It was so decided.



Article 28 (E/CN.7/L.325) (resumed from the 659th meeting)

Mr. WATTLES (Office of Legal Affairs) suggested that the article was not strictly necessary, since the Secretary-General had a well-established practice with regard to notifications. Furthermore, the notifications to be given under the draft Protocol were very numerous and there was a risk of accidental omission if the notifications were enumerated.

Mr. MILLER (United States of America), supported by Dr. MABILEAU (France), proposed that article 28 should be deleted.

Dr. BABAIAN (Union of Soviet Socialist Republics) said that the same consideration applied to article 28 as to article 27.

The CHAIRMAN suggested that a decision on the inclusion of article 28 might be left to the plenipotentiary conference.

It was so decided.

The meeting rose at 5 p.m.



SUMMARY RECORD OF THE SIX HUNDRED AND SIXTY-THIRD MEETING

held on Saturday, 24 January 1970, at 9.35 a.m.

Chairman: Mr. BEEDLE (United Kingdom)

In the absence of the Chairman, Mr. Beedle (United Kingdom), First Vice-Chairman, took the Chair.

THE DRAFT PROTOCOL ON PSYCHOTROPIC SUBSTANCES (agenda item 3): (a) CONSIDERATION OF THE DRAFT PROTOCOL ARTICLE BY ARTICLE (E/CN.7/523/Rev.1, E/CN.7/525 and Corr.1 and Add.1 and 2; E/CN.7/AC.7/R.4; E/CN.7/L.311 and 312/Rev.1 and E/CN.7/L.326) (continued)

Article 1 (E/CN.7/AC.7/R.4)

Dr. MABILEAU (France), Chairman of the Technical Committee, said that the redraft of article 1 (E/CN.7/AC.7/R.4) reflected the consensus of opinion in the Committee. The text differed only slightly from that in annex IV of the report of the Commission on its twenty-third session (E/CN.7/523/Rev.1). Apart from the first four terms, which had been accepted by all members of the Committee, each definition had been considered very carefully. The definition of the terms "import" and "export" had been slightly changed and the definition of the term "consumption" had been left in a footnote since the Committee would have to be sure that the word was used in the body of the Protocol before placing it in the article. In the case of the French version, several delegations had asked that the word "terminologie" should be replaced by the word "glossaire" as the title of article 1; that would bring out more clearly that what was meant was the assignment to the terms used in the Protocol of a particular legal meaning for the purposes of the instrument.

As work had not yet been completed on schedule V, the content of paragraph (h) could not be decided for the time being.

The CHAIRMAN invited the Commission to consider the redraft of article 1 paragraph by paragraph.

Paragraphs (a) to (e)

No comment.

Paragraph (f)

Dr. ALAN (Turkey) said there was a grammatical error at the end of the first line of the French version: the word "son" should be substituted for the word "leur", so that the phrase read: "quel que soit son état physique".

The CHAIRMAN said that the Secretariat had taken note of the change.

Mr. HUYGHE (Observer for Belgium), speaking at the invitation of the Chairman, said that the Technical Committee had not yet come to a final decision as to the meaning to be given to the term "preparation". There were a number of pharmaceutical preparations which were not mixtures and would therefore be excluded from the measures of control established by the Protocol; he could not, therefore, accept the definition in paragraph (f). It should rather be stated that the term "preparation" meant "a substance split up into therapeutic doses, a mixture or a solution etc."

Dr. DANNER (Federal Republic of Germany) proposed that pharmaceutical preparations containing only one substance should be deemed to be "preparations".

Dr. BABAIAN (Union of Soviet Socialist Republics) said he did not agree. The definition of the term "preparation" given in the redraft was satisfactory so far as he was concerned.

Dr. MABILEAU (France) said that the Observer for Belgium had already drawn the Technical Committee's attention to the point, so there was no need for the Commission to discuss it. The Commission might rest assured that the Technical Committee, which was anxious that there should not be any gap in the control system, would not overlook it.

Mr. KUSEVIĆ (Director, Division of Narcotic Drugs) said he agreed.

The CHAIRMAN said that the Secretariat would continue to consider the problem with the help of the Office of Legal Affairs and would try to prepare a definition which would take full account of both the scientific and legal aspects. Members should communicate any suggestions they might have to the Director of the Division of Narcotic Drugs.

Paragraphs (g) and (h)

No comment.

Paragraph (i)

Mr. NIKOLIĆ (Yugoslavia) asked that the term "foreign trade" should be used, since it would cover the notion of transit as well, which the terms "import" and "export" did not.

Mr. WATTLES (Office of Legal Affairs) said that he was aware of the difficulty to which the Yugoslav representative referred. Owing to article 11, the terms "import" and "export" could not be dropped, but he was in favour of substituting the term "foreign trade" for the term "import and export trade" wherever it appeared in the Protocol.

Mr. ANAND (India) asked whether the phrase "the physical transfer of a psychotropic substance from one State to another State, or from one territory to another territory of the same State" applied to transfers between states of a single country such as India or the United States of America, or between one State and another State, or between a State and the territories over which it exercised sovereignty.

Mr. WATTLES (Office of Legal Affairs) said that the definition was the same as that given in article 1, paragraph 1 (n), of the 1961 Convention. Solely for the purposes of the application of the Protocol, a Party might divide its territory into several states or territories, especially with regard to import and export authorizations and export declarations, but that had nothing whatever to do with the question of non-independent territories. Provision for that had to be made for the convenience of States which were likely to become Parties to the Protocol and possessed territories which were not adjacent to their metropolitan territory, such as Alaska and Hawaii, in the case of the United States, or the divided territories of Pakistan. A definition of the term "territory" was therefore required in article 1 of the Protocol, just as it had been in article 1, paragraph 1 (y), of the 1961 Convention.

Paragraphs (j) to (l)

No comment.

Paragraph (n)

Dr. BABAIAN (Union of Soviet Socialist Republics) said that he had some doubts about sub-paragraph (n) (iv). The amounts of psychotropic substances referred to in it related to use rather than to stocks. Though the sub-paragraph reproduced the wording of article 1, sub-paragraph 1 (z) (iv) of the 1961 Convention, there could be no objection to improving the text. To prevent erroneous interpretation, the sub-paragraph might be made into a separate paragraph.

Mr. McCARTHY (Canada) said that there was no need to keep to the text of the 1961 Convention at all costs, and the Commission should have no hesitation about improving it when drafting the Protocol.

Mr. WATTLES (Office of Legal Affairs) explained that though paragraph (n) had been reproduced from article 1, paragraph 1 (x), of the 1961 Convention, sub-paragraph (y) of the latter, relating to special stocks, had been excluded from article 1 of the Protocol since it was not relevant. It would be hard to include in stocks the amounts held by pharmacists or other authorized retail distributors and by institutions or qualified persons in the duly authorized exercise of therapeutic or

scientific functions, in other words, the amounts referred to in sub-paragraph (iv), which were in any case taken into account in the statistics of consumption as defined in the foot-note relating to article 1 (m).

Mr. ANAND (India) said he had some doubts about sub-paragraph (n) (iv), as it seemed to refer only to sub-paragraph (n) (iii). In the English version, the phrase "but does not include the amounts of psychotropic substances held in the country or territory" did not make it clear by whom the amounts were held. Article 14, paragraph 3, relating to reports to be furnished by Parties, specified that the statistical reports should deal with "the quantities of such substances manufactured, produced, exported, imported [and held in stock] by manufacturers, producers and wholesalers". To omit to specify that in article 1, paragraph (n) might give the impression that someone else besides pharmacists or other authorized retail distributors and institutions or qualified persons in the duly authorized exercise of therapeutic or scientific functions might hold stocks or psychotropic substances.

Dr. ALAN (Turkey) said that, in his opinion, sub-paragraph (iv) was very useful, as it was important to make it plain that the amounts of psychotropic substances held by pharmacists or other authorized retail distributors and by institutions or qualified persons in the duly authorized exercise of scientific or therapeutic functions were not included in stocks. The specific statement was essential to prevent any confusion, the more so if the Protocol did not include any definition of the term "consumption".

Mr. NIKOLIĆ (Yugoslavia) said that paragraph (n) was satisfactory, if modified as suggested by the USSR representative.

Mr. DITTERT (International Narcotics Control Board) said that the list of holders of stocks in article 14 was no longer needed now that the Commission had decided on the definition of stocks.

Mr. ANAND (India) said that since only the stocks held for the purposes mentioned in article 1, paragraph (n), sub-paragraphs (i), (ii) and (iii) would have to be declared, the implication was that if stocks were held for any other purpose, they need not be declared. That was an omission that should be remedied.

Dr. DANNER (Federal Republic of Germany) said that he personally felt that it was not possible to include in stocks the amounts of psychotropic substances held by pharmacists or other authorized retail distributors. In his country, there were some

10,000 pharmacists who supplied over a thousand preparations covered by the definitions. To have to prepare a declaration of the stocks they held would be an overwhelming administrative task.

Mr. NIKOLIĆ (Yugoslavia) said that he could not see what stocks other than the stocks mentioned in paragraph (n), sub-paragraphs (i), (ii) and (iii) the Indian representative meant.

The CHAIRMAN said he assumed that the Indian representative was thinking of the amounts of psychotropic substances commonly used in industry for other than medical or scientific purposes referred to in article 3, paragraph 3. The Indian representative no doubt wished to be assured that those amounts were in fact covered by article 1, paragraph (n), sub-paragraph (ii).

Mr. WATTLES (Office of Legal Affairs) said he could reassure him on that point.

The CHAIRMAN asked the Secretariat, with the help of the representative of the Office of Legal Affairs, to prepare a further redraft of paragraph (n) which would leave no doubt that the amounts of psychotropic substances commonly used in industry for other than medical and scientific purposes were covered by the stocks referred to in sub-paragraph (ii). The Soviet Union representative's suggestion should also be taken into account.

Mr. KEMENY (Switzerland) said that he did not think that it would be appropriate to introduce into paragraph (n) the reference to "special stocks" which was to be found in the 1961 Convention. If, however, the Indian representative pressed for the addition of a sub-paragraph on the subject, the Swiss delegation would accept that.

Dr. MARTENS (Sweden) said that the Technical Committee had taken no decision on a definition of the term "therapeutic functions" which the Swedish delegation wished to have included in the list of definitions in article 1.

Mr. WATTLES (Office of Legal Affairs) said he agreed that a definition could be included.

Dr. MABILEAU (France) said that there had been no difficulty in that respect so far in the application of many international instruments, including the 1961 Convention, and it would be time enough to attempt a definition of that term when the need for it made itself felt.

Dr. BABALIAN (Union of Soviet Socialist Republics) said he agreed that that was so, but the definition might still be added if Sweden wished.

Paragraph (o)No comment.

The CHAIRMAN said that the Secretariat would prepare a further redraft of article 1, bearing in mind the comments just made.

Article 11 (E/CN.7/L.312/Rev.1, E/CN.7/L.326) (resumed from the 655th meeting)

Mr. WATTLES (Office of Legal Affairs) recalled that, during consideration of the second redraft of article 11 (E/CN.7/L.312/Rev.1) at the 655th meeting, several delegations had asked the Secretariat to draft a text which would leave the Parties freer to choose the control system to be applied to the substances in the various schedules, while eliminating the difficulties which would arise from the application of different control systems by the two Parties to a single transaction. That attempt at a compromise was now before the Commission (E/CN.7/L.326). Under its terms, if both Parties wished to apply the import and export authorization system, they would do so between themselves; if one wished to apply the system and the other did not, the system would still apply; lastly, if both sides so wished, the Parties could use the simple export declaration system.

Dr. ALAN (Turkey) said he was grateful to the representative of the Office of Legal Affairs for having prepared a text which was satisfactory to his delegation, except that the right to choose the control system to be applied should be granted to Parties only with respect to substances in schedule III. It had already been agreed that export and import authorizations would always be required for the substances in schedule II and that the export declaration system was adequate for the substances in schedule IV. The more flexible formula provided for by the compromise draft of article 11 therefore applied only to the substances in schedule III; any Party which wished to impose the prior authorization system in the case of such substances could do so and notify the other Parties that it required import and export authorizations.

Dr. AZARAKHCH (Iran) said he agreed with the Turkish representative. The new draft was a compromise over the control system to be applied to substances in schedule III, on which the Commission had not yet been able to reach agreement.

Dr. BABAIAN (Union of Soviet Socialist Republics) said that he preferred the earlier version. Nevertheless, since the Commission had been invited to consider the second redraft he wished to point out that, in sub-paragraph 2 (a) and paragraph 3, the expression "competent national authorities" should be replaced by the expression "competent authorities".



Dr. REXED (Sweden) said he could not approve the application of the formula advocated in the replacement draft to the substances in schedules II and IV since the Commission had already decided that the former should be subject to the import and export authorization system and the latter to the export declaration system. With respect to the substances in schedule III, the new text could be accepted as a compromise.

Dr. DANNER (Federal Republic of Germany) said he could not subscribe to the compromise text submitted to the Commission. It had already been understood that the import and export authorization system would apply to substances in schedule II and the export declaration system to substances in schedules III and IV. The Parties could not be allowed to choose which system to apply to substances in schedule II, nor was it acceptable that a Party which wished to apply the simple export declaration system to substances in schedule III should be obliged to use the export authorization system on the ground that the other Party to the transaction insisted on it.

Mr. MILLER (United States of America) said he shared that view. The system proposed in the compromise draft was impracticable. It had already been agreed that the import and export authorization system should not apply to substances in schedule III, and that any Party which so desired could, under article 12, exercise its sovereign right to restrict imports. It should not be forgotten that articles 11 and 12 were complementary. The uniformity which should be characteristic of the Protocol as a whole would be destroyed by the formula now proposed. It would be better to keep the second redraft as a working paper.

Mr. DITTEB (International Narcotics Control Board) said that, in the light of its experience in controlling exports and imports, the Board had always recommended that the system proposed for psychotropic substances should be as simple as possible. He was extremely apprehensive about the difficulties to which the system provided for in the compromise text would give rise, to which would be added the provisions of article 12 which, incidentally, was a very useful saving clause. It would be better to adopt a uniform system which could be universally applied.

The CHAIRMAN asked whether, if the Commission decided to apply a particular control system to the substances in a given schedule and a different control system to another schedule, it would not be possible for a Party which insisted on being able to choose between different systems to enter a reservation to that effect when signing the Protocol.

Mr. WATTLES (Office of Legal Affairs) said that the Protocol in no way impaired the sovereign right of States to impose obligations within their domestic jurisdiction, but that none of its provisions could have the effect of enabling one Party to impose upon another Party an obligation to which it had not consented under the Protocol. Nor could a reservation be used for that purpose, since a reservation bound only the Party which made the reservation.

Mr. NIKOLIĆ (Yugoslavia) said he could not approve the provisions of the compromise draft. The Secretary of INCB had already pointed out how difficult it would be to apply it. The Commission had been very divided on the subject of applying the system of import and export authorizations to substances in schedule III, of the views expressed on that subject, six had been in favour, nine against and three uncertain. The text now under consideration proposed a third system which represented a compromise between the strict application of that system to substances in schedule III and less strict provisions. Obviously it was a solution, but in practice it would mean that countries which had not themselves adopted the prior authorization system would be required to issue export licenses. It was unnecessary to impose that obligation on exporting countries. Say, for example, that country A, which did not require export licences, exported substances to country B which required import licences; the goods would pass through the customs in country A without formality and would be admitted to country B without difficulty if they were covered by an import licence. A possible solution, therefore, would be that the import and export authorization system should be compulsory for substances in schedule II, that substances in schedule IV should be subject only to the notification system and that, for substances in schedule III, States which so desired should be entitled to require an import licence from the importer but not to require at the same time an export licence from the exporting country.

Dr. ALAN (Turkey) said that the essential thing, as the Yugoslav representative had pointed out, was that an importing country which applied the prior authorization system should have issued an import licence, without which the goods could not enter the country. To prevent any difficulties of that kind in trade relations, the exporting country should see to it that no consignment was dispatched without an import licence. For the exporting country it did not matter much whether it was an export authorization or an export notification that was required. The difficulties referred to by the Secretary of the Board were not very clear to him. If it was

provided in article 12 that a Party could notify the other Parties that it prohibited the import into its territory of certain substances, should not a similar notification system be instituted with respect to the provisions of article 11?

Dr. REXED (Sweden) said it was clear that there was some opposition to the compromise version; perhaps it might be advisable for the Commission to continue its discussion on the second redraft.

The CHAIRMAN said that the compromise text had not, in fact, received very much support and that certain delegations, particularly those of Sweden, the Federal Republic of Germany and the United States, had opposed it. They were afraid that it might oblige a Party to accept an export certificate system for which its own legislation did not provide. The text should be formulated so as to preclude that possibility and to leave each Party free to adopt stricter measures by its domestic law without at the same time obliging other Parties to apply a system which caused them difficulties.

Dr. BABAIAN (Union of Soviet Socialist Republics) said his delegation preferred the second redraft of that article provided that the reference to schedule III was retained in paragraph 1, that the word "national" in the first line of paragraph 2 was deleted and that the words "or territory" in the phrase "of the importing country or territory" were deleted wherever they occurred in the article.

Mr. NIKOLIĆ (Yugoslavia) asked that the Commission should come to a decision on his proposal, which he would repeat: the substances in schedule II should be subject to the import or export certificate system, substances in schedule IV to the declaration system and, in the case of substances in schedule III, each Party would be entitled to establish an import certificate system, but without imposing on exporting countries the obligation to issue export certificates.

Mr. SAGOE (Ghana) said that his delegation was in favour of establishing an import and export authorization system for the substances in schedules II and III, and a declaration system for the substances in schedule IV.

Mr. STEWART (United Kingdom) said that his delegation could not support the Yugoslav representative's proposal. He quite understood his concern, but the same result could be achieved by applying the provisions of article 19. If it were decided that substances in schedule III should be subject to the declaration system, any Party which wished to apply a stricter regime could, under the terms of that article, require an authorization for given imports or exports.

The CHAIRMAN said he did not think there was any real opposition to the Yugoslav representative's proposal since, as he had pointed out, whatever controls a Party might impose on imports or exports, it would not require the other Party to impose a corresponding control.

Mr. ANAND (India) said that article 11 dealt with the international regime which was to govern imports and exports of psychotropic substances, and not with the manner in which each Party might wish to control its own imports or exports. India's position was well known. Like Ghana, it wanted substances in schedule II and schedule III to be subject to import and export authorization, and those in schedule IV to the declaration system.

The CHAIRMAN, summing up the debate, said he noted that the compromise solution suggested by the Turkish delegation had not been supported. He therefore invited the Commission to return to the second redraft of article 11.

#### Paragraph 1

Mr. JOHNSON-ROMUALD (Togo) said it was essential to retain the reference to schedule III in paragraph 1(a). If a country required an import authorization for substances in schedule III but the exporting country did not require an export authorization, those substances would undoubtedly make their way into the country which placed restrictions on their importation, despite the vigilance of the customs and the police, through the intermediary of a third country where the regulations were less strict.

If the Commission decided against retaining the reference, he would request that the minority opinion be recorded in a footnote, with the names of the delegations which had supported it.

Dr. AZARAKHCH (Iran) said he was in favour of retaining the reference to schedule III.

On the proposal of Dr. MARTENS (Sweden), the CHAIRMAN put to the vote the proposal that the words "and III" in paragraph 1(a) be deleted.

The proposal was adopted by 11 votes to 8.

Mr. STEWART (United Kingdom) said he could accept the USSR representative's proposal that the word "national" at the beginning of paragraph 2 be deleted.

With regard to the Soviet proposal that the words "or territory" be deleted, he thought these words had been inserted in order to bring the article into line with the system established by the 1961 Convention and with article 23 of the Protocol. Also, if

those words were deleted, the article would conflict with other articles of the Protocol which had already been approved at the second reading. He therefore suggested that they should be retained and that the USSR viewpoint should be recorded in a footnote.

Mr. WITTLES (Office of Legal Affairs) said that the Commission had decided to authorize the Parties to divide their national territory into several territories for the purposes of the present article in particular. The article did not necessarily refer to dependent territories.

Dr. MABILEAU (France), explaining his vote, said that his delegation had voted in favour of deleting the reference to schedule III, although it sympathized with the objectives of the delegations which had been of the opposite opinion. It had voted in that way for the simple reason that, in essence, the provisions of article 12 gave the desired protection. That would not prevent his delegation from supporting an acceptable compromise text, either at the present session or later.

His delegation was opposed to the Soviet proposal that the words "or territory" should be deleted.

It was so decided.

The meeting rose at 12.25 p.m.



SUMMARY RECORD OF THE SIX HUNDRED AND SIXTY-FOURTH MEETING

held on Saturday, 24 January 1970, at 4.10 p.m.

Chairman: Mr. BEEDLE (United Kingdom)

In the absence of the Chairman, Mr. Beedle (United Kingdom), First Vice-Chairman, took the Chair.

THE DRAFT PROTOCOL ON PSYCHOTROPIC SUBSTANCES (agenda item 3):

(a) CONSIDERATION OF THE DRAFT PROTOCOL ARTICLE BY ARTICLE (E/CN.7/523/Rev.1/E/CN.7/525 and Corr.1 and Add.1 and 2; E/CN.7/AC.7/R.3; E/CN.7/L.311 and L.312/Rev.1)  
(continued):

Article 11 (E/CN.7/L.312/Rev.1) (continued)

Paragraph 1 (continued)

Dr. ALAN (Turkey) said that article 31, paragraph 4(b), of the 1961 Convention provided that import and export authorizations should specify the period within which the importation or exportation had to be effected. He thought that a similar provision should be included in the draft Protocol, otherwise the import and export authorizations which it prescribed could be issued for an indefinite period. He therefore suggested that the words "and the period of its validity" should be added at the end of the first sentence in article 11, paragraph 1(b).

Mr. KUSEVIC (Director, Division of Narcotic Drugs) said that difficulties had arisen in connexion with the provision in the 1961 Convention referred to by the Turkish representative. The periods specified in some import authorizations had been so short that by the time those import authorizations had reached exporters the corresponding letters of credit had expired. If a period of validity was to be specified in authorizations, it must be long enough to prevent difficulties of that kind arising. He therefore thought that if the Turkish suggestion was accepted, it would be advisable to add a reference to a minimum period of validity.

Dr. ALAN (Turkey) said that the point raised by the Director could be met by adding the words "which shall not be less than six months" to the wording he had suggested.

Mr. NIKOLIC (Yugoslavia) said that a minimum period of six months would be too long because, in submitting the three-monthly statistics required by the Board, governments would not be certain whether particular transactions had been completed during the three-monthly period on which they were reporting. He therefore thought that three months would be a reasonable minimum period to stipulate.

Mr. SAGOE (Ghana) agreed that the draft Protocol should require the period of validity to be stated, but thought that six months was too short a minimum period. Ghana encountered considerable difficulties in financing its imports, and that meant lengthy delays in the completion of transactions. He suggested that it should be left to Parties to specify the period of validity they considered appropriate.

Mr. KEMENY (Switzerland) supported the Ghanaian suggestion. Since the Parties to the future Protocol would have to enact new legislation to give effect to its provisions, they could, when doing so, lay down a maximum period of validity for the export and import authorizations for which it provided.

Mr. MILLER (United States of America), Dr. FAZELI (Iran) and Dr. MABILEAU (France) also supported the Ghanaian suggestion.

Dr. ALAN (Turkey) pointed out that confusion would arise if the exporting country laid down one period of validity and the importing country another. He considered that a uniform period of validity should apply to both the export authorization and the import authorization. Since the period of validity of authorizations could always be extended, no difficulty should arise if his suggestion regarding a minimum period of validity of six months was adopted.

Mr. SAGOE (Ghana) said that, in the experience of his Government, the issue of a new authorization was preferable to the extension of an existing one.

The CHAIRMAN noted that the Commission generally seemed to favour the inclusion of wording along the lines first suggested by the Turkish representative, and to be opposed to specifying a minimum period of validity. He suggested that the Commission's wishes would be met by adding wording similar to the final provision of article 31, paragraph 4 (b), of the 1961 Convention.

It was so decided.

#### Paragraph 2

The CHAIRMAN drew the Commission's attention to the suggestion made by the Soviet Union representative at the 663rd meeting that the word "national" should be deleted.

Mr. MILLER (United States of America) supported that suggestion. He proposed that the Commission should make the consequential amendments entailed by the change it had made in paragraph 1(a).

Dr. ALAN (Turkey) said that his delegation reserved its position on paragraph 2 until a decision had been reached on the contents of article 12.



The CHAIRMAN suggested that the Secretariat should be asked to redraft the paragraph to give effect to the suggestions of the Soviet Union and the United States.

It was so decided.

Paragraph 3

Mr. MILLER (United States of America) proposed that the Commission should make the consequential amendments entailed by the change it had made in paragraph 1(a).

It was so decided.

Dr. ALAN (Turkey) said that in view of the speediness of modern communications, it was unnecessary to allow as long as ninety days after the date of despatch of the consignment for the forwarding of the export declaration.

Mr. MILLER (United States of America) suggested that the words "as soon as possible but" should be inserted after the word "shall" in the second line to meet the point raised by the Turkish representative.

Mr. SAGOE (Ghana) supported the United States suggestion. The proposed addition would help importing countries situated a considerable distance away from manufacturing countries.

The United States proposal was adopted.

Mr. ANAND (India) and Mr. SAGOE (Ghana) said that they maintained the view they had expressed at the 663rd meeting on the respective systems to be applied to the substances in schedules II and III on the one hand and schedule IV on the other. They therefore reserved the right to ask for a further discussion of article 11 in the light of any decision the Commission might take on the contents of those schedules.

Schedules I-IV: report of the Technical Committee (E/CN.7/AC.7/R.3)

Dr. MABILEAU (France), Chairman of the Technical Committee, introducing the report of the Technical Committee, (E/CN.7/AC.7/R.3) said that in preparing the lists of substances it had included in the various schedules the Technical Committee had proceeded on the assumption that the Commission would wish to have a constructive working document before it rather than a definitive enumeration of all the substances which should be listed in the various schedules. The Technical Committee had not thought it possible at present to discuss the advisability of including or omitting any particular drug, since that would be the task of experts at a later stage in the preparation of the draft Protocol, as had been the case with the 1961 Convention. The Committee had therefore adopted the classification and listings given in paragraph 4.4. of the report of the WHO Expert Committee on Drug Dependence, (E/CN.7/L.311) but

had omitted the lists of analogous drugs contained in that paragraph, because a discussion of their inclusion would have involved detailed pharmacological considerations. He thought that the document before the Commission would give it some idea of the types of substances which should be proposed for the various régimes of control.

The CHAIRMAN suggested that the Commission should accept the Technical Committee's report as a basis for a general discussion of the schedules to the draft Protocol, without prejudice to any further work on the subject which might be carried out by WHO.

Dr. REXED (Sweden) said he assumed that the Commission would discuss the criteria preceding each schedule rather than the specific substances contained in them.

The CHAIRMAN said that the criteria, like the schedules themselves, must be considered provisional.

Mr. MILLER (United States of America) said that his delegation could agree to a limited discussion of the Technical Committee's report without any attempt to take decisions on the contents of the schedules, a task which should be left to the plenipotentiary conference. He felt compelled, however, to object to the inclusion in schedule I of items 2 and 10. In his opinion, SKF 5301 in item 2 was incorrectly numbered and should be referred to by its pharmaceutical name. He also raised the question as to whether item 10 should be deleted altogether, since both the natural and the synthotic derivatives of cannabis might already be covered by the 1961 Convention.

Mr. KUSEVIC (Director, Division of Narcotic Drugs) said that, in his opinion, the tetrahydrocannabinols referred to in item 10 of schedule I were not covered by the 1961 Convention. The latter referred to "cannabis and cannabis resin and extracts and tinctures of cannabis", but the tetrahydrocannabinols came under none of those definitions.

Mr. ANAND (India) said that he was at a loss to comment on the Technical Committee's report, since he was not qualified to express an opinion on whether the substances themselves were correctly named or not. Was it then the criteria given at the head of each schedule which the Commission was supposed to discuss? That also presented difficulties, since any change in the criteria would automatically result in a change in the items.

The CHAIRMAN assured the Indian representative that a change in the criteria would not necessarily be followed by a change in the schedules themselves, which were presented merely as a starting-point for discussion. The actual work of drawing up the schedules would be carried out in the months to come by WHO and at the plenipotentiary conference itself.

Mr. WATTLES (Office of Legal Affairs) said he thought that, up to the stage of the plenipotentiary conference, the Commission was free to include any substances it wished in the schedules, without regard to the criteria included in the body of the draft Protocol. It was, however, possible that after the entry into force of the Protocol, the contents of the schedules might be modified as a result of the application of those criteria.

Dr. FAZELI (Iran) said that schedule I should include natural derivatives which had side-effects similar to LSD; he was thinking in particular of morning glory (ipomoea violacea) seeds, which had recently been used by adolescents in the United States and the United Kingdom with catastrophic results.

Mr. McCARTHY (Canada) asked if he was correct in assuming that the statement of criteria, at present shown under the title of each schedule, had been included for the use of the Commission and would not appear in the final text of the Protocol.

Mr. WATTLES (Office of Legal Affairs) said it was difficult to foresee what the plenipotentiary conference would decide, but he, personally, would deplore the inclusion of a statement of criteria in the text of the Protocol. The schedules did not form part of the text and would probably be entitled "List of substances included in schedule I (or II, etc.)".

Mr. NIKOLIC (Yugoslavia) said that even if the lists suggested by the Technical Committee were provisional and indicative, he still did not see why, if the criteria were subject to modification, the Commission was discussing substances to be included in the schedules and taking decisions on the matter, as it had done at the 663rd meeting.

The CHAIRMAN said that the Commission's purpose in discussing the criteria was not to redraft them completely, but merely to make them simpler and more specific. The difficulty arose from the fact that the criteria contemplated in article 2 were to govern the placing in the schedules not only of substances which were already known but also of new substances which might be discovered in the future. The Commission's work on the schedules and the criteria could only be of a provisional nature at the present stage; more definitive work could be done when a final decision had been taken on the terms of article 2. What the Commission had to decide at the present juncture was whether the Technical Committee's report was suitable for annexing to the draft Protocol it would submit to the Council as part of its report. The Council's attention would, of course, be drawn to the provisional and indicative nature of the document.

Dr. MABILEAU (France), Chairman of the Technical Committee, said the difficulty was that the Commission needed information on the contents of the schedules in order to reach a decision on the provisions of the articles and, conversely, needed information on the provisions of articles in order to reach a decision on the contents of the schedules. The situation would become clearer at the end of the session but, in the meantime, it was necessary to provide some indication of the substances to be included in each schedule, so that work on the drafting of the articles could proceed.

Dr. DANNER (Federal Republic of Germany) asked whether there was any justification for including all isomers of the tetrahydrocannabinols in schedule I. Experience showed that isomers of the same substance did not always have the same physiological properties.

Dr. CAMERON (World Health Organization) said that there was no evidence that all the isomers of the tetrahydrocannabinols presented the same degree of risk; much work would have to be done before the properties of all were known. However, because of the difficulty of physically separating various isomers, the Expert Committee had felt that that group of compounds should be considered for control, and that if any of them were subsequently found to present no risk and to have genuine therapeutic value, they could be removed from control or subjected to a different degree of control.

The Expert Committee had had before it an extensive compilation of data on 226 psychoactive drugs and herbs. Included in that body of data was information on a substance identified by the chemical formula and other designations given for item 2 in group (a) of the seventeenth report of the WHO Expert Committee on Drug Dependence. If the United States representative had available information that suggested that misidentified data might have been available to the Committee in respect of the drug listed as number 2 under schedule I in the Technical Committee's report, he would be grateful if that information could be made available.

The Expert Committee had considered the question of morning-glory seeds and had decided not to recommend that they should be brought under control,

Mr. MILLER (United States of America) said his delegation would not pursue the question of removing the tetrahydrocannabinols from the list of substances to be controlled under the Protocol. It did, however, wish to press for the deletion of the identification number "SKF 5301" for the substance listed as number 2; as an identification number for that substance, it was wrong.

He agreed with the Chairman that it was unlikely that it would be necessary to move substances from one schedule to another even if the criteria were changed. The lists had been prepared as a guide, and much work would have to be done on them by specialists before the plenipotentiary conference. As they stood at present, they were satisfactory for inclusion in the Commission's report and for consideration by the plenipotentiary conference.

Dr. BABAIAN (Union of Soviet Socialist Republics) said that the Technical Committee's work had been based on the lists prepared by the WHO Expert Committee, and there was no reason why work should not continue to be based on those lists both in the Commission and in the Economic and Social Council. The Commission was not being asked to decide at that stage whether any substance should be added to or deleted from a particular schedule; technical decisions of that kind would be taken later. Moreover, although the criteria given were only approximate, they were generally accepted. He saw no objection to the Commission adopting the Technical Committee's report on the understanding that it contained provisional and indicative lists.

The Technical Committee's report (E/CN.7/AC.7/R.3) was adopted.

The meeting rose at 6 p.m.



SUMMARY RECORD OF THE SIX HUNDRED AND SIXTY-FIFTH MEETING

held on Monday, 26 January 1970, at 9.40 a.m.

Chairman: Mr. BERTSCHINGER (Switzerland)

later: Mr. BEEDLE (United Kingdom)

THE DRAFT PROTOCOL ON PSYCHOTROPIC SUBSTANCES (agenda item 3):

(a) CONSIDERATION OF THE DRAFT PROTOCOL ARTICLE BY ARTICLE (E/CN.7/523/Rev.1, E/CN.7/525 and Corr.1 and Add.1 and 2; E/CN.7/AC.7/R.1, E/CN.7/AC.7/R.5; E/CN.7/L.311 (continued))

Article 2 (E/CN.7/AC.7/R.5) (resumed from the 656th meeting)

Dr. REXED (Sweden), Chairman of the Working Party, introducing the redraft of article 2, paragraphs 4, 5 and 10 prepared by the Technical Committee and the Working Party (E/CN.7/AC.7/R.5), said that the respective roles of WHO and the Commission had now been slightly changed in relation to what they had been in the initial text, which had been much closer to the text of the 1961 Convention. The role of WHO in the redraft was to determine the degree of seriousness of the problem and the degree of usefulness of the substance in medical therapy in accordance with a clearly-defined scale, which was a new feature as compared with the 1961 Convention.

Dr. ALAN (Turkey) said that his delegation definitely preferred the formulation in the 1961 Convention. Article 2 of the WHO Constitution stated that "The functions of the Organization shall be: (a) to act as the directing and co-ordinating authority on international health work"; and article 21 stated: "The Health Assembly shall have authority to adopt regulations concerning: ... (d) standards with respect to the safety, purity and potency of biological, pharmaceutical and similar products moving in international commerce". Consequently, if the Commission were able to amend recommendations by WHO, that would place countries which were members both of WHO and of the Commission in a difficult position. It was a legal problem, and the Office of Legal Affairs should consider it carefully and decide which body was competent to deal with psychotropic substances. The Turkish delegation was opposed to any proposal that would enable WHO recommendations to be amended without previous agreement by WHO.

Dr. REXED (Sweden) said that he shared the Turkish representative's misgivings. The WHO Group of Experts should be considered as the most authoritative body. The Commission had an important part to play in deciding whether the time had come to place a substance under control, but the Swedish delegation considered

that it was not for the Commission to amend recommendations concerning the type of control to be applied to such substance, for it would be determined by the degree of seriousness of the problem and the degree of usefulness of the substance in medical therapy, those characteristics being determined by WHO.

He therefore proposed that the last sentence in paragraph 4 be redrafted to read:

"The World Health Organization shall communicate to the Commission all these findings and, taking into account paragraph 5 below, its recommendations concerning the addition of the substance to one of the schedules. The Commission may decide, in accordance with the recommendation of the World Health Organization, that the substance should be added to Schedule, I, II, III or IV;" The second alternative would be dropped. He asked that if his amendment failed to receive majority support, it should be recorded in a foot-note

Mr. CHAPMAN (Canada) said it was very important that a clear distinction should be drawn between the respective responsibilities of WHO and the Commission. In his opinion, it was for WHO to make comments and recommendations and to reach findings on all matters connected with public health and the usefulness of substances in medical therapy. The Commission should not deal with such matters, since they required detailed study, which could be done only by experts with specialized medical and pharmacological knowledge, such as the WHO Expert Committee on Drug Dependence. He therefore proposed that paragraph 5 be recast to read:

"If the World Health Organization finds that the liability to abuse of such a substance constitutes an especially serious public health and social problem; and if it has little, if any, usefulness in medical therapy, it shall recommend that the substance be added to schedule I. If the liability to abuse of the substance constitutes a public health and social problem which is lesser but still serious, substantial or significant, and in the light of the degree of the usefulness of the substance in medical therapy, it shall recommend that the substance be added to schedule II, III or IV as appropriate."

The advantage of that wording was that it provided a chain of logic between paragraph 5 and paragraph 10.

The Commission's role would be to take social, political and economic factors into consideration. The Canadian delegation proposed that the second alternative should be amended so as to make that clear, and to read: "The Commission, after taking account of the findings, comments and recommendations of the Organization, may decide whether to add the substance to schedule I, II, III or IV."



In logical order, the responsibilities and functions of WHO should be stated first, then those of the Commission; and paragraphs 4 and 5 should be recast so that the first sentence in paragraph 4 remained unchanged, with the possible removal of the square brackets, to be followed by the redraft of paragraph 5 and then the last sentence of paragraph 4; the second alternative would become paragraph 5.

Dr. BABAIAN (Union of Soviet Socialist Republics) said he had thought that what the Commission had to decide on was the redraft by the Technical Committee and the Working Party; he was surprised to find delegations starting from scratch again by submitting new amendments.

Dr. MABILEAU (France) suggested that the Commission vote on the two alternatives before it, and that the two amendments just put forward be placed in a foot-note and ascribed to their authors.

Dr. REXED (Sweden) said he supported the French representative's proposal. His delegation had proposed a new text because it could not accept either of the alternatives and wished to assign a more definite role to WHO. It would agree to its proposals being placed in a foot-note.

Mr. NIKOLIĆ (Yugoslavia) said that the question of principle should first be settled; the drafting problems would then be far easier to solve. There were two schools of thought in the Commission: the first thought that the Commission should be empowered to accept or reject recommendations by WHO, and the second that it should be empowered to accept, reject or amend them. The Yugoslav delegation requested that the question of principle be settled by vote.

Mr. ANAND (India) said he still thought that the Commission, as a technical body, should be able to amend recommendations by WHO, though not without consulting it. He therefore suggested that in the second alternative the words "and in consultation with it" be inserted after the words "the findings and comments of the Organization".

Dr. BABAIAN (Union of Soviet Socialist Republics) said it was important to be familiar with the provisions of the existing legal instruments before putting forward any proposals. Article 20 of the WHO Constitution provided that every member which did not accept a convention or agreement should notify the Director-General accordingly within eighteen months after the adoption by the Health Assembly of the convention or agreement, and furnish a statement of the reasons for non-acceptance. Article 22 further provided that regulations adopted pursuant to article 21 should come into force for all members, except for such members as might notify the

Director-General of rejection or reservations within the period stated in the notice. Since members of WHO were entitled to accept or reject decisions of the Health Assembly, there was no reason to fear that, if they accepted the provision proposed in the Protocol, some members of that organization would find themselves in a difficult position because the said provision would be incompatible with WHO's Constitution. It was also advisable to refer to Article 62 of the Charter of the United Nations, which defined the functions and powers of the Economic and Social Council, and to the Agreement of 12 November 1948 between the United Nations and WHO<sup>1/</sup> concerning the latter's advisory role.

What had to be decided, then, was whether a body which juridically possessed all the necessary powers to accept or reject a WHO decision had the right to adopt a decision other than that recommended by WHO, for example, a fairly strict control measure. That did not mean that the Commission questioned the grounds for WHO recommendations, but it had to look at the matter from a different viewpoint since it was composed of representatives of the various States, whereas the experts who formed the WHO committees expressed their personal opinions and not those of their governments. The Commission should therefore take into account the political, economic and legal factors which caused concern to its members, and should be in a position to take an appropriate decision.

Mr. BEEDLE (United Kingdom) said it was possible that the difficulty arose from the fact that the Commission was not adequately informed of WHO working methods. Before deciding on a text, it should ask the WHO representative how he envisaged co-operation between WHO and the Commission.

It should also consider to what extent WHO was obliged to press the recommendations it made concerning public health. For the moment, his delegation could not accept either of the proposed alternatives. The Swedish proposal that a reference should be made to paragraph 5 in paragraph 4 showed there was a possibility of a conflict of jurisdiction between the two organizations.

Mr. CHAPMAN (Canada) said that paragraph 5, in its present form, did not specify which organization would assume the responsibilities entailed by its provisions. He therefore urged that his proposal be considered.

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<sup>1/</sup> United Nations, Treaty Services, vol. 19, p.193.

Dr. ALAN (Turkey) said that while he agreed with the representative of the USSR concerning article 22 of the WHO Constitution, he must point out that that article was addressed to members of that organization. He shared the misgivings of the United Kingdom representative concerning the delimitation of the responsibilities of WHO and the Commission and thought that, before reaching a decision on the question, the Commission should hear the WHO representative's opinion.

Mr. KEMENY (Switzerland) said that the Commission had not reached a decision on the words in square brackets. His delegation thought that those words should be deleted. In the parenthesis defining the degree of usefulness of a substance in medical therapy, the definition corresponding to the substances in schedule I should also be mentioned.

Dr. REXED (Sweden) said that the Technical Committee had not succeeded in producing a satisfactory wording because the Commission was still divided on certain basic principles. The text proposed was simply an adaptation of the provisions of the 1961 Convention and, in that respect, the second alternative was more flexible. The question of the words in square brackets could be settled later; what was important was to ascertain the majority opinion, after which it would be possible to draft a new and more satisfactory text.

Dr. DANNER (Federal Republic of Germany) said he was in favour of the second alternative. Under article 23 of the WHO Constitution, the World Health Assembly had authority to make recommendations to members with respect to any matter within the competence of WHO, but it had not yet adopted any regulations on the basic questions before the Commission relating to psychotropic substances: it had simply made recommendations.

Mr. MILLER (United States of America) said that, if WHO had the power to take decisions in matters of public health, the Commission had certain responsibilities concerning the social aspect of a question, its financial implications and the measures to be taken in application of a convention or agreement. He agreed with the Canadian representative that a clearer distinction should be made between the responsibilities of WHO and those of the Commission. The text currently being considered could no doubt serve as a basic document, but the question should first be settled whether the Commission, as well as having the right to accept or reject a recommendation, was also entitled to modify it by adding a substance to a schedule other than that recommended by WHO.

Mr. ANAND (India) said that, to facilitate a decision, the word "recommendation" should be replaced by the word "findings" and the words "taking account of the findings of WHO and other relevant considerations" should be added to paragraph 5, the reference being to the various political, economic and social factors which several delegations had mentioned. If, however, it was not possible for WHO to communicate its findings to the Commission without accompanying them with recommendations concerning the schedules, there was a danger of a conflict of jurisdictions which should be avoided at all costs.

Mr. NIKOLIĆ (Yugoslavia) said he could not see that there was any point in replacing the word "recommendation" by the word "findings" since the recommendations were in any case accompanied by explanatory findings.

The CHAIRMAN asked the Chairman of the Working Party if the use of the words "findings" and "comments" was intentional despite the fact that the 1961 Convention contained the word "recommendation" only.

Dr. REXED (Sweden), Chairman of the Working Party, said that, according to whether it decided for or against adopting the words in square brackets, the Commission would be taking a more or less firm position with regard to the inclusion of a given substance in the various schedules and the role of WHO.

Mr. ANAND (India) said there was also a reference to WHO findings in article 3, paragraph 3 (iii) of the 1961 Convention.

Dr. BABAIAN (Union of Soviet Socialist Republics) said there was nothing peremptory about the word "recommendation". However that might be, if the Commission had to limit itself to endorsing WHO recommendations, its role was virtually useless. If such recommendations were transmitted to it on an advisory basis, it could take a decision according to its members' judgement. Obviously such recommendations would usually be accepted, but the Commission should reserve the right to reject them.

Dr. MABILEAU (France) said he had the impression that the two alternatives were basically very similar, apart from a few shades of meaning. In practice, it would be regrettable if a proposal based on WHO findings were rejected, since the Commission would then deprive itself of all sources of information. If, on the other hand, the Commission decided to include a substance in a schedule, even schedule IV which involved the least strict measures, it would still be possible to obtain information on production, imports, exports and consumption of that substance and that would enable a decision to be taken subsequently which might well coincide with

that recommended by WHO on the basis of the dangers of the said substance to public health. All members of the Commission appeared to be agreed on the substance of the question; the difficulty seemed to arise from the scruples they felt with regard to WHO, an organization for which they had the greatest respect.

Dr. CAMERON (World Health Organization) said that WHO believed it was in duty bound to make recommendations to the Commission on such subjects. It would probably not object if the Commission decided on a provision that would allow it to act in accordance with a WHO recommendation or not to act on such a recommendation, but would probably object if a decision were taken which would allow the Commission to take action which had never been recommended in such an important field as the degree of usefulness and danger of the substances in question.

In reply to the questions put by some delegations about WHO approval of expert committee reports, he would point out that, when a report was completed, it was referred to the Director-General for a decision as to whether or not it should be published in the WHO Technical Report Series. All reports of the Expert Committee on Drug Dependence to date had been published. The Director-General did not presume to substitute his judgment for that of the experts with respect to the scientific accuracy of expert committee reports. He could, of course, decide whether or not he wished to make the Committee's recommendations his own and, with respect to narcotic drugs being considered for international control, he had always done so. The World Health Assembly did not pass judgment on reports prepared by committees of experts, acting in their private capacities, which, it considered, spoke for themselves.

He agreed with the United Kingdom representative that, if the World Health Assembly so desired, it could consider actions recommended by an expert committee and, taking account of any considerations it thought pertinent, could promulgate regulations or adopt agreements in accordance with articles 21 and 19 of its Constitution. In such a case, there would be little need for the matter to be considered further by another international organization.

In reply to the United States representative who, having noted the importance of economic issues in making decisions on the degree of control to be imposed on a substance, had suggested that WHO might not give appropriate consideration to comparable products of competing companies, he would point out that, in making decisions on technical matters involving the risk to public health and the usefulness of substances, the decisions WHO took might affect the lives of millions of persons and that it endeavoured to exclude considerations of the economic impact of such

decisions on the manufacturers concerned. Naturally it treated all products of comparable risk and usefulness alike. It would be regrettable if such issues were to be debated in the Commission, which was not technically competent to discuss them. It was WHO which, by the terms of its Constitution, had been entrusted with responsibility for such health matters.

The CHAIRMAN invited the Commission to vote on the question put by the Yugoslav representative, namely, whether the Commission was entitled, as the 1961 Convention provided, to accept or to reject a WHO recommendation, or whether it was also entitled to modify it.

Dr. BABAIAN (Union of Soviet Socialist Republics) asked whether the fact of recognizing that the Commission had the right to accept or reject a WHO recommendation did not also legally entitle it to amend a recommendation. If such were the case, it would not be contrary to the 1961 Convention to give express recognition, in the Protocol, to that extended power of the Commission and it would not be tantamount to voting against the 1961 Convention formula to approve the Commission's right to amend recommendations made to it.

Mr. WATTLES (Office of Legal Affairs) said that everything depended on what text was adopted. The text might expressly provide that a decision could not be amended, but only adopted or rejected; yet in the absence of such a provision, the right to reject would also imply the right to amend.

The CHAIRMAN invited the Commission to vote on the two following questions: had the Commission the right to accept or to reject WHO recommendations, or had the Commission the right to accept, to reject and to amend WHO recommendations?

The first interpretation was rejected by 6 votes to non, with 2 abstentions.

The second interpretation was adopted by 13 votes to none, with 2 abstentions.

Mr. ANAND (India), explaining his vote, said he had voted for the limited right recognized by the 1961 Convention simply because he considered that the Commission was entitled to amend recommendations by WHO only in consultation with it or, in other words, after referring them back to it for reconsideration.

Mr. THOMPSON (Jamaica) and Dr. ALAN (Turkey) said that they had voted in the same way as the Indian representative for the same reasons.

Mr. BARONA LOBATO (Mexico) said he had voted in favour of the second proposal, not because he had any doubts about the advice of the medical and scientific experts of WHO or about the right of WHO to inform the Commission of its findings on a particular substance, but because the Commission might, for political and economic reasons, not wish to endorse WHO's recommendations blindly. A distinction should be drawn between the scientific value of WHO recommendations and the measures of control which the Commission might wish to apply.

Mr. CHAPMAN (Canada) said he had abstained because his own delegation's proposal had been intermediate between the two proposals on which the vote had been taken.

Dr. BABAIAN (Union of Soviet Socialist Republics) said that in voting for the second proposal his delegation had acted consistently with the line it had taken since the Commission's twentieth session. It would be better to accept recommendations by WHO in an amended form than to reject them outright. The wording of the relevant provision in the 1961 Convention entitled the Commission to consider recommendations submitted to it and to take decisions in accordance with its own conclusions. Since, however, the 1961 Convention was not clear enough on the point, it would be as well to make it quite plain in the Protocol.

Dr. MABILEAU (France) said he agreed. The French delegation had voted for the second proposal for the reasons stated by the Soviet Union representative.

Mr. BEEDLE (United Kingdom) said that he had voted for the first proposal, not with the intention of restricting the Commission's rights but because the representative of WHO had explained how necessary it was for WHO to make recommendations to the Commission. It was unfortunate that the Commission had not seen fit to adopt the more flexible term "findings" proposed by the United Kingdom delegation. He hoped that, if WHO insisted on taking sole responsibility for recommendations which were not open to the Commission to modify, WHO would give the fullest consideration to the possibility of arranging for recommendations of its Expert Committee to be brought before the World Health Assembly for review and approval before communicating them to the Commission, thereby providing an additional safeguard. If the Commission insisted on complete discretion to modify the recommendation from WHO, it should not overlook its previous decision not to assume powers of decision with regard to provisional control as originally proposed in paragraph 3 (b) on the pattern of the existing power in the 1961 Convention. The United Kingdom delegation had strongly supported that decision of the Commission because it believed that the Commission

would find it very hard to take decisions about provisional control without the help of WHO. There was a further area of difficulty to be borne in mind. The Protocol included a provision giving the Parties certain rights of non-acceptance. If the Commission were given powers to modify recommendations from WHO, the scope of those rights would need to be re-examined, depending on how far the Commission's powers to modify would be unqualified or not and whether the World Health Assembly would have any part to play in endorsement of the recommendations of the Expert Committee.

The CHAIRMAN said he was not certain that WHO could be asked to adopt a procedure with regard to psychotropic substances which was not provided for in the 1961 Convention with regard to narcotic drugs.

Mr. Beedle (United Kingdom), First Vice-Chairman, took the Chair.

The CHAIRMAN invited the Commission to decide whether the words in square brackets in the third and fourth lines of article 2, paragraph 4 should be deleted or retained.

Dr. BABAIAN (Union of Soviet Socialist Republics) proposed that the Technical Committee be asked to draft a new text for the paragraph, since, as things stood, a discussion on it in the plenary meeting would simply waste time.

Mr. NIKOLIĆ (Yugoslavia) said he agreed with the Soviet Union representative. The Technical Committee might be asked to prepare two alternative texts for insertion in the draft Protocol.

The CHAIRMAN suggested that before asking the Technical Committee to draft a new text, it would be better to decide whether the words "similar" and "as a substance in schedule I, II, III or IV" were or were not to be retained in the paragraph.

Mr. MILLER (United States of America) said that the square brackets should be removed and the words in them should therefore be retained, since they would provide grounds on which the Commission and WHO could rely when they had to decide whether substances were to be placed under control.

Dr. REXED (Sweden) said that the Technical Committee should preferably prepare only a single text; but in order to do so, it would have to know whether the Commission was in favour of the first or of the second alternative.

The words "similar" and "as a substance in schedule I, II, III or IV" in square brackets should be deleted. Each schedule in the Protocol would list a wide range of substances presenting the same kind of risk. It was the risks, therefore, and not the substances, which were similar, and so the word was inappropriate in that paragraph.



By the vote which it had just taken, the Commission had decided that it would be for the Commission and not for WHO to take the final decision as to the schedule in which a substance was to be placed. It would be illogical, therefore, to ask WHO to determine the degree of seriousness of the problem and the degree of usefulness of the substance. That was why he had voted in favour of empowering the Commission to accept or refuse a recommendation by WHO, but not to amend it.

Mr. SCOLLERO (Brazil) said he agreed with the Swedish representative that the words in square brackets in the third and fourth lines of paragraph 4 should preferably be deleted.

Mr. STEWART (United Kingdom) said he agreed with the Swedish representative. The words "similar" and "as a substance in schedule I, II, III or IV" should not be included in paragraph 4. There was no reason to suppose that in ten or twenty years' time world public opinion might not want the international control to be extended to some new substance or to some other substances which might be found dangerous to public health. The Protocol should provide the requisite legal basis for such a decision.

Dr. BABAIAN (Union of Soviet Socialist Republics) said that he was not against the retention of the words in square brackets in the third and fourth lines of paragraph 4. He would, however, like to know what the representative of WHO thought about that.

Dr. CAMERON (World Health Organization) said that it was for the Commission alone to decide whether the words should be retained or deleted.

Mr. ANAND (India) said he agreed with the representative of the United States of America. With respect to the term "similar", he thought that everything was relative unless a standard of comparison was available. It was important, therefore, to retain the word "similar" in square brackets in the third line and the words "similar" and "as a substance in schedule I, II, III or IV" in square brackets in the fourth line, in order that WHO should have such a standard of comparison. Moreover, if, in conformity with the second sentence of that paragraph, WHO was to recommend the addition of a substance to one of the schedules, it was important that the reference to the said schedules in the first sentence should be retained.

Mr. CHAPMAN (Canada) and Mr. KEMENY (Switzerland) said that, like the representatives of the United States of America, the Soviet Union and India, they were in favour of retaining the words "similar" and again "similar" and "as a substance in schedule I, II, III or IV".

Dr. MABILEAU (France) referring to the Indian representative's comments, said that the problem of similarity was a very difficult one. Many years had had to pass before it was realized that substances such as the amphetamines presented dangers similar to those of cocaine. The words "similar ill effects as a substance in schedule I, II, III or IV" gave a useful concept of similarity; they should be retained, therefore, as should the word "similar" in square brackets in the third line.

Dr. BABAIAN (Union of Soviet Socialist Republics) said he agreed with those representatives who had spoken in favour of retaining the words in square brackets in the third and fourth lines of paragraph 4.

The CHAIRMAN said he noted that six delegations had spoken in favour of retaining the words, while two had advocated their deletion. The Technical Committee, to which the text would be sent, would now know that the general opinion of the Commission was in favour of removing the square brackets in the third and fourth lines of paragraph 4.

Dr. REXED (Sweden) said he thought that precursors should be mentioned in paragraph 4. He accordingly proposed that, in the fifth line, after the expression "constitutes a public health and social problem" the words "or is readily convertible into such a substance" should be added.

Dr. CAMERON (World Health Organization) said that in WHO's opinion certain types of control should be considered for precursors, despite the difficulty of identifying them and the many uses to which they were put in industry. On that point he would refer the Commission to WHO's comments in connexion with article 2, paragraph 4(E/CN.7/525).

Dr. MABILEAU (France) said that an additional difficulty with respect to precursors was that precursor-based preparations and substances proper in the form of raw materials were undoubtedly encountered from time to time which were never used for therapeutic purposes.

The CHAIRMAN said the Secretariat now had sufficient information at its disposal to prepare a new version of paragraph 4 along the lines indicated by the vote previously taken. It should not forget to mention the opposing views in a foot-note, and should also take into account the views expressed by the Indian and Turkish representatives and consult WHO on the subject.

Secondly, the Technical Committee or a working party should endeavour to establish a clear distinction between the provisions of the 1961 Convention and the Protocol, taking into account the wording proposed by the representative of the Board, in order to avoid simultaneous notification, pursuant to both instruments concerning a single substance.

Thirdly, the Technical Committee should study the question of precursors, with the help of WHO.

Lastly, the various questions could be considered by a small group drawn partly from the Working Party and partly from the Technical Committee.

Dr. BABAIAN (Union of Soviet Socialist Republics) said that, in his view, it was for the Technical Committee alone to prepare the new text of paragraph 4, in the light of the observations made and decisions reached during the discussion of the Working Party's report. The Working Party had now completed its work.

Dr. REXED (Sweden), reverting to the question of precursors, said that, in the earlier version of paragraph 4 (E/CN.7/AC.7/R.1) the Technical Committee had taken account, in sub-paragraph (b), of the Swedish delegation's viewpoint, but it had not done so in the second version (E/CN.7/AC.7/R.5).

He recalled that he had urged that the Commission should vote for the first or second alternative proposed in the second version of article 2, paragraph 4, so as to help the Technical Committee to prepare a new version. Personally he preferred the second alternative to the less flexible first alternative, and thought it more accurately reflected the views of the majority of the Commission.

The CHAIRMAN said that the Swedish delegation had itself proposed amendments to paragraph 4 and, since the two alternatives proposed were unbalanced, it would be preferable, if a vote became necessary, for it to be taken on the new version prepared by the Technical Committee.

The meeting rose at 12.45 p.m.



SUMMARY RECORD OF THE SIX HUNDRED AND SIXTY-SIXTH MEETING

held on Monday, 26 January 1970, at 3.30 p.m.

Chairman: Mr. BERTSCHINGER (Switzerland)

THE DRAFT PROTOCOL ON PSYCHOTROPIC SUBSTANCES (agenda item 3): (a) CONSIDERATION OF THE DRAFT PROTOCOL ARTICLE BY ARTICLE: (E/CN.7/523/Rev.1, E/CN.7/525 and Corr.1 and Add.1 and 2; E/CN.7/AC.7/R.5 and R.6); (E/CN.7/L.311) (continued)

Article 2 (E/CN.7/AC.7/R.5) (continued)

Dr. REXED (Sweden) said that, in a spirit of co-operation, he would withdraw the proposal he had made at the 665th meeting that the alternative texts for paragraph 4 submitted by the Technical Committee should be put to the vote before the paragraph was referred back to that body for revision. Agreement should, however, be reached on a wording in the Technical Committee so that the Commission had only one text before it in second reading.

The CHAIRMAN said that, in the absence of any objection, he would assume that the Commission agreed to refer the paragraphs dealt with in the report of the Technical Committee (E/CN.7/AC.7/R.5) back to that committee for revision with a request that single texts for paragraphs 4 and 10 should be submitted to the Commission for the second reading.

It was so decided.

In reply to a question from Mr. ANAND (India), the CHAIRMAN said that paragraph 5 would be discussed when the new texts for paragraphs 4 and 10 were submitted by the Technical Committee.

Article 2 bis (E/CN.7/AC.7/R.6) (resumed from the 651st meeting, article 2, para.9)

Dr. MABILEAU (France), Chairman of the Technical Committee, said that the draft text for article 2 bis, which had been prepared by a working party under the chairmanship of Dr. Babaian, had been endorsed by the Technical Committee.

Dr. BABAIAN (Union of Soviet Socialist Republics), introducing the draft text, said that, except on one point, unanimous agreement had been reached on the contents of the article. The point of disagreement had been whether or not preparations containing a substance listed in schedule II should be included among the exempted preparations under the provisions of paragraph 2. It had accordingly been decided to place the figure "II" in the introductory sentence of paragraph 2 in square brackets and to leave it to the Commission to decide whether the brackets should be removed or the figure "II" deleted.

The CHAIRMAN invited the Commission to consider the draft paragraph by paragraph.

Paragraph 1

Mr. MILLER (United States of America) pointed out that no provision had been made for preparations containing more than one controlled substance. In that connexion, he shared the view of the WHO Expert Committee that such preparations should be subject to the same controls as were applicable to the "most controlled" drug in them (E/CN.7/L.311, para.4.6), and proposed that paragraph 1 should be amended to cover such preparations and to reflect that view.

Dr. BABAIAN (Union of Soviet Socialist Republics) said that the definition in article 1 of "preparation" was comprehensive, and he had been satisfied that all preparations were covered by the wording of paragraph 1. However, since he was in favour of strict measures of control to check any abuse of psychotropic substances, he could agree to the paragraph being amended along the lines suggested. The following sentence might be added at the end of the paragraph: "A preparation containing more than one psychotropic substance shall be subject to the measures of control applicable to the most strictly controlled of its constituent substances".

The United States amendment in the form proposed by the USSR representative was adopted.

Paragraph 2

Dr. REXED (Sweden) said that, in the opinion of his delegation, preparations containing a substance listed in schedule II should not be included in the category of exempted preparations covered by paragraph 2. Under its resolution 1401 (XLVI), the Economic and Social Council had recommended Governments to use their utmost endeavours to apply to certain central nervous system stimulants national control measures corresponding as closely as possible to those provided by the 1961 Convention for substances listed in schedule I of that Convention, and his delegation believed that the Council's recommendation also applied to preparations of those substances. The rules for exemption in paragraph 2 did not correspond to any provisions in the 1961 Convention, and his delegation therefore considered that preparations containing substances listed in schedule II of the draft Protocol should be excluded from the category of preparations to which those rules would apply.

The 1961 Convention provided for exemption from control measures on a case-by-case basis. The provisions of paragraph 4 of the draft at present under consideration would enable a similar exemption to be made for preparations containing substances listed in schedule II of the Protocol on a preparation-by-preparation basis, after careful scrutiny by WHO. He therefore thought that there could be no objection to removing the reference to schedule II in paragraph 2.

Mr. MILLER (United States of America) said that, as the Commission was already aware, his delegation believed that preparations containing a substance listed in schedule II should be included in the category of exempted preparations covered by paragraph 2. The purpose of the provision was to recognize the established fact that a sizeable number of preparations containing such substances were in widespread use in many countries, whose doctors found that they had a substantial medicinal value and that their liability to abuse was negligible.

In the United States of America, the Bureau of Narcotics and Dangerous Drugs was authorized to exempt from control certain preparations containing admixtures in such quantities as to vitiate the stimulant effect of the controlled substance. It took such action after consultation with the Food and Drug Administration of the Department of Health, Education and Welfare, and only after that body had given a ruling on the safety of the preparations concerned. The preparations so exempted contained only the minutest quantities of a controlled substance, and a person taking them would suffer symptoms due to the adverse effects of the admixtures before being in any way affected by the stimulant. In fact, in many cases a stimulant was included in a preparation partially to offset the undesirable side-effects of another ingredient.

The purpose of the draft article as a whole was to lay down a workable system for dealing with exemptions, incorporating safeguards for the international community in the form of criteria which had to be met before a preparation was granted exemption under paragraph 2 and in the form of the provision contained in paragraph 5 which set up a procedure for withdrawal of the exemption. He hoped the Commission would agree to the deletion of the square brackets round the figure "II" in the second line of paragraph 2, in other words, to the inclusion of preparations containing a substance listed in schedule II in the category of exempted preparations.

With regard to the requirement in subparagraph (iii) of the draft, he proposed that the words "of substances used in the manufacture and production of preparations described in subparagraphs (a) and (b)" should be added after the word "producers". There was no need for manufacturers and producers to keep records of preparations once the preparations had been formulated.

Dr. MABILEAU (France) said he was somewhat surprised by the United States proposal for the amendment of subparagraph (iii), since that delegation had been represented in the working party. He would, however, have no difficulty in accepting that proposal.

For reasons similar to those given by the Swedish representative, he favoured the deletion of the reference to schedule II in paragraph 2. It was worth remembering that it would be several years before the Protocol came into force; pharmaceutical firms could apply for exemption for their products, and Governments could take the necessary steps to obtain it for them.

Dr. AZARAKHCH (Iran) said his delegation favoured the deletion of the reference to schedule II in paragraph 2.

Dr. BABAIAN (Union of Soviet Socialist Republics) said his delegation also favoured the deletion of the reference to schedule II. It had no objection to the amendment proposed to subparagraph (iii).

Dr. REXED (Sweden) said that the preparations referred to by the United States representative were those described in subparagraph (b); it was those described in subparagraph (a) that were of primary concern to his own delegation.

In order to facilitate agreement, he proposed that the two subparagraphs should be combined, the word "or" at the end of subparagraph (a) being replaced by the words "and provided that", and the first two lines of subparagraph (b) being deleted. If that proposal was acceptable, his delegation would agree to the retention of a reference to schedule II in the paragraph.

Mr. CHAPMAN (Canada) agreed with the United States representative that the reference to schedule II should be retained, but on condition that the paragraph was amended so as to exclude the wording concerning the quantity of the dosage unit and the amount of the substance contained in the package, in other words, so that the paragraph would cover only preparations of the type described in the last four lines of subparagraph (b). There was no great danger in permitting exemption for preparations of that type. For example, preparations containing small amounts of amphetamines compounded with other drugs, and sometimes with vitamins, were sold in Canada and the United States of America; those preparations presented a negligible risk of abuse. Moreover, the exemption provided for in paragraph 2 was optional, not mandatory, and the provision therefore allowed ample scope for Parties to exercise their discretion in the matter.

With regard to preparations of the kind described in subparagraph (a), there was little point in providing for their exemption. He thought that two types of preparations would be involved: those containing a psychotropic substance compounded with an excipient, a flavouring ingredient and possibly a colouring agent, and those containing one or more psychotropic substances and other active and inactive ingredients compounded in such a



way that the preparation offered no risk of abuse. In the first case, it had to be asked what amount of the dosage unit would justify exemption. If the quantity of the scheduled substance contained in the preparation was only a little below the minimum therapeutic dose, exemption would be impossible; if, for example, it was half the therapeutic dose, manufacturers might be encouraged to produce tablets containing only that quantity of the scheduled substance and to specify that double the number of tablets should be taken, in which event nothing would be gained by stipulating a limit of half the therapeutic dose, since exemption would still be impossible. In the case of the second type of preparation, it was not the amount of the psychotropic substance or substances present but the manner of compounding them which was the governing factor, and so limits on the quantity of the dosage unit and on package size would be valueless. Subparagraph (a) therefore served no useful purpose. The deletion of the entire passage concerning the quantity of the dosage unit and the amount of the substance in the package would not prevent countries from limiting those quantities as they saw fit, nor would it preclude WHO from recommending any limits it considered appropriate.

If that passage was deleted, the two references to medical prescriptions would become superfluous, because if a preparation presented a negligible risk of abuse it would be unnecessary to place it on prescription for the purposes of the draft Protocol.

His delegation therefore proposed that the text suggested by Sweden for paragraph 2 should be amended by the deletion of the words "of the limited quantity of the dosage unit and of the total amount of the substance contained in the package and provided that". It also proposed the deletion of the words "(ii) article 8 (medical prescriptions)" and of the words "provided, however, that a preparation falling under subparagraph (b) above may also be exempted from the requirement of medical prescriptions (article 8)".

Dr. MÅRTENS (Sweden) said that his delegation could accept the Canadian proposal, provided that no change was made in paragraph 4 of the article.

Mr. HUYGHE (Observer for Belgium), speaking at the invitation of the Chairman, said that the mention of schedule II would be unacceptable to Belgium. That schedule consisted of dangerous drugs of very little therapeutic value which it would be unwise to exempt from control. Preparations containing only small quantities of those drugs remained highly attractive to persons determined to abuse the drugs concerned. Even the fact that such a drug was compounded with a substance like an emetic had been known not to deter them. Moreover, the exemption of those preparations from control might encourage manufacturers, for purely commercial reasons, to market products containing the drugs in question but having no medical value.

Mr. NIKOLIC (Yugoslavia) endorsed the Belgian observer's views.

Dr. MABILEAU (France) also agreed with the opinion expressed by the Belgian observer. In considering the question of exemption, a distinction had to be drawn between normal persons and individuals who were so depraved that they sought satisfaction from any preparation containing the drug they desired. Perfectly reputable preparations could be abused in that way.

Mr. BEEDLE (United Kingdom) said that he did not think it was a function of the proposed Protocol to teach the pharmaceutical industry the value of its products. The medical profession was the best judge of that, and should be allowed the widest possible discretion in the matter. The United Kingdom therefore supported the Swedish proposal, as amended by Canada, as well as the Canadian proposal for the deletion of the references to medical prescriptions.

Dr. EL-HAKIM (United Arab Republic) said that his country had to contend with abuse of the very preparations which the United States representative had cited as justifying exemption. It did not think that exemption should be permitted for any amphetamine preparation. The United Arab Republic therefore favoured the deletion of the reference to schedule II.

Mr. SOLLERO (Brazil) supported the Swedish proposal, as amended by Canada, and the further Canadian proposal.

Mr. MILLER (United States of America) said that he saw considerable merit in the compromise solution represented by the amended Swedish proposal. He wished to point out, however, that if that proposal was adopted, some countries, although not his own, might consider that the wording of the last four lines of subparagraph (b) did not provide a sufficient mechanism for exempting preparations which contained small quantities of schedule IV substances and large quantities of inactive ingredients but no active admixtures designed to prevent abuse.

Mr. CHAPMAN (Canada) said that, in his opinion, the wording referred to by the previous speaker constituted an adequate mechanism as far as those preparations were concerned.

Dr. MABILEAU (France) pointed out that heroin users were known to take preparations containing as much as 95 per cent of other substances.

Mr. KUSEVIC (Director, Division of Narcotic Drugs) observed that if subparagraph (a) was retained, there would be the safeguard of obligatory medical prescription.

Mr. KEMENY (Switzerland) said that Sweden had had considerable experience with regard to psychotropic substances. His delegation was therefore inclined to rely on the judgement of the Swedish delegation and to accept the amended Swedish proposal. However, although Switzerland could agree to the incorporation of a somewhat flexible provision in an international instrument, it would adopt a more stringent attitude at the national level and would impose internal controls on all preparations of schedule II substances.

Dr. GRIFFIN-WILSHIRE (Observer for Venezuela), speaking at the invitation of the Chairman, said that his delegation associated itself with those who favoured the deletion of the reference to schedule II.

Dr. BABAIAN (Union of Soviet Socialist Republics) said he agreed wholeheartedly with the Belgian observer's views. He thought that the time had come for a decision on the question of exempting preparations containing substances in schedule II. He therefore suggested that the Commission should take a vote on the inclusion of a reference to schedule II.

Mr. KEMENY (Switzerland) said that he would prefer to adopt a compromise than to take a vote, but that it would be helpful if the text of the compromise solution represented by the Swedish and Canadian proposals could be circulated.

Mr. CHAPMAN (Canada) said that he agreed with the Swiss representative.

Mr. WATTLES (Office of Legal Affairs) read out the following amended version of paragraph 2 proposed by Sweden and Canada:

"2. If a preparation containing a substance only from among those listed in schedule II, III or IV does not constitute a public health and social problem because the preparation is compounded in such a way that it presents no, or a negligible, risk of abuse and the substance cannot be recovered by readily applicable means in a quantity liable to abuse, the preparation may be exempted from any or all measures of control provided in this Protocol except the requirements of:

- (i) licences for manufacture, production, trade and distribution of the preparation (article 7);
- (ii) record-keeping by manufacturers and producers (article 10);
- (iii) article 11 (international trade);
- (iv) article 12 (prohibitions and restrictions on import and export);
- (v) inspection of manufacturers and producers (article 13);
- (vi) statistical reports to the Board on manufacture, production imports and exports (article 14); and

(vii) penal provisions, to the extent necessary for the repression of acts contrary to the foregoing obligations (article 18).

The application of the present paragraph shall be determined in accordance with the following paragraphs of this article."

He pointed out that the square brackets around "II" in the first sentence of the original text of paragraph 2 had been deleted. All of subparagraph (a) had been deleted, as well as the first part of subparagraph (b) as far as the words "in subparagraph (a)". The original subparagraph (ii) referring to article 8 had been deleted, as well as the words at the end of the penultimate sentence "provided, however, that a preparation falling under subparagraph (b) above may also be exempted from the requirement of medical prescriptions (article 8)".

Dr. BABAIAN (Union of Soviet Socialist Republics) said that the proposed new text was far from being a compromise; its effect would only be to weaken the controls over schedules II, III and IV and to exempt all schedules from the requirement of medical prescriptions.

Mr. NIKOLIC (Yugoslavia) said that his delegation supported the Soviet representative. The proposed new text was not a compromise at all and would only weaken all controls. The Commission should take a vote on whether schedule II should be included in paragraph 2 or not.

Dr. REXED (Sweden) pointed out that the deletion, in the proposed new text, of the original subparagraph (ii) (article 8 (medical prescriptions)) did not represent a substantive change but was a logical consequence of the amendment to the beginning of paragraph 2 since, with the deletion of the original subparagraph (a), the paragraph dealt only with preparations which were not subject to abuse. His delegation would be opposed to including a reference to schedule II, if subparagraph (a) was to be retained, because it would always be possible, in spite of the limited quantity of the dosage unit, to dispense large amounts of the preparations in question. However, since some delegations were unwilling to accept such strict control, his delegation had agreed, in a spirit of compromise, that exemptions should be permitted for preparations containing substances in schedule II, provided that they were compounded in such a way that they presented only a small risk of abuse. In his opinion, the proposed new text, while perhaps not ideal, provided a basis for better control than had existed before, and would be a valuable part of the over-all system of controls provided for in the draft Protocol.

The CHAIRMAN asked the Yugoslav and Soviet representatives if they could accept the proposed new text, subject to a later discussion of the original subparagraph (ii) (article 8 (medical prescriptions)).

Mr. NIKOLIC (Yugoslavia) said that he could accept the new text on that understanding.

Dr. BABAIAN (Union of Soviet Socialist Republics) said that, on that understanding, he would not object to the deletion of the original subparagraph (a) and of the first part of subparagraph (b).

Dr. AZARAKHCH (Iran) said that his delegation was in favour of retaining the original subparagraph (ii), with its reference to article 8.

Mr. CHAPMAN (Canada) and Mr. MILLER (United States of America) agreed with the Swedish representative that the deletion of the original subparagraph (ii) was a consequential amendment which followed logically from the deletion of subparagraph (a).

Dr. BLOCS (Hungary) said that he also supported the deletion of the original item (ii), since medical prescriptions were a matter which should be regulated by the health authorities of each individual country.

Mr. KEMENY (Switzerland) said that he supported the Hungarian representative.

The CHAIRMAN said that it appeared to be the consensus of opinion that the original subparagraph (ii) (article 8 (medical prescriptions)) should be deleted.

Mr. DITTERT (International Narcotics Control Board) suggested that, in accordance with a proposal made by the United States representative at the 665th meeting, the original subparagraph (iii) should be amended to read: "record-keeping by manufacturers and producers of substances used in the manufacture and first disposal of exempted preparations".

Mr. KUSEVIC (Director, Division of Narcotic Drugs) said that it was, of course, obvious that a manufacturer of exempted preparations might have large quantities of psychotropic substances in stock. If he was required to register only the quantities actually used in the manufacture of exempted preparations, he could easily produce smaller quantities than those recorded and divert the balance of the substances into the illicit traffic. He should therefore be required to keep records not only of the quantity of preparations manufactured but also of the first disposal of such preparations, down to the wholesaler stage.

The CHAIRMAN said that the Secretariat would draft a suitable text to take that suggestion into account.

### Paragraph 3

No comments.

Paragraph 4

Dr. ALAN (Turkey) requested clarification of the second sentence in that paragraph and, in particular, of subparagraphs (i), (ii) and (iii).

Mr. WATTLES (Office of Legal Affairs) said that some delegations had felt that wider exemptions would be possible on the recommendation of WHO than if the decision was taken solely by a Party. However, as a consequence of the redrafting of paragraph 2, the words "If the finding by the World Health Organization is under subparagraph (b) of paragraph 2" would be deleted.

Dr. CAMERON (World Health Organization) asked that the language of the first sentence should be revised to provide for a notification, rather than a direct request to WHO. Secondly, with regard to the second sentence, if the Commission did decide to exempt a preparation, where would it be listed? There was no reference in paragraph 4 to schedule V.

Mr. WATTLES (Office of Legal Affairs) said that it would be possible to refer to a notification in the first sentence, as had been done earlier in the article. Concerning the listing of exempted preparations, he said that since the same régime of control would not be applicable to all of them, their inclusion in a separate schedule V might lead to misunderstandings. They would have to be included in special lists.

Mr. KUSEVIC (Director, Division of Narcotic Drugs) said that it would be an enormous task for the Secretariat to notify all Governments of each exempted preparation and the control measures recommended for it. It would be easier to group them all in schedule V.

Paragraph 5

No comment.

The CHAIRMAN said that the discussion of article 2 bis (E/CN.7/AC.7/R.6) on first reading was completed.

The meeting rose at 5.50 p.m.

SUMMARY RECORD OF THE SIX HUNDRED AND SIXTY-SEVENTH MEETING

held on Tuesday, 27 January 1970, at 9.45 a.m.

Chairman: Mr. BERTSCHINGER (Switzerland)

THE DRAFT PROTOCOL ON PSYCHOTROPIC SUBSTANCES (agenda item 3): (a) CONSIDERATION OF THE DRAFT PROTOCOL ARTICLE BY ARTICLE (E/CN.7/523/Rev.1, E/CN.7/525 and Corr.1 and Add.1 and 2; E/CN.7/L.311, E/CN.7/L.327, E/CN.7/L.332) (continued)

Mr. ANSAR KHAN (Secretary of the Commission) urged members of the Commission to examine the provisional summary records of the current session very carefully and to make any necessary corrections, because the plenipotentiary conference which would later have to adopt the Protocol would refer to those records in order to ascertain the views expressed by delegations during the current special session.

The CHAIRMAN also stressed the importance of the summary records of the special session.

Article 2

Paragraph 11 (E/CN.7/L.327) (resumed from the 657th meeting)

Dr. MABILEAU (France) said he did not understand why some words in the revised version of paragraph 11 were still placed within square brackets, since the Commission had already taken a decision on them.

Mr. MILLER (United States of America) said it was his impression that the Commission had postponed its decision on paragraph 11 pending a decision on article 21 (Procedure for signature, ratification and accession). Since, during the examination of the latter article, (662nd meeting) the Commission had agreed that the minority view would be recorded in a foot-note, the matter had been settled and there was no need to revert to it.

Mr. NIKOLIĆ (Yugoslavia) shared that view.

Dr. BABAIAN (Union of Soviet Socialist Republics) said that, on the contrary, a choice had to be made between the two expressions within square brackets; he himself preferred the expression "all States". He did not believe it was essential to refer to the decision taken on article 21 in connexion with the examination of article 2, paragraph 11. In the case of article 21, the Commission's decision had been based on political considerations whereas article 2, paragraph 11, was concerned with information. It was vital that a country which was not a Party

to the Protocol should be informed, on the same basis as the Parties, of any situations relating to psychotropic substances; otherwise, commercial relations between States Parties and States non-parties to the Protocol would be seriously affected.

Mr. ANSAR KHAN (Secretary of the Commission) recalled that document E/CN.7/L.327 was dated 23 January 1970. During the discussion which had taken place at the 657th meeting, on 20 January, the USSR representative had proposed the inclusion in article 2, paragraph 11, of the words "all States", which now appeared between square brackets. The United States representative had proposed the retention of the first phrase within brackets, namely, "all States Members of the United Nations, to non-member States Parties to this Protocol". A vote had then been taken on article 21 (659th meeting) and thirteen delegations had voted in favour of the proposal of the United States representative, three had voted against and five had abstained.

Dr. BABAIAN (Union of Soviet Socialist Republics) requested that the wording he had proposed should be mentioned in a foot-note to article 2.

The CHAIRMAN said that the Secretariat had taken note of the USSR representative's request.

Mr. NIKOLIĆ (Yugoslavia) said it seemed to him that the third and fourth sentences of paragraph 11 covered the same ground. If a Party had taken all the measures enumerated in the fourth sentence, he failed to see what "measures" would have to be notified under the provisions of the third sentence.

Mr. KUSEVIĆ (Director, Division of Narcotic Drugs) said he believed that the third sentence of paragraph 11 referred to national measures of control other than those specified in article 2.

Mr. NIKOLIĆ (Yugoslavia) said that, if that was so, it would be necessary to insert a phrase such as "in any case" in the first part of the fourth sentence.

Dr. BABAIAN (Union of Soviet Socialist Republics) said that the Yugoslav representative's proposal would greatly improve the text. The notice referred to in the third sentence had to be accompanied by a statement describing the national measures of control which the Party concerned was applying or proposed to apply to the substance in question.



With reference to the second sentence of paragraph 11, although, as far as he could judge, the French version was satisfactory, he could not accept the Russian version, which gave the entirely incorrect impression that the provision applied to all the Schedules.

Dr. MABILEAU (France) shared the views of the USSR representative regarding the third and fourth sentences of paragraph 11.

The CHAIRMAN said that the Secretariat would take account of the Yugoslav representative's proposal regarding the third and fourth sentences, and would also make the changes requested by the USSR representative in the Russian version of the second sentence.

Mr. ANAND (India) recalled that, during the discussion of article 2, paragraph 11, at the 657th meeting, he had suggested the addition of two new subparagraphs to the list contained in the fourth sentence of the revised version of that paragraph. One of those subparagraphs would call upon the Parties to comply with the obligations of article 10 with regard to the maintenance of records, and the other would call upon them to comply with the obligations of article 14 with regard to the furnishing of reports. The discussion which had taken place at the 666th meeting on the subject of preparations (article 2 bis) made those additions to paragraph 11 even more necessary. If a preparation which did not constitute either a public health problem or a social problem continued to be subject to the obligations arising out of articles 7, 8, 10, 11, 12, 13, 14 and 18, it would seem logical that the same should apply to any substance which WHO recommended for inclusion in schedule III or IV.

He would also like the obligations listed in the fourth sentence of article 2, paragraph 11, to include those arising out of article 13 (Inspection), which, in accordance with article 2 bis, would apply to the preparations just mentioned. However, he felt less strongly about the inclusion in article 2, paragraph 11, of a reference to article 13 than about the inclusion of a reference to articles 10 and 14, and would accept the view of the majority of the members of the Commission.

Mr. SAGOE (Ghana) said he agreed with the representative of India. Since it had been pointed out during the discussion at the 657th meeting that articles 7 and 8 were closely connected with article 10, he attached great importance to article 10 being among those listed in the fourth sentence of article 2, paragraph 11. He could, however, agree to article 14 not being mentioned.

Mr. MILLER (United States of America) said that he could not endorse the Indian representative's view. The right of non-acceptance would become meaningless if, in addition to the obligations listed in the fourth sentence of article 2, paragraph 11, an obligation was imposed upon Parties to comply with the obligations laid down in articles 10 and 14. Since the principle of the right of non-acceptance had been recognized, the operation of that provision should not be inconsistent with that right. The adoption of that principle had been fully debated and every effort should be made to avoid reopening the matter.

Mr. KEMENY (Switzerland), Mr. NIKOLIĆ (Yugoslavia) and Dr. DANNER (Federal Republic of Germany) said they agreed with the United States representative.

Mr. ANAND (India) said it was important to draw a distinction between the national and the international control of psychotropic substances. If a Party was opposed to the application of certain control measures within the limits of its domestic jurisdiction, it could of course exercise its right of non-acceptance. Internationally, however, it was essential that the system of control should be respected; otherwise, if a State which was a large producer refused to maintain records and send statistics to the Board, the latter would be unable to gain an over-all view of the world statistics relating to a particular substance, and the information furnished by other States would therefore become virtually useless.

It was therefore essential that the basic international control measures should be observed by Parties wishing to exercise their right of non-acceptance. He appealed to the United States representative to reconsider his objections and agree to the inclusion of a reference to articles 10 and 14 in article 2, paragraph 11, and urged the Commission to give the matter the full attention it deserved.

Mr. BEEDLE (United Kingdom) said he could not support the Indian representative's proposal, not merely for the general reasons given by previous speakers, but because it was illogical. Contrary to the Indian representative's belief, there was no lack of correspondence between the obligations binding upon Parties which exercised their right of non-acceptance and those still incumbent on Parties which nevertheless exempted certain preparations. Article 2, paragraphs 1-5, as set out in document E/CN.7/AC.7/R.6 and adopted by the Commission at its 666th meeting, provided that the decision to exempt preparations might be taken either by the Parties or, upon a recommendation by WHO, by the Commission, which might decide to remove the obligation to comply with article 14.

With regard to article 10, the Commission had, at its 666th meeting, accepted the proposal of the United States representative that the requirement for manufactures and producers to keep records should be confined to substances used for manufacture and production. There was, therefore, a fairly close correspondence between the exemptions which could be claimed for certain preparations under paragraphs 1-5 and the right of non-acceptance recognized in the revised version of paragraph 11.

Furthermore, he did not believe that the world statistics would be incomplete if a large producing and distributing country failed to furnish the information required under article 14, since the amounts exported would necessarily appear in the form of imports in the statistics of the importing countries.

Dr. BABAIAN (Union of Soviet Socialist Republics) said that the Indian representative's arguments were sound and that his proposal should be taken into consideration.

Dr. MABILEAU (France) said that the provisions of paragraph 11 gave the importing countries the substance of the protection they needed. Some of the Indian representative's arguments were, however, valid and a certain volume of information was necessary. As WHO had pointed out, since the average life of medicaments was relatively very short, it was necessary to have some information on the volume of the therapeutic consumption of each substance in order to reach a correct decision on the type of control to be applied to the substance. That view might be recorded in a foot-note.

Mr. NIKOLIĆ (Yugoslavia) said that the Indian representative's objections would be valid only if a Party exercising the right of non-acceptance did so systematically with regard to all substances. That was not his understanding of the provision which, he believed, was to cover exceptional cases.

Mr. CHAPMAN (Canada) said that he too could not accept the Indian representative's proposals. He also believed that the right of non-acceptance would be used only in exceptional circumstances and that the application of the clause would certainly have no great impact on the statistics.

Mr. ANAND (India) said that he could agree to his views being recorded in a foot-note worded on the following lines:

"Some delegations were generally opposed to the right of non-acceptance. However, they felt that if this right has to be exercised at all by any Party, the provisions of articles 10 and 14 should inter alia be included in the requirements to be observed by the dissenting Party".

Dr. BABAIAN (Union of Soviet Socialist Republics) said he agreed with the French representative. When the Commission had discussed the question of the right of non-acceptance, delegations had argued that that right would be exercised only in exceptional circumstances. That point should be made clear either in the Protocol or in the report.

Mr. NIKOLIĆ (Yugoslavia) proposed, by way of compromise, that the words "in exceptional cases" should be inserted in the second sentence of paragraph 11 and that the existing text should be retained.

Dr. BÖLCS (Hungary) said he agreed with the Yugoslav representative.

After an exchange of views, in which Mr. BEEDLE (United Kingdom), Mr. KEMENY (Switzerland), Mr. MILLER (United States of America) and Mr. NIKOLIĆ (Yugoslavia) took part, Mr. WATTLES (Office of Legal Affairs) suggested that the latter part of the second sentence of paragraph 11 should read: "stating the reasons of an exceptional character which had led to its decision."

Mr. BEEDLE (United Kingdom) said it was the action rather than the reasons which were exceptional. He proposed, therefore, that the phrase should rather read: "stating its reasons for this exceptional action."

Dr. ALAN (Turkey) said that what should be exceptional was the exercise of the right of non-acceptance. A wording would have to be found which made it clear that Parties must not abuse that right.

Mr. NIKOLIĆ (Yugoslavia), Dr. REXED (Sweden), Mr. KEMENY (Switzerland), Mr. CHAPMAN (Canada), Mr. MILLER (United States of America) and Dr. AZARAKHCH (Iran) said they supported the United Kingdom representative's proposal.

Dr. BABAIAN (Union of Soviet Socialist Republics) said that he, too, would support the proposal if it was generally acceptable.

Replying to a point raised by Dr. ALAN (Turkey), Dr. MABILEAU (France) proposed that the phrase used in the French text should be: "mesures prises à titre exceptionnel".

The CHAIRMAN said that the Drafting Committee would bear that suggestion in mind.

Paragraph 12 (E/CN.7/523/Rev.1, annex IV)

The CHAIRMAN asked the Commission to take a decision on the words within square brackets in paragraph 12.

Replying to Mr. BARONA LOBATO (Mexico), the CHAIRMAN said that the Commission had already decided in favour of a time-limit of 180 days, (657th meeting) and that was the figure which would appear in the text.

Dr. ALAN (Turkey) said that all the square brackets in paragraph 12 should be removed in view of the decision which the Commission had just taken on paragraph 11.

Dr. BABAIAN (Union of Soviet Socialist Republics), supported by Mr. NIKOLIĆ (Yugoslavia), said that the removal of the square brackets was logical, but, in view of the position which the Commission had taken with regard to paragraph 11, the exceptional character of the exercise of the right of non-acceptance should also be stressed in paragraph 12.

He requested the inclusion of a foot-note recording the view expressed by the representative of the USSR in connexion with paragraph (c) that decisions should be transmitted to all States.

The CHAIRMAN replied that that would be done.

Mr. BEEDLE (United Kingdom) observed that although, under the provisions of paragraph 11, the right of non-acceptance could be exercised only in exceptional cases, it would become meaningless if the action taken by the Economic and Social Council resulted in the extinction of that right. A Party should be able to maintain its non-acceptance for the duration of the circumstances which prevented it from giving full effect to a decision of the Commission and had caused it to exercise its right of non-acceptance. The phrases placed between square brackets should therefore be deleted, as well as the phrase at the end of subparagraph (d) beginning "notwithstanding any notice of non-acceptance". The immediate result of requesting the Economic and Social Council to deal with individual cases would be to give the Council, the Secretary-General, the Commission, WHO and the Parties a great deal of extra work in re-examination of Commission decisions and comment on individual cases. Furthermore, the Party concerned might attempt to enlist the support of other Parties in efforts to obtain the review of a decision which it could not apply, and that was tantamount to an attempt to bypass a decision of the Commission. It would be far more logical and appropriate for the Economic and Social Council to deal only with decisions which a Party considered to require review but which dealt with a matter of concern to the other Parties as well.

Mr. MILLER (United States of America) and Mr. THOMPSON (Jamaica) said they supported the United Kingdom representative's view.

Dr. REXED (Sweden) said that the provisions of paragraph 12 represented one of those compromises that were essential if the Protocol was to be accepted by as many countries as possible. He agreed with the United Kingdom representative that the words placed between square brackets should be deleted; if it was agreed that the Council should rule on the case of Parties which gave notice of their non-acceptance of a Commission decision, the practice might well become general and spread to all control measures and that would be tantamount to automatically requesting a review of all decisions by the Commission.

Mr. ANAND (India) said that he wished to repeat that his delegation was opposed to the exercise of a right of non-acceptance by any Party whatever. If, however, a right of non-acceptance was to be permitted by way of compromise, it should be extinguished as soon as the Council had taken a decision. If, for example, the Council decided to uphold a rule established by WHO or by the Commission, the right of non-acceptance would be exhausted and the Party which had invoked that right would thereafter have to apply the rule in accordance with the Council's decision. The Indian delegation was therefore in favour of retaining the words placed between square brackets.

Mr. SAGOE (Ghana) and Dr. EL-HAKIM (United Arab Republic) said that they fully supported the Indian representative's view.

Mr. NIKOLIĆ (Yugoslavia) said that the United Kingdom representative's proposal reflected an entirely different concept of paragraph 12 from that embodied in the existing text. It would, therefore, be desirable for the Commission to have a written text of the proposal.

Mr. KUSEVIĆ (Director, Division of Narcotic Drugs) said that the provisions of paragraph 12 were intended, in the case of non-acceptance of a decision by a Party, to protect the other Parties which wished to apply the decision. It was for the Commission to decide whether it thought the text necessary.

Dr. BABAIAN (Union of Soviet Socialist Republics) said that the Commission's decision on paragraph 12 was closely dependent on the position it adopted on the right of non-acceptance. That accounted for the expressions in square brackets, which would be retained or deleted according to whether the right was or was not

accepted. The United Kingdom proposal raised a question of principle and involved the deletion from subparagraph (d) of a phrase which had never been in square brackets. Those provisions were based on article 3, paragraph 8, of the 1961 Convention. Like the Yugoslav representative, he thought that the Commission should discuss a written text so as to have a clear idea of the implications.

Mr. WATTLES (Office of Legal Affairs) said that, in the initial draft, the Commission had provided for a much broader right of non-acceptance. It might, of course, be thought that where highly technical questions were involved, as in the case of psychotropic substances, representatives in the Economic and Social Council were not necessarily experts in such matters. It was a question, therefore, of deciding whether, as provided in paragraph 12, and more specifically in the passages in square brackets, the Council should automatically consider all cases of non-acceptance, and whether its decisions were likely to be completely satisfactory to the Parties.

The CHAIRMAN pointed out that those arguments were also applicable to article 3, paragraph 8, of the 1961 Convention.

Mr. KEMENY (Switzerland) said that although, as the representative of the Office of Legal Affairs had just indicated, the provisions of paragraph 12 had been justified in the case of a fairly broad right of non-acceptance, they were no longer necessary now that safeguards had been included in paragraph 11 to protect the Parties, both at the national and at the international level, from the consequences of one of them exercising the right of non-acceptance, a right which could be exercised only in the most exceptional cases. He therefore thought that the last part of subparagraph (d) should be deleted.

Mr. SAGOE (Ghana) said he was in favour of retaining subparagraph (d) in its existing form and of removing the square brackets in subparagraph (a). His delegation had always been opposed to the right of non-acceptance and had agreed to the compromise only after having received an assurance that decisions taken by the Council under subparagraph (d) would be binding upon all Parties.

Mr. CHAPMAN (Canada) said he supported the United Kingdom proposal. As a result of lengthy discussion, the Commission had devised a series of safeguards in paragraph 11, which largely compensated for the right of non-acceptance. It should be emphasized that decisions under paragraph 11 would be decisions of the Parties and not of the Commission and would not, therefore, be subject to review either by

the Commission or, consequently, by the Council. There might also be cases where a Party did not see fit to take action under paragraph 11 but was interested in a decision taken by the Commission under article 2. It would be useful, therefore, to retain the basic idea of paragraph 12, but to make it clear that it did not refer to decisions by the Parties.

Dr. REXED (Sweden) said he was in favour of retaining paragraph 12, with the amendments proposed by the United Kingdom representative. If it was agreed that the Parties could not oppose decisions of the Commission, even where they considered them to be ill-founded, it was only right that they should be given some right of appeal. It had to be recognized that a mistake was always possible and the interests of both parties should be protected.

Dr. BABAIAN (Union of Soviet Socialist Republics) thought that the United Kingdom representative's proposal affected the substance of paragraph 12. It was an amendment of a legal nature, which was equivalent to a new interpretation of the paragraph. He was ready to consider it, provided he received the text in writing. He also thought that, having regard to the functions and powers vested in the Council by Article 62 of the Charter of the United Nations, its competence could not be called in question.

Mr. NIKOLIĆ (Yugoslavia) said he, too, thought that the United Kingdom proposal involved a fundamental change in paragraph 12, and that it would be desirable to have the text in writing. He could, however, already say that he was opposed to it in principle. He could not associate himself with those who questioned the competence of the Council and the Commission, thus leaving States as sole arbiters of the situation, and failed to understand why those who had been in favour of the right of non-acceptance should be seeking to delete the paragraph, now that the possibility of exercising that right had been limited.

Mr. HOOVER (United States of America) said he supported the United Kingdom proposal, that the phrase providing for the appeal of the right of non-acceptance be deleted, particularly in view of the decisions which had been taken on paragraph 11. He added that denial of the right of appeal in exceptional cases did not imply that the competence of the Economic and Social Council was being questioned.

Mr. BEEDLE (United Kingdom) said that the words in square brackets in subparagraph (a) and the latter part of subparagraph (d) hung together and from the start square brackets should have been inserted around the latter part of



subparagraph (d). That was plain because the effect of deleting the words in square brackets in subparagraph (a) and leaving the latter part of subparagraph (d) untouched was to allow a Party to exercise the right of non-acceptance for as long as no other Party made an appeal to the Council. It did not follow in any event that, if the Council played its customary part in hearing appeals, it would be wrong for it to concede, as part of its decision on appeal, that a Party should continue to exercise its right of non-acceptance because of the exceptional conditions prevailing in its country.

The CHAIRMAN said that the majority of the Commission recognized the value of paragraph 12. With respect to the United Kingdom proposal, he suggested that a small working party, made up of the delegations of Canada, India, the Soviet Union, the United Kingdom, the United States of America and Yugoslavia should be asked to devise a compromise formula and to submit a written text to the Commission.

It was so decided.

Article 4 (E/CN.7/L.332) (resumed from the 657th meeting)

Mr. WATTLES (Office of Legal Affairs) said that, at the request of the Yugoslav representative, (657th meeting) he had replaced the words "including imports and exports" in subparagraph (a) by "including foreign trade", and that that change had been made throughout the Protocol, except in article 11. The Commission had not objected to the Yugoslav representative's request but it would appear that, after an explanation given by the Chairman of the Technical Committee, it had had second thoughts on the subject.

Mr. NIKOLIĆ (Yugoslavia) said he did not insist that the amendment should be retained, but wished to point out that imports and exports did not include transit.

Dr. BÖLCS (Hungary) said he did not see how imports could be limited to medical and scientific purposes and thought, therefore, that the words in round brackets in subparagraph (a) were pointless. He was also in favour of deleting the words in square brackets in subparagraph (b).

Mr. NIKOLIĆ (Yugoslavia) said he did not think trade could be limited without foreign trade being affected.

Mr. CHAPMAN (Canada) said he thought that, before any legislative action was taken to limit abuse, the effects of the substances in question, the extent of their use, the gravity of the danger they presented to public health and their therapeutic

value should be assessed on a factual basis, with a view to classifying them in the appropriate categories for control purposes. In the case of psychotropic substances, the WHO Expert Committee on Drug Dependence had already embarked on that task with its usual efficiency. It now remained to convince Governments that they should take the necessary legislative measures. Any such measures must, however, be in keeping with political, social and economic conditions. Experience gained with narcotic drugs proved that to treat the simple possession of prohibited substances as an offence, even if heavy penalties were involved, was not sufficient to deter offenders. Now that it was a question of adapting legislation to psychotropic substances, which were relatively new, Governments must be in a position to decide what was the best procedure to follow in a particular set of circumstances in the case of a particular substance. His delegation strongly recommended, therefore, that the words in square brackets in subparagraph (b) should be deleted and replaced by a phrase from article 2, paragraph 5 (b), of the 1961 Convention, worded as follows: "if in its opinion the prevailing conditions in its country render it the most appropriate means of protecting the public health and welfare". For its part, the Canadian Government would certainly take all the necessary steps if circumstances so required, but it reserved the right to decide the matter for itself.

Mr. BEEDLE (United Kingdom) said he fully shared that opinion. It was important not to confuse the question of the penalty to be imposed and the question of deciding whether possession should constitute an offence, irrespective of the quantity possessed. Only the public authorities were in a position to decide, in the light of the situation in their country, its legislation, the known incidence of abuse etc., when and in what circumstances it was necessary to take such a step. Legislative measures should form part of a co-ordinated comprehensive programme. There was no sense in introducing criminal sanctions for possession until public authorities and public opinion understood the nature of the danger from a particular drug and were ready to face it.

Mr. ANAND (India) said he entirely agreed with the two previous speakers. He further pointed out that penal provisions were already provided for in article 18: the words in square brackets in subparagraph (b) should therefore be deleted, particularly as they might be interpreted to mean that unauthorized possession for purposes other than trade or distribution was not prohibited.

Dr. BABAIAN (Union of Soviet Socialist Republics) said he also felt that the words in square brackets in subparagraph (b) should be deleted. With regard to the Canadian representative's proposal for the addition to the subparagraph of a clause from the 1961 Convention, it might perhaps be more appropriate to add, instead, the words "except under legal authority", which appeared in article 33 of the 1961 Convention in connexion with possession of drugs.

Schedule I, which was controlled by article 6, should not be mentioned in subparagraph (a)

The meeting rose at 12.50 p.m.



SUMMARY RECORD OF THE SIX HUNDRED AND SIXTY-EIGHTH MEETING

held on Tuesday, 27 January 1970, at 3.10 p.m.

Chairman: Mr. BELLSCHINGER (Switzerland)

THE DRAFT PROTOCOL ON PSYCHOTROPIC SUBSTANCES (agenda item 3): a) CONSIDERATION OF THE DRAFT PROTOCOL ARTICLE BY ARTICLE (E/CN.7/523/Rev.1, E/CN.7/525 and Corr.1 and Add.1 and 2; E/CN.7/L.311, E/CN.7/L.332) (continued)

Article 4 (E/CN.7/L.332) (continued)

Dr. BABAIAN (Union of Soviet Socialist Republics) and Mr. NIKOLIĆ (Yugoslavia) asked whether it was necessary to include a reference to schedule I in article 4, since it was already covered in article 6.

Mr. ANSAR KHAN (Secretary of the Commission) said that if the reference to schedule I was deleted in subparagraph (a), it would be necessary to insert some such phrase as "and taking account of article 6, which refers to schedule I" after the words "Except as provided in article 3" in the introductory clause of the article.

The CHAIRMAN said that the Secretariat would include the appropriate reference.

Mr. BARONA LOBATO (Mexico) said that from a legal and logical standpoint it would be better to have a single general provision concerning the unauthorized possession of psychotropic substances. If a reference to schedule I was included in subparagraph (a) of article 4, such a reference would obviously be redundant in paragraph 7 of article 6. With respect to subparagraph (b), he proposed that it should repeat the language of article 33 of the 1961 Convention: "The Parties shall not permit the possession of drugs except under legal authority".

Mr. AZARAKHCH (Iran), Mr. MOUJAES (Lebanon) and Mr. ANAND (India) said that they supported the Mexican proposal.

Mr. CHAPMAN (Canada) said that his delegation could not support that proposal.

Mr. KARIM (Pakistan) said that his delegation favoured the removal of the square brackets around the words "for trade or distribution" in subparagraph (b).

The CHAIRMAN pointed out that article 18, paragraph 1, already contained a clause providing that the unauthorized possession of psychotropic substances should be a punishable offence. He therefore questioned whether subparagraph (b) of article 4 was strictly necessary.

Mr. WATTLES (Office of Legal Affairs) replied that article 18, paragraph 1, limited the obligations of the Parties to the possession of psychotropic substances "contrary to the provisions of this Protocol". Since the Commission was now engaged in determining which of the provisions of the Protocol should cover unauthorized possession, article 18 was not involved.

Mr. BEEDLE (United Kingdom) said that his delegation sought a formula which would give Governments some discretion to decide when the possession of substances in schedules III and IV should be made a criminal offence regardless of the quantity involved. In his own country, for example, the unauthorized possession of even one or two tablets of amphetamines had been a criminal offence since 1964. However, in the case of substances in schedule IV, which had only a limited liability to abuse and which represented a significant but not serious public health problem, Governments should certainly be allowed to decide at which point they wished to introduce a new criminal offence in their legislation.

He proposed, therefore, that subparagraph (b) should be amended to read:

"Shall not permit the possession of such substances except under legal authority unless the Party is of the opinion that in the prevailing conditions in its country such restriction in relation to substances in schedules III and IV is not the most appropriate means of protecting the public health and welfare".

Mr. NIKOLIĆ (Yugoslavia) said that his delegation could support the United Kingdom proposal.

Dr. BABAIAN (Union of Soviet Socialist Republics) said that his delegation could accept the United Kingdom proposal, subject to an assurance that the escape clause covered only schedules III and IV.

Mr. SAGOE (Ghana), Dr. MARTENS (Sweden), Mr. FISCHER (Switzerland) and Mr. SOLLERO (Brazil) said that they supported the United Kingdom proposal.

Dr. MABILEAU (France) said that the United Kingdom proposal appeared to be acceptable, but that he must reserve his position until the proposal had been circulated in writing.

Mr. ANAND (India) said that his delegation was in general agreement with the United Kingdom proposal, although he thought the wording might perhaps be improved.

Mr. CHAPMAN (Canada) said that the escape clause in the United Kingdom proposal should also extend to schedule II.

Dr. MÅRTENS (Sweden) said that he must reserve his position on the United Kingdom proposal if the escape clause was to cover schedule II.

Mr. SAGOE (Ghana) said that he supported the view of the Swedish representative.

Mr. MILLER (United States of America) said that his delegation preferred not to express itself either for or against the United Kingdom proposal at the present stage of the discussion.

Mr. CHAPMAN (Canada) said that his Government could consider making the unauthorized possession of one or two of the five substances in schedule II a punishable offence, but not all of them. He asked that his delegation's minority opinion should be recorded in a foot-note in the report.

(b) APPROVAL OF A REVISED DRAFT PROTOCOL (E/CN.7/L.328 and Add.1)

Article 5 (E/CN.7/L.328 and Add.1) (resumed from the 661st meeting, and concluded)

Dr. ALAN (Turkey) recalled that, during a reading of the article at the 661st meeting his delegation had proposed that the term "special service" should be substituted for the term "special administration".

Dr. MABILEAU (France) said he was satisfied with the existing wording; there would be no difficulty in understanding what was meant by "special administration", since the term had been used in other treaties.

Dr. BABAIAN (Union of Soviet Socialist Republics) said that article 5 was acceptable to his delegation as it stood.

Article 5 was approved.

Article 6 (E/CN.7/L.328) (resumed from the 661st meeting, and concluded)

Dr. BABAIAN (Union of Soviet Socialist Republics) said he did not fully understand the purpose of the final phrase of paragraph 7.

Mr. WATTLES (Office of Legal Affairs) recalled that, during the discussion of the article at the 661st meeting, it had been suggested that it might be necessary to authorize possession for personal use in connexion with a particular research project, for example, when a psychiatrist wished to experiment on himself. Attention had also been drawn to the fact that, in the law of some countries, the word "possession" was given an extremely wide interpretation, which even included internal possession after swallowing. It had consequently been thought necessary to authorize possession under other provisions of the article.

Dr. BABAIAN (Union of Soviet Socialist Republics) said his understanding was that the phrase gave Parties the right to authorize the use of substances in schedule I for scientific research only, the administration of such substances being permitted for therapeutic and no other purposes.

Article 6 was approved, subject to any necessary linguistic changes.

Article 7 (E/CN.7/L.328) (resumed from the 662nd meeting, and concluded)

Mr. NIKOLIĆ (Yugoslavia) pointed out that it had been decided (662nd meeting) to replace the term "foreign trade" within the brackets in paragraph 1 by the term "import and export trade".

Article 7, as amended, was approved, subject to any necessary linguistic changes.

Article 8 (E/CN.7/L.328) (resumed from the 660th meeting, and concluded)

Dr. ALAN (Turkey), referring to the foot-note to the article, suggested that the actual number of delegations should be specified in order to give readers a better idea of the measure of support for the opinion recorded.

After a brief discussion in which Mr. NIKOLIĆ (Yugoslavia), Dr. ALAN (Turkey), Mr. ANAND (India) and Dr. MARTENS (Sweden) took part, it was decided to make no change in the foot-note to the article.

Article 8 was approved, subject to any necessary linguistic changes.

Article 9 (E/CN.7/L.328) (resumed from the 662nd meeting, and concluded)

Dr. DANNER (Federal Republic of Germany) pointed out that WHO had never issued regulations governing warnings on packages and advertising. The words "regulations and" could be deleted.

Mr. MILLER (United States of America) and Mr. NIKOLIĆ (Yugoslavia) recalled that the Commission had decided to include the word "regulations" in case WHO might in future issue regulations, which it was entitled to do under its Constitution. In their opinion, the word should be retained.

Dr. BÖLCS (Hungary) suggested that the word "and" between the words "regulations" and "recommendations" should be replaced by the word "or".

Dr. BABAIAN (Union of Soviet Socialist Republics) said he agreed with the United States and Yugoslav representatives, and supported the suggestion made by the representative of Hungary.

The amendment suggested by the Hungarian representative was adopted.

Article 9, as amended, was approved, subject to any necessary linguistic changes.



Article 13 (E/CN.7/L.328) (resumed from the 662nd meeting, and concluded)

Article 13 was approved subject to any necessary linguistic changes.

Article 10 (E/CN.7/L.328/Add.1) (resumed from the 660th meeting, and concluded)

Mr. HUYGHE (Observer for Belgium), speaking at the invitation of the Chairman, said that because the schedules specified in paragraph 1 involved a large number of pharmaceutical substances, wholesalers would have difficulty in complying with the requirement mentioned in the second sentence of that paragraph.

Dr. MABILEAU (France) said that he did not think there was any intention of requiring wholesalers to keep records other than those customary in the normal course of business.

The CHAIRMAN noted that no member of the Commission had proposed a change to meet the point raised by the observer for Belgium or asked for a foot-note on the subject to be included in the Commission's final text of the draft Protocol. He accordingly invited the Commission to approve the article as it stood.

Article 10 was approved, subject to any necessary linguistic changes.

Article 11 (E/CN.7/L.328/Add.1) (resumed from the 664th meeting, and concluded)

Mr. ANAND (India) reminded the Commission that a number of delegations had expressed the view that the provision in paragraph 1(a) should extend to substances in schedule III. He asked for a foot-note to that effect to be included in the text of the draft Protocol annexed to the Commission's report.

It was so decided.

Dr. BABAIAN (Union of Soviet Socialist Republics) asked the representative of the Office of Legal Affairs whether the word "territory" was used in article 11 to refer to a territory of the kind mentioned in article 23 or to an entity resulting from the application of article 23 bis. If the latter was the case, he would have no objection to the use of that word in article 11.

Mr. WATTLES (Office of Legal Affairs) said that the word "territory", as used in article 11, referred to an entity resulting from the operation of article 23 bis.

Article 11 was approved, subject to the Indian proposal and to any necessary linguistic changes.

Article 14 (E/CN.7/L.328/Add.1) (resumed from the 660th meeting, and concluded)

Mr. ANAND (India) proposed that the word "produced" should be added to paragraph 3(b) after the word "manufactured", so as to bring subparagraph (b) into line with the remainder of the draft Protocol.

It was so decided.

Article 14, as amended, was approved, subject to any necessary linguistic changes.

Article 15 (E/CN.7/L.328/Add.1) (resumed from the 657th meeting)

In reply to a question by Mr. BEEDLE (United Kingdom), Mr. DITTERT (International Narcotics Control Board) said that the words "or required of" in paragraph 1 were taken from the corresponding paragraph of the 1961 Convention. They had been included in the draft Protocol so as to enable the Board to ask Governments for an explanation if they did not furnish the prescribed statistical information by the date stipulated.

Mr. NIKOLIĆ (Yugoslavia) drew attention to the fact that in the new draft of the article (E/CN.7/L.328/Add.1) the words "and communicated to" had been substituted for the word "through" used in the text of the Report of the Commission on its twenty-third session (E/CN.7/523/Rev.1, annex IV). His delegation preferred the word "through", which reproduced the language of the corresponding sentence of article 15 of the 1961 Convention. Furthermore, since the Commission at present met biennially and the Board was required by paragraph 1 to report annually, he supported the suggestion made by the Chairman at the 657th meeting that the question of the frequency of the Commission's meetings might be mentioned in its report.

Mr. ANAND (India) said that, in his view, the Commission had not finally decided, at its earlier discussion of the article at the 657th meeting, to make the substitution to which the Yugoslav representative had drawn attention. His delegation also favoured the use of the word "through".

Mr. WATTLES (Office of Legal Affairs) said that the wording used in the new draft took account of the existing situation with regard to the frequency of the Commission's sessions. Because the Commission at present met only biennially, the use of the word "through" might give rise to difficulties and, for that reason, he thought the Commission might wish to take the opportunity of improving on the wording of the 1961 Convention in the draft it approved for article 15 of the future Protocol.

Dr. MABILEAU (France) said that he approved the wording contained in the new draft of the article. He suggested that a foot-note should be included in the revised text of the draft Protocol to be annexed to the Commission's report, stating that the article was worded to take account of the frequency of the Commission's sessions at the time it had approved the draft Protocol.

Mr. MILLER (United States of America) also approved the use of the words "and communicated to", and supported the French suggestion.

Dr. BABAIAN (Union of Soviet Socialist Republics) said that his delegation favoured the use of the wording of the 1961 Convention.

Mr. BEEDIE (United Kingdom) said that the words "and communicated to" seemed to detract from the status of the Commission and to minimize the central role it was called upon to play in the operation of the future Protocol. He therefore associated himself with those delegations which believed that the wording of the 1961 Convention should be used.

The CHAIRMAN said that the Commission generally seemed to favour the use of the wording of the last sentence of article 15, paragraph 1, of the 1961 Convention for the wording of the corresponding sentence of article 15 of the draft Protocol. He therefore suggested that the Secretariat should be asked to redraft the sentence accordingly for inclusion in the text of the draft Protocol to be annexed to the Commission's report.

It was so agreed.

The meeting rose at 5.15 p.m.



SUMMARY RECORD OF THE SIX HUNDRED AND SIXTY-NINTH MEETING

held on Wednesday, 28 January 1970, at 9.45 a.m.

Chairman: Mr. BERTSCHINGER (Switzerland)

THE DRAFT PROTOCOL ON PSYCHOTROPIC SUBSTANCES (agenda item 3):

(b) APPROVAL OF A REVISED DRAFT PROTOCOL (E/CN.7/L.328/Add.1 and 2) (continued)

Article 15 (E/CN.7/L.328/Add.1) (concluded)

Dr. BABAIAN (Union of Soviet Socialist Republics) said he had understood that article 15 was to be worded so as to provide for the possibility of the Board's annual reports being communicated to the Economic and Social Council by post in order to avoid giving the impression that the Commission was seeking to use the Protocol as a means to circumvent the decision taken by the Council on the frequency of its sessions.

Dr. ALAN (Turkey) said he agreed. The advantage of communication by post was that it enabled all members to examine the Board's reports and to submit their comments in writing in accordance with the usual procedure, and if the comments required consideration by the Commission, it could be so informed.

Mr. KUSEVIC (Director, Division of Narcotic Drugs) said that it was questionable whether a compilation of comments submitted to the Board by Governments could be regarded as representing the Commission's opinion, which was normally the fruit of discussions as expressed in the form of decisions, not merely the aggregate of the views expressed.

Mr. NIKOLIC (Yugoslavia) said he agreed. Discussions sometimes resulted in alternative solutions. The procedure proposed by the Soviet Union and Turkish representatives was not applicable.

Dr. MABILLEAU (France) said he agreed with the Yugoslav representative.

The CHAIRMAN said that during its debate on article 15 the Commission had already questioned whether it was really useful to consider comments years after they had been made. Furthermore, to judge by experience, it did not seem likely that the Commission, sitting only for three weeks every two years, would be able to examine at one and the same time all matters relating to narcotic drugs and all those relating to psychotropic substances. Consequently, it might perhaps be sufficient to state the views of the Soviet Union and Turkish delegations either in a foot-note to the draft or in the report.

Dr. ALAN (Turkey) said he was in favour of a foot-note.

Mr. NIKOLIC (Yugoslavia) said that the right place for the expression of an opinion was the summary records or the report, but not the Protocol, as it was an international instrument. Up to now, the alternatives proposed by the minority had been recorded in foot-notes.

Dr. BABAIAN (Union of Soviet Socialist Republics) said that he would have no objection to his delegation's opinion being stated in the report, but a foot-note in the draft Protocol would serve the Commission's purpose better, since the purpose was to state clearly that the Commission had no intention of making use of article 15 to circumvent the Council's decision on the frequency of its sessions.

Dr. MABILEAU (France) said that the Commission was unanimous on that point. The Council's decisions were binding on all of them. No provision of the Protocol conflicted with those decisions.

Mr. NIKOLIC (Yugoslavia) said he agreed. The expression of an opinion was not a provision of the Protocol. He asked that his delegation's opinion be recorded in the Commission's report, and that his delegation be mentioned by name in the foot-note, if it were decided to insert one in the Protocol.

Mr. ANAND (India) said that he agreed with the views of the two previous speakers.

Mr. BEEDLE (United Kingdom) said that he agreed with those delegations which considered that article 15 should not be construed as calling the Council's decision into question. He did not think, however, that it was necessary to state that either in the report or in a foot-note. In his delegation's view, article 15 should specify that the Board's reports would be submitted to the Council through the Commission. In order to make quite clear in the first sentence the difference between the Board's annual report and the additional reports, which would be documents of a special character prepared from time to time, it would be better to break the sentence in two by putting a full stop after the words "on its work" and then to continue: "It shall prepare such additional reports as it considers necessary".

The CHAIRMAN said that the Secretariat would bear that drafting change in mind.

He suggested that the views expressed on article 15 be mentioned in the Commission's report and in a foot-note to the draft Protocol.

It was so decided.

Article 15, as amended, was approved.

Article 16 (E/CN.7/L.328/Add.1) (resumed from the 662nd meeting, and concluded)

Article 16 was approved.

Article 17 (E/CN.7/L.328/Add.1) (resumed from the 662nd meeting, and concluded)

Mr. NIKOLIĆ (Yugoslavia) proposed that in paragraph (a) the words "they may designate" be replaced by the words "it is desirable that they should designate".

Dr. ALAN (Turkey) said he supported that proposal.

Article 17, as amended, was approved.

Article 18 (E/CN.7/L.328/Add.1) (resumed from the 662nd meeting, and concluded)

Mr. NIKOLIĆ (Yugoslavia) asked what the word "extraction" in paragraph 1 referred to.

The CHAIRMAN replied that it referred to the extraction of certain hallucinogens from mushrooms or plants.

Dr. MABILEAU (France) asked that the words "purchase" and "sale" in paragraph 1 be replaced by the words "acquisition" and "transfer".

Dr. FAZELI (Iran) said that the word "possession" should not be included in paragraph 1. A distinction should be drawn between the illicit possession of psychotropic substances by drug addicts and the possession of the substances by patients for therapeutic purposes. The latter case could not constitute a punishable offence.

Following an exchange of views, in which Dr. ALAN (Turkey), Dr. BABAIAN (Union of Soviet Socialist Republics), Mr. SAGOE (Ghana) and Mr. HUYGHE (Observer for Belgium), speaking at the invitation of the Chairman, took part, the CHAIRMAN suggested that the word "possession" in paragraph 1 be retained because the phrases "subject to its constitutional limitations" and "contrary to the provisions of this Protocol" provided all the necessary safeguards.

It was so decided.

Article 18, as amended, was approved.

Article 19 (E/CN.7/L.328/Add.1) (resumed from the 662nd meeting, and concluded)

Article 19 was approved.

Article 20 (E/CN.7/L.328/Add.1) (resumed from the 662nd meeting, and concluded)

Mr. NIKOLIC (Yugoslavia) asked that a foot-note be inserted to indicate that his delegation would prefer that article 20 should be replaced by the text of article 6 of the 1961 Convention.

Dr. BABAIAN (Union of Soviet Socialist Republics) said he supported that request, and asked the Secretariat to amend the foot-note accordingly.

Mr. BOLCS (Hungary) said he agreed with the two previous speakers.

Article 20 was approved.

Article 21 (E/CN.7/L.328/Add.2) (resumed from the 661st meeting, and concluded)

Dr. BABAIAN (Union of Soviet Socialist Republics) requested that the foot-note be replaced by a text, which he read out, to the effect that the representative of the Soviet Union had stated that article 21, paragraph 1, whereby certain States were prevented from becoming parties to the Protocol, was discriminatory. The Protocol dealt with questions which concerned all States, and its purpose was to unite the efforts of all countries in the campaign against the abuse of psychotropic substances. Consequently, it should be open to all States. It should be added in the foot-note that that opinion had been supported by a minority of delegations.

Mr. CHAPMAN (Canada) said that the word "or" should be added at the end of subparagraph (b).

Article 21, as amended, was approved.

Article 22 (E/CN.7/L.328/Add.2) (resumed from the 661st meeting, and concluded)

Mr. BEEDLE (United Kingdom) said he would like to see it stated in the report that the Commission hoped all countries would take prompt action, as soon as the current session was over, to introduce the necessary amending legislation so that there should not be too long a delay before the Parties were able to apply the Protocol once it entered into force.

Article 22 was approved.

Article 23 (E/CN.7/L.328/Add.2)

Dr. BABAIAN (Union of Soviet Socialist Republics) asked that a foot-note be added to explain that, in the opinion of the representative of the Soviet Union and of those of several other delegations, article 23 was unacceptable because it was



contrary to the Declaration on the Granting of Independence to Colonial Countries and Peoples.

It was so decided.

Article 23 was approved.

Articles 23 bis and 24 (E/CN.7/L.328/Add.2) (resumed from the 662nd meeting, and concluded)

Articles 23 bis and 24 were approved.

Article 25 (E/CN.7/L.328/Add.2) (resumed from the 662nd meeting, and concluded)

Dr. BABAIAN (Union of Soviet Socialist Republics) said that, during the discussion on the article, the USSR had asked that its wording should reproduce the terms of the corresponding article of the 1961 Convention, namely, article 47. He asked the representative of the Office of Legal Affairs why that had not been done.

Mr. WATTLES (Office of Legal Affairs) said that it was a mistake on the part of the Secretariat, which had not realized that the Commission wanted the text of article 47 of the 1961 Convention reproduced literally. The procedure provided for in article 27 was virtually the same as that contained in article 47 of the 1961 Convention, but it did differ from it in two respects. The first was in paragraph 3(b), under which the Council might decide, in accordance with Article 62, paragraph 3, of the United Nations Charter, to submit the proposed amendment or revised text to the General Assembly. That faculty had not been mentioned in the 1961 Convention since it had been adopted by a conference of plenipotentiaries. In any case, since the Council could not be deprived of the powers granted it by the Charter, it was perfectly entitled either to convene a conference of plenipotentiaries for the purpose of adopting the Protocol or to submit it to the General Assembly. It was his opinion that, in order to avoid any conflict between the text of the proposed international instrument and the Charter, it was better to retain the specific details given in paragraph 3(b). Secondly, paragraph 4 was similar in substance to article 47 of the 1961 Convention, though it differed slightly in form. It was an improvement on the text of the 1961 Convention.

Dr. MABILEAU (France) said he did not think that the General Assembly was the appropriate place to negotiate conventions dealing with such matters. That view was also expressed in the French Government's comments on article 25 (E/CN.7/525), and he would ask that those comments, which gave a clear picture of France's position on the issue, be expressly quoted in the Commission's report.

Mr. FISCHER (Switzerland) said he agreed with the French representative.

Mr. NIKOLIC (Yugoslavia) said he wondered whether, to cut short all discussion and satisfy the delegations which preferred article 47 of the 1961 Convention to that of article 25, it would not be better to keep the text which appeared in the 1961 Convention.

Dr. ALAN (Turkey) said he shared that view.

Dr. REXED (Sweden) said he thought, on the contrary, that article 25 was a distinct improvement on article 47 of the 1961 Convention, and he requested that it be kept as it stood.

Mr. MILLER (United States of America) said he, too, thought it would be better to keep article 25 as it stood, since it was an improvement in that it contained a number of details which ought to have been included in the 1961 Convention.

Dr. BABAIAN (Union of Soviet Socialist Republics) proposed, as a compromise, that the text of article 25 should be kept as it stood, but that paragraphs 3(a) and 3(b) should be placed in square brackets. Rather than impinge on the prerogatives of the Economic and Social Council, which it would be doing if it ignored the Soviet delegation's proposal, the Commission should leave it to the Council to decide who should be responsible for adopting the Protocol and deciding on any amendments. It was purely a legal question, and he would like to have the opinion of the Office of Legal Affairs on the point.

Dr. MABILEAU (France) said he was prepared as a compromise and as an exceptional case, to agree if the majority of the Commission so wished, that paragraphs 3(a) and 3(b) should be put in square brackets.

Mr. WATTLES (Office of Legal Affairs), replying to the representative of the Soviet Union, said it was for the Commission to decide whether or not paragraphs 3(a) and 3(b) should be placed in square brackets. In any case, Article 62 of the Charter gave the Council the right to choose between the two procedures for the final adoption of the Protocol. Obviously, the Commission had no intention of restricting the powers of the Council under the Charter.

Dr. ALAN (Turkey) said he supported the proposal by the representative of the Soviet Union but wondered whether it would not be sufficient to place just paragraph 3(b) in square brackets, since paragraph 3(a) was in conformity with the corresponding paragraph 1(a) of article 47 of the 1961 Convention.

Dr. BABAIAN (Union of Soviet Socialist Republics), said that paragraphs 3(a) and 3(b) were interdependent. It was for the Economic and Social Council alone to choose, as was its prerogative, one or other of the two procedures which, if he was not mistaken, would be the same for the adoption of all amendments to the Protocol.

Mr. WATTLES (Office of Legal Affairs) said he did not share the view of the representative of the Soviet Union. The Economic and Social Council was free, after choosing the means of adoption, to select a different means of amendment, since any amendment to the Protocol, whatever it might be, would require the adoption of an amending protocol.

Mr. HOOVER (United States of America) agreed there was no need to use square brackets, since both alternatives were open to the Economic and Social Council. It went without saying that it was for the Council to choose between the two procedures in a given case. He proposed that the viewpoint of those delegations which could not accept the text of article 25 as it stood be given in a foot-note or in the Commission's report.

Mr. NIKOLIC (Yugoslavia) said he did not think, as the representative of the Soviet Union appeared to believe, that the simple fact of placing paragraphs 3(a) and 3(b) in square brackets offered an alternative. On the contrary, the use of the word "or" at the end of paragraph 3(a), as it now stood, effectively brought out the idea of a choice.

Dr. BABAIAN (Union of Soviet Socialist Republics) said he would be satisfied if his delegation's point of view were recorded in the Commission's report.

Article 25 was approved.

Article 26 (E/CN.7/L.328/Add.2) (resumed from the 662nd meeting, and concluded)

Mr. ANAND (India) said that he could not accept the principle stated in paragraph 2 that any dispute relating to the interpretation or application of the Protocol which could not be settled in the manner prescribed in paragraph 1 should be referred to the International Court of Justice. In view of the extremely technical nature of the questions dealt with in the Protocol, reference to the International Court of Justice was liable to give rise to considerable difficulties. He would suggest that the Commission adopt, for that paragraph, a text which would partly reproduce the foot-note to article 26 proposed by the Soviet Union representative, so that paragraph 2 would then read: "Any such dispute which

cannot be settled in the manner prescribed may, with the agreement of the Parties concerned, be referred to the International Court of Justice."

Mr. SAGOE (Ghana) said he supported that suggestion.

Dr. BOLCS (Hungary) said he still supported the Soviet text given in the foot-note to the article, but that the Indian representative's proposal was also acceptable.

Dr. ALAN (Turkey) said that the present text reflected the views of the majority of the Commission, and that there was therefore no need to go back on the question.

Dr. MABILEAU (France) said he concurred with that view.

The CHAIRMAN asked whether the Indian representative would agree to his proposed text being reproduced in a foot-note.

Dr. ANAND (India) replied in the affirmative.

Dr. BABAIAN (Union of Soviet Socialist Republics) said that the text proposed by the Indian representative was more in keeping with the spirit of the Charter than the one which he himself had submitted on behalf of the Soviet delegation. If the Indian text were not included in the body of the Protocol, it should be given as a second foot-note.

Article 26, as amended, was approved.

Article 27 (E/CN.7/L.328/Add.2) (resumed from the 662nd meeting)

Mr. BARONA LOBATO (Mexico) said that paragraph 3 was unnecessary and should be deleted. If the Commission did not agree, he would ask that his delegation's view be recorded in a foot-note.

Mr. NIKOLIC (Yugoslavia), supported by Dr. MABILEAU (France), said that there was little point in considering article 27 at the present stage, since it was bound to be fully debated by the conference of plenipotentiaries. He therefore suggested that the Commission leave it aside.

It was so decided.

Article 28 (E/CN.7/L.328/Add.2) (resumed from the 662nd meeting)

The CHAIRMAN said that the same applied to article 28.

It was so decided.

(a) CONSIDERATION OF THE DRAFT PROTOCOL ARTICLE BY ARTICLE E/CN.7/523/Rev.1, E/CN.7/525 and Corr.1 and Add.1 and 2, E/CN.7/AC.7/R.7, E/CN.7/L.311 (continued)

Article 2 bis (E/CN.7/L.331) (resumed from the 666th meeting)

Paragraphs 1 and 2

No comment.

Paragraph 3

Mr. ZUMSTEIN (Switzerland) proposed that in the fourth line of the French version, the word "obligations" should be replaced by the word "dispositions", as licences, record-keeping, etc. were not obligations: the obligation was to require licences, to require record-keeping, etc. Moreover, the word "dispositions" appeared in the previous version of that paragraph.

Mr. CHAPMAN (Canada) said he could not approve of that amendment, which would imply that all the provisions of the articles mentioned in the different subparagraphs of the paragraph would be applicable whereas, in the case of certain articles, only some of the provisions were applicable.

Dr. MABILEAU (France), Dr. ALAN (Turkey) and Mr. NIKOLIC (Yugoslavia), said they supported the Canadian representative's view.

Mr. WATTLES (Office of Legal Affairs), replying to a request from Dr. ALAN (Turkey), said that when, in the various subparagraphs of paragraph 3, the number of the article was mentioned first followed by the title in brackets, that meant that the entire article was applicable, whereas when certain provisions only of the article were applicable, those provisions were mentioned first and the number of the article followed in brackets.

Mr. SHIMOMURA (Japan) requested that his point of view, which he would communicate to the Secretariat in writing, should be duly recorded in the report.

The CHAIRMAN said he noted that a majority of the Commission approved the wording of paragraph 3 as it stood.

Paragraph 4

Dr. BABAIAN (Union of Soviet Socialist Republics) asked the representative of the Office of Legal Affairs whether paragraph 4 fully accorded with the spirit of paragraph 5 of article 2, as approved by the Commission at the 668th meeting.

Mr. WATTLES (Office of Legal Affairs) replied that he had not yet compared the new versions of those two paragraphs, but that at first sight there

did not seem to be any contradiction between them. He would, however, examine the two texts more thoroughly and report to the Commission.

Article 2 (E/CN.7/AC.7/R.7)

Paragraph 4 (resumed from the 665th meeting)

Mr. KUSEVIC (Director, Division of Narcotic Drugs) pointed out that the square brackets had been inadvertently retained in the sixth line and should be deleted, together with foot-note 1.

Mr. REXED (Sweden) said that the Technical Committee had done an excellent job, especially in paragraph 4. He was pleased to note that his viewpoint appeared in the foot-notes.

Mr. ANAND (India) said that he had no objection to the criteria set forth in paragraph 4, as such, but would like to see different importance attached to the various elements of the criteria used to classify the substances in the various schedules. Substances were not classified in the schedules according to their nature (amphetamines, barbiturates, etc.), but according to the degree of seriousness of the problem and the degree of usefulness of the substance in medical therapy. Views might differ as to their usefulness in medical therapy and there might be marginal cases; the criterion "moderate" was mentioned in two schedules.

In his view, too much importance should not be attached to the usefulness of substances in medical therapy as a criterion for their classification. Some narcotic drugs, for example, had considerable medical usefulness, but that did not prevent all narcotic drugs from being placed under very strict control. If the Commission accorded undue importance to the usefulness of substances in medical therapy, as a criterion for their classification, it would not be observing the spirit of the 1961 Convention nor the spirit of firm and effective controls. To take another example, amphetamines were not at present considered to be of great medical usefulness, but it was very likely that in future, with the development of medical knowledge, some of them would become more useful in the medical field. But they would be none the less dangerous on that account, and their present moderate usefulness should therefore not be a reason for transferring them from schedule II to schedule III. Far greater importance should be attached to the dangerous nature of substances than to their usefulness in medical therapy.

With regard to the substances recommended by the Technical Committee for classification in schedule III (E/CN.7/AC.7/R.3) he thought they should be included in schedule II and not in schedule III, owing to their dangerous nature, which had been recognized not only by the WHO Expert Committee and the Technical Committee, but also by the Commission in its earlier discussions on barbiturates. He would also have liked to see the preparations of those substances included in schedule II but, bearing in mind the objection by certain delegations that such preparations were very numerous and that the application of strict control to them would involve excessive administrative work, he would agree to their remaining in schedule III, except for those which WHO had characterized as particularly dangerous.

To sum up, the Indian delegation would urge first, that greater importance be attached to the dangerous nature of substances rather than to their therapeutic usefulness and second, that the more abuse-labile barbiturates now recommended for inclusion in schedule III should be included in schedule II.

The CHAIRMAN said that the text submitted by the Technical Committee and the Working Party went a long way towards meeting the Indian representative's concern, and laid heavy emphasis on the primary importance of the liability of a substance to constitute a public health and social problem, the criterion of therapeutic usefulness coming second. As to the Indian representative's second proposal to move certain barbiturates from schedule III to schedule II, WHO would have to give its opinion on the matter when all the necessary information had been received.

Dr. AZARAKHCH (Iran) said that the substances listed in schedule II were stimulants, which might sometimes lead to acts of violence, whereas the substances listed in schedule III were depressants which, though perhaps less liable to cause social danger than the substances listed in schedule II, were more dangerous in causing dependence. That was the case with some of the barbiturates.

Mr. NIKOLIC (Yugoslavia) said that the new text proposed for paragraph 4 was acceptable to his delegation.

Mr. BEEDLE (United Kingdom) said that he wished to draw the Commission's attention to the fact that the adoption of new nomenclatures for the criteria of the seriousness of the risk ("especially serious, serious, substantial or significant") and for the degree of usefulness in medical therapy ("great, moderate or little, if

any") had eliminated some ambiguity and he hoped that WHO would confirm that the changes would not give rise to any difficulty in the making of technical findings by WHO.

Dr. REXED (Sweden) said that the Indian representative had raised some very interesting and important problems, which were in fact the key to the discussion. He had observed that substances belonging to a single chemical family might be found in different schedules, which was quite understandable, since the group of barbiturates, for example, had a wide range in degree of danger and therapeutic usefulness. He had also quite rightly pointed out that the essential criterion was that of probable danger. Some very dangerous narcotic drugs, such as heroin, were also very useful in medical therapy and yet were subject to very strict control. The criteria should not, therefore, be added together mechanically, but the various factors involved should be pondered carefully in order to reach a proper balance between danger and usefulness.

Mr. MILLER (United States of America) said that he must congratulate the Technical Committee and the Secretariat on the admirable text they had submitted on a particularly thorny subject. Referring to the Indian representative's comments, he said he did not think that too much stress had been laid on the usefulness of a substance for medical therapy; that was only one among several variable factors, and the Technical Committee had proposed a kind of sliding scale. Basically, there were three aspects to be taken into account in classifying a substance, namely, the similarity of its effects to those of another substance already classified, its degree of usefulness in medical therapy, and its danger to public health and society; the three should be considered jointly. Obviously, it was unacceptable to instruct WHO that an arbitrary value of 75 per cent should be attributed to liability to abuse while 25 per cent should be attributed to therapeutic value. The new text was acceptable to his delegation, once the square brackets in the sixth line had been removed. He would also like the representative of WHO to explain precisely what the phrase "readily convertible" meant.

The CHAIRMAN said that the square brackets had been kept in the English and French versions by mistake. They should be regarded as deleted, together with the foot-note.



Dr. BABAIAN (Union of Soviet Socialist Republics) said that the new text faithfully reflected the comments and suggestions made during the discussion of article 2. It was essential that the criteria of harmfulness and therapeutic usefulness should be applied jointly. The Commission had been perfectly right not to take the fact that substances belonged to a single chemical family as a criterion in classifying them. He was also glad to see that the expression "findings and recommendations" had been reproduced in paragraph 5, since they were the terms used by the WHO Expert Committee.

Dr. EL-HAKIM (United Arab Republic) said that he was entirely satisfied with the new text. His delegation, however, preferred the formulations proposed in the foot-notes 2 and 3 on page 2, since it still considered that WHO was the organization competent in the matter. The United Arab Republic should therefore be mentioned in the foot-notes.

The CHAIRMAN said that the Secretariat would take note of that comment.

Dr. HALBACH (WHO) said that the criteria contemplated related to questions of pathology and pharmacology. It should not be forgotten that there were no watertight compartments in biology. The representative of the United States had quite rightly stated that it was not possible to use arithmetical calculations in applying the criteria.

Dr. BABAIAN (Union of Soviet Socialist Republics) said that another criterion which should be taken into account in classifying a substance in a particular schedule was whether or not there was another preparation with similar therapeutic value, but less liable to be dangerous. The factors mentioned in the provisions of the draft article were not the only ones to be taken into account; there was a whole range of other properties which also affected the position.

Mr. ANAND (India) said that if WHO could accept the provisions, his delegation would likewise support them; but as the representative of WHO did not seem to be very satisfied with the text, the name of his country too should be included in foot-notes 2 and 3.

Dr. AZARAKHCH (Iran) said that he too would like his country to be added to those named in the foot-notes.

Mr. THOMPSON (Jamaica) asked whether the order in which the various factors were listed - economic, social, legal, administrative and other factors - was an order of priority or merely a listing. Depending on the reply to that question, his country would or would not ask to be associated with those named in the foot-notes.

Dr. MABILEAU (France) said that there was no order of priority in the factors, and they could even be put in alphabetical order if that did not entail linguistic difficulties. His delegation would not press for any particular order.

Mr. WATTLES (Office of Legal Affairs) said that the order had been adopted to take account of the fact that the Commission was a subsidiary organ of the Economic and Social Council, but it was not essential that there should be any order of priority.

Mr. THOMPSON (Jamaica) said he was satisfied with the answer, and requested that his country be listed in the foot-notes.

Mr. BEEDLE (United Kingdom) said that the United Kingdom delegation had opposed certain provisions in article 2, paragraphs 11 and 12, at earlier meetings because it had considered that the principle stated in them was wrong; its position was quite different so far as paragraphs 5 and 10 were concerned, as it found the wording very reasonable. If, however, WHO was definitely opposed to the provisions, his delegation would abstain.

Dr. BABAIAN (Union of Soviet Socialist Republics) said that the text submitted reflected the view of the majority, and it was owing precisely to the Technical Committee's work that it had been possible to draft a text which WHO might be able to accept, despite the substantial differences of opinion which had emerged within the Commission.

Dr. HALBACH (World Health Organization) said that WHO would definitely prefer the formulations proposed in foot-notes 2 and 3, and would communicate its comments to that effect later.

Mr. BEEDLE (United Kingdom) said that, if WHO was not categorically opposed to the new text, his delegation would support the formulation proposed, as it found it entirely satisfactory.

Dr. CHAPMAN (Canada) said that paragraphs 4, 5 and 10 satisfactorily set out the respective responsibilities of WHO and the Commission, and he was therefore in favour of the text.

Dr. DANNER (Federal Republic of Germany) said he was in favour of the text submitted by the Technical Committee.

Mr. ANAND (India) said that since WHO had not unreservedly accepted the new text, his delegation would wait until it saw that organization's comments before stating whether it could approve it or whether it wished to associate itself with the countries named in the foot-notes..

Mr. ZUMSTEIN (Switzerland) said that he approved the next text, since he considered that the factors listed in paragraph 5 should be taken into account.

The CHAIRMAN said that the text which the Commission had just considered certainly reflected the majority view, and might be regarded as approved.

Article 2, paragraphs 4, 5 and 10 (E/CN.7/AC.7/R.7) was approved.

The meeting rose at 12.55 p.m.



SUMMARY RECORD OF THE SIX HUNDRED AND SEVENTIETH MEETING

held on Wednesday, 28 January 1970, at 3.15 p.m.

Chairman: Mr. BERTSCHINGER (Switzerland)

THE DRAFT PROTOCOL ON PSYCHOTROPIC SUBSTANCES (agenda item 3):

(a) CONSIDERATION OF THE DRAFT PROTOCOL ARTICLE BY ARTICLE (E/CN.7/523/Rev.1, E/CN.7/525 and Corr. 1 and Add. 1 and 2; E/CN.7/AC.7/R.3, E/CN.7/AC.9/R.2; E/CN.7/L.333) (continued)

Article 1 (E/CN.7/L.333) (resumed from the 663rd meeting)

Introductory wording and paragraphs (a) to (e)

No comment.

Paragraph (f)

Mr. KUSEVIĆ (Director, Division of Narcotic Drugs) said that the observer for Belgium had raised the question of pharmaceutical preparations containing one or more psychotropic substances prepared in a form which was not a mixture or a solution, for instance, as a capsule containing only the psychotropic substance or substances and a coating. Such preparations would not be covered by the future Protocol if the definition of the term "preparation" given in the second redraft of the article was allowed to stand. He therefore invited the Commission to consider the replacement of that definition by the following text:

"(f) "Preparation" means (i) any mixture or solution, in whatever physical state, containing one or more psychotropic substances; or (ii) one or more psychotropic substances portioned into single doses for therapeutic purposes."

Dr. ALAN (Turkey) said that that text was acceptable to his delegation.

Dr. DANNER (Federal Republic of Germany) said that, in his opinion, the case of a preparation containing more than one psychotropic substance was covered by the word "mixture" in the first part of the definition. The words "one or more psychotropic substances" in the second part could therefore be replaced by the words "a psychotropic substance".

Dr. MABILEAU (France) pointed out that a capsule could contain two unmixed psychotropic substances coated in such a way as to dissolve at different times inside the body.

Mr. KUSEVIĆ (Director, Division of Narcotic Drugs) said he thought it would be advisable to keep the second part of the definition in the form in which he had read it out, in order to be certain that all preparations of the kind under discussion were covered.

Dr. BABAIAN (Union of Soviet Socialist Republics) said he agreed; firms had begun to manufacture micro-capsules which contained unmixed granules of different substances and were intended to be taken either in separate doses or in one dose so as to dissolve inside the body in successive stages.

Mr. CHAPMAN (Canada) said that it was precisely because of the existence of multiple-dose preparations that he had doubts about the words "single doses". He therefore proposed that the second part of the definition suggested by the Director of the Division of Narcotic Drugs should read: "(ii) one or more psychotropic substances in dosage form for therapeutic use".

Mr. KUSEVIĆ (Director, Division of Narcotic Drugs) said that the change proposed by Canada simplified the text and, in his view, was acceptable.

Mr. HUYGHE (Observer for Belgium), speaking at the invitation of the Chairman, said that he favoured the wording read out by the Director, as amended by the Canadian representative.

Dr. MABILEAU (France) asked the Secretariat to circulate the text of the new proposed definition, as amended by Canada. He suggested that the Commission should postpone consideration of the definition of the term "preparation" until it had that text before it in writing.

It was so decided.

Paragraphs (g) to (i)

No comment.

Paragraph (j)

Mr. BARONA LOBATO (Mexico) asked that the words "persona natural" in the Spanish version should be replaced by "persona física", since the latter was the more usual term.

It was so decided.

Paragraph (k)

No comment.

Paragraph (1)

Mr. BARONA LOBATO (Mexico) said he wished it to be placed on record that his delegation did not interpret the existing definition of the term "production", or any of the other definitions, to mean that, should Mexico become a Party, the future Protocol would impose any obligation upon it with regard to plants which grew wild and from which psychotropic substances could be obtained, or with regard to hallucinogenic substances used in religious rites and any production activities which such use entailed. Mexico had to express those reservations because plants of that kind grew wild in its territory - for instance, peyote, from which mescaline was extracted - and because some of its indigenous inhabitants used hallucinogenic substances for religious purposes. Unless the definition was amended in a manner acceptable to his delegation, it would have to request the inclusion in the Commission's report of a foot-note recording its position.

Mr. STEWART (United Kingdom) said that his delegation had two doubts about the definition. Firstly, it understood that tetrahydrocannabinols could be obtained from the cannabis plant. That process would fall within the existing definition, and difficulties might therefore arise because cannabis production would be regulated by both the 1961 Convention and the future Protocol. Secondly, it might be held that the definition extended to the cultivation for ornamental purposes of cactus plants from which mescaline could be extracted. The amateur cultivation of cacti was popular in the United Kingdom, and his Government did not wish to find itself obliged to control it. The same might apply to the cultivation of some forms of mushrooms from which psychotropic substances could be extracted. Unless the Commission devised an amended wording acceptable to the United Kingdom, his delegation would request the inclusion of a foot-note in the Commission's report expressing the United Kingdom's attitude towards the definition.

Dr. BÖLCS (Hungary) said that he realized the existing definition was a source of difficulty to some countries, and thought that the problem might be solved by an amendment to the definition.

Dr. BABAIAN (Union of Soviet Socialist Republics) agreed. He suggested that the Technical Committee should be invited to review the definition and devise a text which disposed of the difficulties facing the Mexican and United Kingdom delegations. He further suggested that the Commission should defer consideration of the definition until it had a new text before it.

It was so decided.

Paragraph (m)

Mr. DITTERT (International Narcotics Control Board) proposed that the words "for use including retail distribution, medical use and scientific research" should be replaced by the words "for retail distribution, medical use or scientific research". That would exclude distribution from one wholesaler to another from the definition of consumption in the draft Protocol and bring the latter into line with the 1961 Convention.

Dr. MABILEAU (France) supported that proposal.

The proposal was adopted.

Paragraph (n)

The CHAIRMAN suggested that the wording in square brackets could now be deleted.

It was so decided.

Paragraph (o)

No comment.

Paragraph (p)

Mr. HUYGHE (Observer for Belgium), speaking at the invitation of the Chairman, said he thought the definition should include a reference to the functions of midwives.

Dr. MABILEAU (France) said he thought the definition was unnecessary, and suggested that it should be deleted.

Dr. ALAN (Turkey) said that the definition was badly formulated, because an enumeration always entailed the risk of accidental omission. He thought it would be preferable to adopt a text which left it to each country to decide what persons should be regarded as exercising therapeutic functions.

Mr. HUYGHE (Observer for Belgium), speaking at the invitation of the Chairman, agreed with the Turkish representative and said that a text of the kind the latter had suggested would cover the question of midwives.

Dr. MÅRTENS (Sweden) said that his country had originally suggested that therapeutic functions should be defined, because the term occurred so often in the text of the draft Protocol. It would not, however, insist on the definition being retained.

Dr. BABAIAN (Union of Soviet Socialist Republics) supported the French suggestion.



The CHAIRMAN said that the French suggestion for the deletion of the definition seemed to be generally acceptable, and suggested that it should be adopted.

It was so decided.

Paragraph (g)

The CHAIRMAN suggested that the wording in square brackets could now be deleted.

It was so decided.

Schedules I - IV (E/CN.7/AC.7/R.3) (resumed from the 661st meeting)

Dr. MÅRTENS (Sweden) proposed that the criteria preceding the various lists in the Technical Committee's report (E/CN.7/AC.7/R.3) should be amended to accord with the Commission's decision on article 2, paragraph 4 (669th meeting).

Dr. MABILEAU (France) suggested that the criteria could be deleted from the schedules altogether.

Mr. ANAND (India) said that he assumed that the schedules given in the report of the Technical Committee would be revised by the WHO Expert Committee and brought into line with the criteria which had been adopted at the 669th meeting. In the opinion of his delegation, the main criterion should always be the risk to public health, and not the chemical composition of the substance in question or its usefulness in medical therapy. Substances with similar and equal risks should be grouped in the same schedule.

Mr. MILLER (United States of America) thought it had already been agreed that the criteria had been inserted above each schedule merely as an illustration of the type of drugs to be included, and would be eliminated as soon as the schedules themselves had been established.

Dr. BABAIAN (Union of Soviet Socialist Republics) and Mr. NIKOLIĆ (Yugoslavia) said that they shared the view of the United States representative.

Dr. MÅRTENS (Sweden) said that he withdrew his proposal.

Mr. CHAPMAN (Canada) asked that a foot-note should be included in the report stating that his delegation had taken the schedules in the Technical Committee's report into account in making a number of decisions, although it fully realized that it was a provisional document. The criteria given in the headings should, of course, be removed.

The CHAIRMAN said it appeared to be the consensus of opinion that the headings should be removed.

Article 12 (E/CN.7/AC.9/R.2) (resumed from the 661st meeting)

Mr. CHAPMAN (Canada), Chairman of the Working Group presenting its report on article 12 (E/CN.7/AC.9/R.2) said that the Working Group had consisted of the delegations of Canada, France, Turkey, the USSR and Yugoslavia, and that the redraft had been worked out to meet the special needs of those delegations. The word "exceptionally" in the second sentence of paragraph 1 of the first draft (E/CN.7/L.328/Add.1) had been deleted and the words "limited quantities" had been replaced by "specified quantities". Paragraph 3 had been revised to make its purpose clearer, but the substance had not been altered.

Dr. ALAN (Turkey) thanked the members of the Working Group for having accepted certain changes suggested by his delegation.

Mr. STEWART (United Kingdom) noted that the redraft of article 12 omitted certain words in the previous text which made it an exceptional matter for a Party which prohibited imports to authorize them subsequently. He assumed the authors of the new text had thought that the words "special import licence" made it clear that it would be in exceptional circumstances and in respect of limited quantities that import licences would be issued by a Party which otherwise prohibited imports of the substances in question. His delegation was, however, greatly concerned about the last sentence in paragraph 1, which again raised the question whether a Party could, by its regulation of its import trade and licensing system, compel another Party to make its system of authorizing exports of substances in schedules III and IV more elaborate. The corresponding sentence in the previous draft had merely said: "A copy of the licence shall accompany the shipment", which would seem to refer to a copy of the special import licence, but the new version referred specifically to a copy of the "export" licence. It seemed to him that in the case of exports of substances in schedules III and IV, which the Parties could authorize by the simple procedure of the submission of an export declaration by the exporter, the new text might have the effect of forcing a country to apply a much more restrictive system at the behest of some other country. His delegation would appreciate some clarification of that point.

Dr. MABILEAU (France) said that his delegation found the new text completely satisfactory. Parties to the Protocol must have some means of protecting themselves against dangerous exports, even if that caused difficulties for exporters.

Mr. ANAND (India) and Dr. BABAIAN (Union of Soviet Socialist Republics) said that they fully supported the new text of article 12.

Mr. CHAPMAN (Canada), Chairman of the Working Group, replying to the United Kingdom representative, said that the Working Group had, in fact, felt that the use of the word "special" in the phrase "special import licence" in the second sentence of paragraph 1 made it sufficiently clear that the case in question would be exceptional. Moreover, it had deliberately inserted the word "export" in the last sentence of that paragraph for purposes of clarification, since it believed that the reference was to an export and not to an import licence.

Mr. STEWART (United Kingdom) said it still seemed to him that, under the new text, a Party which prohibited the import of substances in schedules III and IV and then issued a special import licence for them was in effect foisting upon another country a requirement to license specific exports which was not provided for under the systems of control applicable to those substances. He asked that his point of view should be recorded in the Commission's report.

Mr. KARIM (Pakistan) said that his delegation was satisfied with the new text of article 12, since every country had the right to impose such controls as it saw fit.

Mr. NIKOLIĆ (Yugoslavia) said that his delegation also supported the new text.

(b) APPROVAL OF A REVISED DRAFT PROTOCOL (E/CN.7/L.328/Add.3) (continued)

Article 4 (E/CN.7/L.328/Add.3) (resumed from the 668th meeting, and concluded)

Mr. CHAPMAN (Canada) asked that a reference to his delegation's position with respect to that article should be included in the report.

Article 4 was approved.

ADOPTION OF THE REPORT (agenda item 4) (E/CN.7/L.329 and Add.1 and 2).

The CHAIRMAN invited the Commission to consider the draft report on the work of its first special session, paragraph by paragraph.

Chapter I - Organizational and administrative matters (E/CN.7/L.329)

Paragraphs I.1 - I.7.

Paragraphs I-1 - I.7 were adopted.

Paragraph I.8.

Mr. ANSAR KHAN (Secretary of the Commission) said that ICPO/INTERPOL should be included among non-governmental organizations in category II and not among those in category I.

Paragraph I.8, as amended, was adopted.

Paragraph I.9.

Mr. MILLER (United States of America) and Dr. ALAN (Turkey) suggested that the name of the representative of the Office of Legal Affairs should be included in the paragraph.

Paragraph I.9, as amended, was adopted.

Paragraph I.10.

In reply to a comment by Dr. ALAN (Turkey), the CHAIRMAN said that there was no paragraph I.11; the paragraphs in the rest of the document would be re-numbered accordingly and the paragraph number in parenthesis would in paragraph I.10 be corrected.

Paragraph I.10, as amended, was adopted.

Paragraph I.12.

Paragraph I.12 was adopted.

Paragraph I.13.

Mr. CHAPMAN (Canada) suggested that the name of the United Kingdom should be deleted and the name of Turkey inserted in subparagraph (d).

Dr. MABILEAU (France) suggested that the observer for Spain should be included amongst the observers who took part in the work of the Technical Committee (subparagraph (b)).

Paragraph I.13, as amended, was adopted.

Paragraphs I.14 and I.15.

Paragraphs I.14 and I.15 were adopted.

Paragraph I.16.

Dr. BABAIAN (Union of Soviet Socialist Republics) pointed out that the revised draft mentioned in the part of the paragraph dealing with Council resolution 1402 (XLVI) of 5 June 1969 had not been prepared by the Secretary-General but by the Commission at its twenty-third session.

Paragraph I.16, as amended, was adopted.

Paragraph I.17.

Dr. MABILEAU (France) suggested that the first sentence needed amendment, since the Commission had had no choice but to restrict the work of the special session to the preparation of the draft Protocol.

After a brief discussion in which Dr. BABAIAN (Union of Soviet Socialist Republics), Mr. NIKOLIC (Yugoslavia) and Dr. REXED (Sweden) took part, the CHAIRMAN

suggested that the sentence should be amended along the following lines: "In conformity with Council resolution 1402 (XLVI), the Commission rigorously restricted its work to the agenda it had adopted". It might be left to the Secretariat to find a suitable wording and also to check the date given in the second sentence.

It was so decided.

Paragraph I.17 was adopted, subject to the necessary redrafting by the Secretariat.

Paragraph I.18.

Paragraph I.18 was adopted.

Paragraph I.19.

Paragraph I.19 was adopted, subject to the insertion of the appropriate meeting number.

Paragraph I.20.

Mr. MILLER (United States of America) said that the words "Narcotics Commissioner" should be replaced by "Commissioner of Narcotics", which was the correct title of the post formerly held by Mr. Anslinger.

Dr. MABILEAU (France) suggested that the final phrase should be amended to read "signed by all participants". Many observers and others present had known Mr. Anslinger and Mr. Curran for many years and would like to be able to sign the letters.

Paragraph I.20 was adopted, subject to those two amendments.

Chapter II -- The draft Protocol on psychotropic substances (E/CN.7/L.329/Add.1)

Paragraph II.1

Paragraph II.1 was adopted.

Paragraph II.2

Mr. ANAND (India) suggested that the words "was of basic importance as a guideline to the Commission" at the end of the first sentence should be replaced by "formed a good background paper for the Commission". The wording of the second sentence should also be modified to take account of the fact that, as a result of the changes the Commission had made in the criteria for placing substances in the different schedules, the WHO Expert Committee might wish to amend the lists of substances it had suggested for each schedule, and it would be the amended list that would be considered at the plenipotentiary conference.

Dr. BABAIAN (Union of Soviet Socialist Republics) said he could accept the proposed amendment to the first sentence. With regard to the second sentence, he proposed the deletion of the reference to the plenipotentiary conference, since there were no grounds for assuming that such a conference would be convened.

Dr. MABILEAU (France) suggested that the Commission might revert to the paragraph after it had considered draft resolution B (E/CN.7/L.329/Add.2).

Mr. MILLER (United States of America) said that, in the absence of instructions from its Government, his delegation would be unable to participate in any discussion of the draft resolution at the present juncture.

Dr. BABAIAN (Union of Soviet Socialist Republics) said he still thought that the wording of the report should correspond to the actual situation at the conclusion of the special session. He had repeatedly said that there was no document before the Commission which would justify the constant references to a plenipotentiary conference, and the Commission could not go beyond the assumption that a body would be appointed by the Council to adopt the revised text of the draft Protocol. It was for the Council to take the decision since, under the rules for the calling of international conferences of States (Council resolution 366(IV) of 3 December 1949) the Council might decide to call a conference, provided that, after consultation with the Secretary-General and the appropriate specialized agencies, it was satisfied that the work to be done could not be done satisfactorily by any organ of the United Nations or by any specialized agency. Without knowing the results of such consultation, the Commission could not even advise the Council whether the calling of a conference would be necessary.

Mr. WATTLES (Office of Legal Affairs) said it was entirely for the Commission to decide whether to make any recommendations to the Council with respect to the procedure for handling the adoption of the revised draft. The Commission was entitled to express its views on the subject, but was under no obligation to do so.

Dr. REXEL (Sweden) said he thought the Commission should make a recommendation to the Council. Under rule 39 of the rules of procedure of the functional commissions of the Council, recommendations should, so far as practicable, be framed as a draft resolution of the Council. If draft resolution B required a sponsor, his delegation was prepared to act in that capacity. He hoped, however, that the draft resolution would be sponsored by the whole Commission. If the draft resolution was adopted, the words "as proposed by the Commission" could be inserted after the words "plenipotentiary conference" in the penultimate line of paragraph II.2.

Dr. BABAIAN (Union of Soviet Socialist Republics) pointed out that many international treaties had been adopted without the calling of plenipotentiary conferences. The Commission was prejudging the issue and would be exceeding its mandate if it recommended that a plenipotentiary conference should be called.

Mr. WATTLES (Office of Legal Affairs) said that the procedure being suggested and the text of the draft resolution proposed closely followed the precedent which the Commission had established at its thirteenth session in 1958 when it had recommended the Council to convene a plenipotentiary conference for the adoption of the text of the 1961 Convention. The resolution adopted on that occasion was contained in the Commission's report on its thirteenth session, and included the text of a draft resolution for adoption by the Council.<sup>1/</sup> It was quite normal for the subsidiary organs of the Council and of the General Assembly to follow such a procedure.

Dr. BABAIAN (Union of Soviet Socialist Republics) requested that the views of the Legal Counsel should be obtained on the Commission's legal competence in the matter. Information would also have to be obtained on the financial implications of the draft resolution.

Mr. WATTLES (Office of Legal Affairs) said he would send a cable to Headquarters that afternoon, and hoped a reply would have been received by the following day.

Mr. ANSAR KHAN (Secretary of the Commission) said that estimates of the cost of convening a plenipotentiary conference would be put before the Commission when it came to discuss the draft resolution.

Dr. REXED (Sweden) said it was essential for the Commission to indicate how it thought work on the adoption of the revised text it had prepared should proceed, and to give some idea of the time that would be required. The Commission, and the United Nations as a whole, were interested in the speedy adoption of an international instrument, and it would be most unfortunate if the impression were given that they were not.

Dr. MABILEAU (France) agreed that a draft resolution should be adopted. If the USSR representative had ideas other than those contained in the draft resolution already circulated to the Commission, it would be useful if he could express them.

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<sup>1/</sup> Official Records of the Economic and Social Council, Twenty-sixth Session, Supplement No. 9 (E/3133, annex I, section 2,III.

Dr. BABAIAN (Union of Soviet Socialist Republics) suggested that further discussion of paragraph II.2 should be postponed until a reply had been received from the Legal Counsel.

It was so decided.

Paragraph II.3

Paragraph II.3 was adopted.

Paragraphs II.4 and II.5

Mr. NIKOLIĆ (Yugoslavia) proposed the deletion of the second sentence of paragraph II.4.

Dr. BABAIAN (Union of Soviet Socialist Republics) said he thought that the point made in that sentence should, however, be reflected somewhere in the report. The sentence might be redrafted to state that it had not been considered appropriate to give a detailed account of the views expressed by delegations in the report, which only recorded views on matters of principle. He reserved the right to revert to paragraph II.5 when a reply from the Legal Counsel had been received.

Mr. BEEDLE (United Kingdom) said that all that was required was to explain why no narrative chapter was being included in the report. Paragraph II.5 could be deleted and paragraph II.4 be expanded to make the situation quite clear. He proposed a text for the new paragraph, which he would hand to the Secretariat for translation and circulation to members of the Commission.

It was decided to revert to paragraphs II.4 and II.5 when the text proposed by the United Kingdom representative was available.

Paragraph II.6

Paragraph II.6 was adopted.

Paragraph II.7

Mr. ANSAR KHAN (Secretary of the Commission) said that the word "reservation" as used in the paragraph did not mean a formal reservation to an article of the Protocol. A more appropriate word would be sought, since the reference was to the adoption of a formal position with a view to its being recorded in the Commission's report.

Dr. ALAN (Turkey) proposed the deletion of the second sentence of the paragraph.



Mr. NIKOLIĆ (Yugoslavia) said he saw no reason why the views of delegations should be included at that point in the report; their opinions were already given in foot-notes to different articles in the revised draft text, were to be found in the summary records, and were also to be given elsewhere in the report.

Mr. ANAND (India) said he agreed with the Yugoslav representative. Paragraph II.7 should be deleted altogether.

Mr. MILLER (United States of America) said he shared the views of the Yugoslav representative.

Dr. MABILEAU (France) said he, too, agreed with the Yugoslav representative. If, however, a delegation particularly requested that a statement on a given point should be included in the report, such statement should be so included.

It was decided to delete paragraph II.7.

The meeting rose at 6.15 p.m.



SUMMARY RECORD OF THE SIX HUNDRED AND SEVENTY-FIRST MEETING

held on Thursday, 29 January 1970, at 10.50 a.m.

Chairman:

Mr. BERTSCHINGER (Switzerland)

THE DRAFT PROTOCOL ON PSYCHOTROPIC SUBSTANCES (agenda item 3) : (b) APPROVAL OF A REVISED DRAFT PROTOCOL (E/CN.7/L.328/Add.4) (continued)

Article 2 (E/CN.7/L.328/Add.4) (resumed from the 667th meeting, and concluded)

The CHAIRMAN invited the Commission to consider the final version of article 2 paragraph by paragraph.

Paragraphs 1 and 2

No comment.

Paragraph 3

The CHAIRMAN said that the Commission would have to decide whether to retain the square brackets round subparagraph (b).

Mr. CHAPMAN (Canada) said that he thought the provision contained in paragraph 3 (b) would be difficult to apply in practice, because it would take some time to introduce the necessary legislation. He would prefer the deletion of the subparagraph in square brackets; it would then be left to Parties to take stricter measures of control in their territories as appropriate.

Dr. REXED (Sweden) pointed out that the purpose of the rule contained in paragraph 3 (b) was to provide for the establishment of speedy and effective control over the particularly dangerous substances in schedules I and II. It was a question of a provisional regime, which would perhaps have to be used only rarely, but which was essential to enable urgent action to be taken when the situation so required. He did not see how that provision could be detrimental to some countries; on the contrary, it would be very useful in the event of immediate danger. In his opinion, subparagraph (b) should be retained and the square brackets should be deleted.

Dr. AZARAKHCH (Iran) supported the views of the Swedish representative.

Mr. WATTLES (Office of Legal Affairs) said that so far as difficulties of application were concerned, the provision corresponded to article 3, paragraph 3 (ii), of the 1954 Convention. The Commission had far greater experience than himself in that respect.

Mr. BEEDLE (United Kingdom) said that he sympathized with the concern of the Swedish representative for emergency measures to meet an immediate danger, but he agreed with the Canadian representative that the provision in question could be a source of great difficulty; it was to be feared that, instead of facilitating the adoption of the necessary measures, it would in fact lead to confusion.

Mr. HUYGHE (Observer for Belgium), speaking at the invitation of the Chairman, said that in his country, it was perfectly possible to apply provision measures of control to a substance suspected of having harmful side effects, pending the availability of fuller information on the subject. The important thing was obviously the possibility of speedy action, but such a system also had disadvantages. WHO, for instance, had recommended that certain dangerous by-products should be subjected to the same control measures as narcotic drugs, but it had ultimately proved possible to include some of them in schedule IV.

Mr. ANAND (India) said he did not think the countries concerned had experienced difficulties in applying the analogous provisions of the 1961 Convention. He saw no reason why those countries should face serious obstacles in the case of the Protocol. The fact that the substances in schedules I and II offered a particularly serious risk to public health justified a measure of the kind provided for in paragraph 3 (b). Moreover, it was unthinkable that a body like the Commission, which was so fully aware of its responsibilities, would take ill-considered decisions. He was therefore unable to share the view of some delegations, and requested the deletion of the square brackets and the retention of subparagraph (b) in its present form.

Mr. MOUJAES (Lebanon) said that, in his opinion, exceptional measures were unnecessary, especially if they might ultimately be revoked. He therefore favoured the deletion of subparagraph (b).

Mr. MILLER (United States of America) shared the views of the representatives of Canada and the United Kingdom with regard to the difficulty of applying subparagraph (b), and agreed that the subparagraph should be deleted.

Dr. BOLCS (Hungary) said that he favoured the deletion of paragraph 3 (b), because every Party could take whatever control measure it thought appropriate to meet a serious situation.

The CHAIRMAN pointed out that the Parties would not be free to apply the measures provided for in paragraph 3 (b) solely if they saw fit; they would be obliged to adopt them once the Commission had decided that they should be applied provisionally.

Dr. BABAIAN (Union of Soviet Socialist Republics) said that his country would face none of the difficulties mentioned by various delegations. In March 1967, it had adopted very strict legislation on LSD and the hallucinogens, which were subject to rigorous control and could be used only in certain research institutes. Complementary steps had been taken in respect of barbiturates. He could not therefore see why it would be difficult to apply the speedy and effective measures provided for in subparagraph (b).

Dr. REXED (Sweden) said that he too failed to understand the difficulties to which some delegations were referring. It was generally the health authorities that decided on the application of certain measures, and effective machinery had to be provided for at government level to ensure that those measures entered into force immediately. The health authorities had to keep constantly abreast of the situation, so administrative delays must be avoided in the case of such highly dangerous substances as those in schedules I and II. Excessive strictness would be preferable to undue delay in taking action. It would be particularly illogical to exclude such a provision from the Protocol when similar measures were provided for in the 1961 Convention. It was not a question of hypothetical situations, but of specific cases which had already arisen and had resulted in action under the 1961 Convention. He therefore again wished to press for the retention of subparagraph (b).

Mr. CHAPMAN (Canada) pointed out that his Government's success in establishing some degree of control over the sale of dangerous substances was due to legislative and penal measures which enabled severe penalties to be imposed on offenders. It would nevertheless be against the public interest to enact provisional legislation and thus to be obliged in certain cases to punish acts which would be temporarily treated as offences but might later cease to be so treated.

Mr. de BRITTO FIRMEZA (Brazil) said that he fully agreed with the Canadian representative.

Dr. DANNER (Federal Republic of Germany) said he favoured the retention of subparagraph (a), but thought that subparagraph (b), which was too peremptory, should be deleted for technical reasons.

Mr. SAGOE (Ghana) said that although his delegation favoured strict measures, it would abstain if a vote was taken on the retention of subparagraph (b) because, despite the soundness of the Swedish representative's arguments, the provision would still be difficult to apply, particularly as far as penal sanctions were concerned. The objection raised by the Canadian representative in that connexion was fully justified.

Mr. NIKOLIC (Yugoslavia) said that he, too, doubted the advisability of such a provision; in his view, it ran counter to the desired objective, since the Commission met only once every two years and would therefore need time to decide on the application of the provisional measures concerned. Subparagraph (a), on the other hand, was relevant, since it was reasonable for a government to seek to place a substance under provisional control on the strength of its information about that substance.

Dr. ALAN (Turkey) said that he supported the views of the Swedish representative and of those delegations which had advocated the retention of subparagraph (b). It was necessary to bear in mind that there was a similar provision in the 1961 Convention, an instrument to which most States represented in the Commission had acceded, and that there was, consequently, no reason why the same provision should not be adopted with regard to psychotropic substances. Moreover, if subparagraph (a) was accepted, the possibility of applying provisional control measures would already be recognized. It should also be remembered that the substances concerned were the particularly dangerous ones in schedules I and II. It would therefore be desirable to allow countries to take provisional measures with regard to new substances, on the recommendation of WHO, so as to prohibit their production or import.

Dr. MABILEAU (France) said that, as experience of recent years had shown, the abuse of some substances was growing so rapidly that the time left to the authorities to deal with the resulting situations was becoming increasingly limited. In 1966, after an initial discussion of the question of hallucinogens and similar substances, the Commission had adopted a very strong resolution which was wide enough in scope to be applied to the substances in schedule I. France had taken the appropriate measures in that same year. In 1969, at the request of the Swedish delegation, the Commission had unanimously adopted another strongly worded resolution on amphetamines, which were the subject of schedule II, and had shown its readiness to agree to those substances being placed under a control regime similar to that laid down in the 1961 Convention. The latter, of course, provided for a provisional system of control and, generally speaking, it was those delegations that had pressed for a weakening of the measures provided for in the 1961 Convention which now found the measures envisaged in the draft Protocol too severe. His own delegation favoured adopting a strong position, because it was a question of epidemics which could spread like a forest fire; although that kind of fire could be mastered in its early stages, it quickly got out of control. It would therefore be regrettable if the provision

contained in paragraph 3 (b) was not discussed more fully at a further stage of the Commission's work.

Mr. THOMSON (Jamaica) thought that subparagraph (b) should be retained. He had, however, doubts on one point: would the adoption of subparagraph (b) mean, as the Canadian representative had said, that a Party which decided to apply provisional measures of control would be obliged to apply the corresponding penal provisions prescribed in article 18 of the draft Protocol? He would find it difficult to accept that obligation, because the Jamaican Government could not consider creating a temporary criminal offence.

Mr. WATTELES (Office of Legal Affairs) said that in view of the terms of article 3, paragraph 3 (ii), of the 1961 Convention the implication was that the measures applicable would include penal measures under article 18 of the Protocol.

Dr. BABAIAN (Union of Soviet Socialist Republics) said he did not think that retention of paragraph 3 (b) could give rise to difficulty. It could safely be assumed that if the Commission decided that the Parties should apply provisional measures of control to a substance, there was little likelihood that that substance would subsequently be found to be harmless. Since that seemed to be the opinion of the majority, the Commission might decide to retain paragraph 3 (b).

The CHAIRMAN said he must correct that impression: of the seventeen delegations which had expressed their views, eight had been in favour of retaining paragraph 3 (b) of article 2, eight had wished it to be deleted and one had abstained. In the circumstances, it would be useful if those delegations which had not already done so would give their opinion on the matter.

Mr. FISCHER (Switzerland) said that the situation in respect of psychotropic substances was much more complex than that in respect of narcotic drugs. While some countries might be faced with a serious situation requiring urgent action, others, in which there was no problem, would be somewhat reluctant to introduce measures which they perhaps considered superfluous so long as a final decision had not been taken. He therefore advocated the deletion of paragraph 3 (b).

Mr. BARONA LOBATO (Mexico) said he shared that view.

Mr. SHIMOMURA (Japan) said he could not agree. He questioned, however, whether it was essential for the provisional measures to be associated with the penal provisions contained in article 18.

Dr. ALAN (Turkey) said that the penal provisions in article 18 were at the root of the misgivings felt by several members of the Commission. He asked the representative of the Office of Legal Affairs if it would be possible for paragraph 3 (b) to specify that the application of those provisions was not intended.

Mr. WATTLES (Office of Legal Affairs) replied that if the Commission so wished, the words "except for measures under article 18 of the Protocol" could be added at the end of paragraph 3 (b).

Mr. MILLER (United States of America) said he could not accept that idea. If it was decided to apply control measures, even on a provisional basis, such measures must be accompanied by penal provisions. Otherwise why would a manufacturer apply for a licence or keep records if he knew in advance that he ran no risk of being penalized if he did not do so?

Mr. BEEDLE (United Kingdom) said that, as he had stressed before, the basic issue was whether the Commission would have the capability of deciding, without advice or recommendation from WHO, that a substance not already controlled, or alternatively a substance in schedule III or schedule IV, should be added to or transferred to schedule I or schedule II. The matter was complicated by the fact that the Commission had altered the criteria originally proposed, on the one hand to simplify the categories but, on the other hand, to widen the scope of factors which it would take into account in deciding upon findings and recommendations from WHO. His delegation had felt strongly from the outset that the Commission would find it very difficult to take a decision about scheduling, or even to evaluate the size of a public health problem, without advice from WHO. He remained of the view that the Commission could not realistically be asked to take decisions binding on Parties without advice from WHO. He did not share the misgivings of the French and Swedish delegations that excluding the power of provisional control would weaken the Protocol. Provided Parties were forthcoming in their national reports of general situations and new developments in abuse of psychotropic substances, WHO and the Commission should always be able to see the first signs of a new international problem and to locate particular danger spots in good time.

Dr. REXED (Sweden) said he did not consider it necessary to specify that paragraph 3 (b) excluded the application of the provisions of article 18 since, under article 19 of the Protocol, each Party was in any case entitled to apply national measures of control more severe than those required by the Protocol and, consequently, to introduce appropriate penal provisions to accompany the provisional measures of control. Article 18, far from being rigid, offered a sufficiently wide range of



possibilities - and those possibilities were in any case limited in matters of competence by the penal legislation of each Party - to reassure those members of the Commission who feared that adoption of paragraph 3 (b) in its present form would entail too severe penal measures.

Referring to the statement by the United Kingdom representative, he said he still believed that the Protocol must provide the means for urgent measures to check any epidemic situations which might be caused by a new psychotropic substance in future.

Mr. ANAND (India) did not think that the misgivings of some members of the Commission concerning the impact of article 18 on paragraph 3 (b) were fully justified. It seemed hardly likely that after having requested Parties to apply provisional measures of control to a substance which had been found to be dangerous, the Commission would then have to beat a retreat. In any case, the Party concerned would be the sole judge of the gravity of any offence committed, and would be free to apply to it whatever penal provisions it had adopted for the purpose. He was therefore still convinced that paragraph 3 (b) should be retained as it stood.

Dr. MABILEAU (France) said that, despite his reservations about maintaining square brackets, he would propose that, in view of the division of opinion in the Commission, paragraph 3 (b) should be retained as it stood, but be left in square brackets. The Commission would thus leave it to the body which adopted the Protocol to study the matter in greater detail.

Dr. BABAIAN (Union of Soviet Socialist Republics) suggested that the difficulty might be overcome by adding at the end of paragraph 3 (b) a sentence stating that the Parties concerned would apply article 18 if they deemed it necessary. He could, however, agree with the views of the French representative and would bow to the wishes of the majority, if the Commission decided to retain paragraph 3 (b) in square brackets.

The CHAIRMAN said that in view of the divergence of views in the Commission, paragraph 3 (b) of article 2 would be kept in square brackets.

Paragraph 3 was approved subject to that reservation.

Paragraphs 4 and 5

Paragraphs 4 and 5 were approved

Paragraph 6

Dr. BABAIAN (Union of Soviet Socialist Republics) reminded the Commission of its decision that his delegation's views would be reflected, without change, in the report.

Paragraph 6 was approved.

Paragraph 7

Mr. WATTLES (Office of Legal Affairs) reminded the Commission that, in conformity with the decision it had taken, the square brackets round the words in the second and third lines should be deleted and the words "all States" be mentioned in a foot-note. That amendment would be made in all paragraphs in which the same two groups of words appeared.

Dr. BABAIAN (Union of Soviet Socialist Republics) said that foot-note 6 was too brief. That foot-note should indicate that, in the opinion of the USSR delegation, the decisions taken by the Commission on the control of psychotropic substances were of the utmost importance and should be communicated to all States, even if they were not Parties to the Protocol, since even such States would have trade relations with countries which were Parties to the Protocol.

Paragraph 7 was approved.

Paragraph 8

Mr. WATTLES (Office of Legal Affairs) said that, in compliance with the request made by the Mexican representative, the actual time-limit should not have been specified in subparagraph (b) and the figures 90 and 180 should both have been shown in square brackets.

Mr. ANAND (India), supported by Mr. MILLER (United States of America), Dr. REXED (Sweden) and Mr. NIKOLIC (Yugoslavia), proposed that the figure 180 should not be mentioned; a time-limit of 90 days was sufficient for sending replies.

It was so decided.

The CHAIRMAN said that that change would also be made in the text of the article shown in the foot-note to paragraph 10.

Paragraph 8 was approved subject to that amendment.

Article 2 as a whole, as amended, was approved.

Article 2 bis (E/CN.7/L.328/Add.4) (resumed from the 669th meeting, and concluded)

The CHAIRMAN pointed out that in the final version of the draft Protocol, article 2 bis would have the number 3 and the following articles would be re-numbered accordingly. He invited the Commission to consider the text paragraph by paragraph.

Paragraphs 1 - 3

Paragraphs 1 - 3 were approved.

Paragraph 4

Mr. WATTLES (Office of Legal Affairs) pointed out that the wording of the paragraph had been modified to take account of the decisions the Commission had taken on article 2, paragraphs 4 and 5.

Paragraph 4 was approved.

Paragraph 5

Paragraph 5 was approved.

Article 2 bis as a whole was approved.

(a) CONSIDERATION OF THE DRAFT PROTOCOL ARTICLE BY ARTICLE (E/CN.7/523/Rev.1, E/CN.7/525 and Covr. 1 and Add. 1 and 2; E/CN.7/L.311, E/CN.7/L334 (concluded)  
(continued)

Article 3 (E/CN.7/L.334) (resumed from the 657th meeting)

Paragraph 1

Mr. KUSEVIC (Director, Division of Narcotic Drugs) drew the Commission's attention to the serious problems which would be created by the practical application of paragraph 1 in its existing form. Quite apart from the endless complications - particularly the loss of time, which would amount to millions of working days annually for the 30 million or so tourists who travelled in Europe alone each year - that would be caused to international travellers who would have to obtain a prescription or other officially recognized document, any country wishing to permit international travellers to carry small quantities of psychotropic substances, with documentary evidence of need, would have to enact special legislation to that effect, since otherwise the possession of such substances would be automatically prohibited, whatever the quantity involved.

Mr. NIKOLIC (Yugoslavia) said that international travellers carrying medicaments based on psychotropic substances for their personal use were the exception rather than the rule. The situation was not, therefore, quite as serious as the Director of the Division seemed to believe. It would, however, be more appropriate to word the paragraph in such a way as to indicate that the carriage of small quantities of psychotropic substances for personal use was not prohibited, on the understanding that any Party could adopt stricter regulations.

Mr. SAGOE (Ghana), said he was in favour of paragraph 1 in its existing form. All international travellers were obliged to produce various documents at frontiers, such as vaccination certificates, visas and passports, and that fact had never harmed tourism. Why should it be different in the case of a medical certificate

which only a small proportion of them would need to possess and which, incidentally, was no more difficult to obtain than a vaccination certificate?

Dr. BABAIAN (Union of Soviet Socialist Republics) said he did not share the fears of the Director of the Division with regard to the difficulties of applying paragraph 1 as it now stood. Every country was entitled to adopt Customs regulations prohibiting the import into its territory of any product whatsoever, but that situation had not had any adverse effects on tourism. The use of the word "may" left each country free to decide what type of control it wished to impose, with a view to limiting the possibilities of illicit imports.

Mr. THOMSON (Jamaica) said he agreed with the representatives of Ghana and the Soviet Union. Perhaps WHO might consider the possibility of adopting international regulations for psychotropic substances similar to the regulations applicable to vaccinations.

Dr. MABILEAU (France) said he thought that the Director's fears were exaggerated. The purpose of article 3, paragraph 1, was to control "ant-like smuggling", which might be undertaken, in particular, by the many frontier workers in almost all countries. Though not perfect, the wording of the paragraph was satisfactory.

Mr. WATTLES (Office of Legal Affairs) said that, under the existing text, the carriage of small quantities of psychotropic substances by international travellers was prohibited. Any country might, however, permit the carriage of small quantities of such substances, but only subject to certain conditions. If it permitted that practice, it must do so by means of legislation, which must also require the person possessing the quantities carried to provide documentary evidence that he had obtained them legitimately.

Mr. KUSEVIC (Director, Division of Narcotic Drugs) said that, in view of the explanations just given by the representative of the Office of Legal Affairs, it would be better to word the text in such a way as to make it clear that a document justifying the carriage of small quantities of psychotropic substances for personal use might be required by countries in which there was considerable risk of illicit traffic, but that such a requirement would be excessive in the case of the many other countries in which such a danger did not exist. It was illogical to provide in one article of the Protocol that small quantities of psychotropic substances could be dispensed even by non-qualified persons and, in another, to make the right to carry the

same small quantities subject to the possession of a prescription when it was a question of crossing frontiers.

Dr. DANNER (Federal Republic of Germany) said that the difficulty was due to the fact that proof of entitlement was required. The words "duly authenticated as prescribed for their personal use" should therefore be deleted.

Mr. MILLER (United States of America) said he did not agree. The words "duly authenticated" left each country free to decide what kind of document would be required, and to give appropriate instructions to its customs services. Paragraph 1 should not, in fact, give rise to difficulties since, as its wording showed, Parties could choose whether or not to apply its provisions.

Dr. REXED (Sweden) said he, too, thought that the last words of the sentence should be interpreted as meaning that each country was entitled to decide what kind of document should be produced. The fact, however, remained that some proof of entitlement was necessary to prevent all danger of illicit traffic. The difficulties of applying the paragraph as a whole were not as great as some seemed to believe. In Sweden, the substances in schedules I and II were already subject to regulations of a general character, the application of which had not so far given rise to any difficulty.

Mr. JOHNSON-ROMUALD (Togo) said that the psychotropic substances were extremely numerous and were little known to the police and Customs authorities. The existing text of the paragraph would certainly give rise to considerable difficulties in practice, and would make the Protocol virtually inapplicable. The problem might perhaps be solved, as the representative of the Federal Republic of Germany had proposed, by deleting the phrase "duly authenticated as prescribed". He thought that the wording of the paragraph should be revised.

Mr. HUYGHE (Observer for Belgium), speaking at the invitation of the Chairman, said he agreed with the representative of Togo. The paragraph in its present form would give rise to great practical difficulties in a small country like Belgium, where hundreds of thousands of people crossed the frontier daily. He thought it would be better to reverse the order of the clauses in the paragraph and to say that, notwithstanding the provisions of the Protocol, the Parties permitted international travellers to carry small quantities of psychotropic substances for their personal use, but that any country facing a special situation involving a danger of abuse might regulate imports of those substances and require international travellers to produce a certificate attesting that those substances were intended for their personal use.

Dr. ALAN (Turkey) said he was in favour of article 3, paragraph 1, but thought that the last phrase of the paragraph should be made more precise since, under the existing text, it was not clear whether a traveller would have to produce a medical prescription, a medical certificate, an international certificate, or some other document.

Mr. FISCHER (Switzerland) said that article 3, paragraph 1, should be considered in conjunction with article 8, paragraph 3 (E/CN.7/L.328).

Dr. REXED (Sweden) said that the 1961 Convention provided for no exemption for personal use.

He did not think that the word "laws" presented any difficulty; the word should be understood in the broad sense, and all countries had laws governing the use of medicaments. He was thus in favour of paragraph 1 and interpreted the last phrase of the paragraph in the same way as the United States representative.

Mr. STEWART (United Kingdom) said that his delegation would like the paragraph to have an optional character. In view of the objections which had been raised to its last phrase, he proposed the following wording as a compromise: "other than those in schedule I, when satisfied that they are prescribed for personal use."

Dr. REXED (Sweden), Dr. ALAN (Turkey) and Dr. BABAIAN (Union of Soviet Socialist Republics) supported the United Kingdom representative's proposal.

Mr. BARONA LOBATO (Mexico) said that his delegation was able to accept either the text proposed by the United Kingdom or the existing text.

In reply to a request for clarification by Mr. JOHNSON-ROMUALD (Togo), Mr. WATTLES (Office of Legal Affairs) said that if a Party wished to permit international travellers to carry small quantities of psychotropic substances, it would have to enact legislation to that effect, unless its legislation already contained such a provision.

Dr. ALAN (Turkey) suggested that it might be possible to leave it to the Parties to adopt the appropriate measure (decree, regulation, legislative order, Act, customs instructions, etc.).

Mr. WATTLES (Office of Legal Affairs), referring to the Swiss representative's comment, said that articles 8 and 3 dealt with entirely different matters: article 8 related to psychotropic substances obtained, with or without prescription, by persons living in a given country, whereas article 3 dealt with psychotropic substances carried by international travellers.

Mr. THOMPSON (Jamaica) said that the effect of the two articles might be to create two standards within a given country: citizens of the country would be entitled to possess small quantities of certain substances without prescription but, in the case of the same substances, international travellers would have to produce a prescription to show that they had been prescribed for their personal use.

Mr. WATTLES (Office of Legal Affairs) added that, under article 2 bis which the Commission had just approved (E/CN.7/L.328/Add.4), the Parties would be entitled to exempt certain preparations from some of the control measures prescribed in the Protocol; in other words, possession of certain preparations without a prescription would be permitted in some countries but not in others.

Mr. KARIM (Pakistan) said that the wording proposed by the United Kingdom representative would not apply to countries in which psychotropic substances could be obtained without a prescription.

Mr. MILLER (United States of America) said that the difficulty could be overcome by replacing the word "prescribed" by the word "dispensed".

Mr. ANAND (India) proposed that the last phrase of paragraph 1 should be worded: "other than those in schedule I, for their bona fide personal, therapeutic use".

The CHAIRMAN asked the Secretariat to draft a new text in co-operation with the delegations of India, Pakistan and the United Kingdom.

The meeting rose at 12.35 p.m.





SUMMARY RECORD OF THE SIX HUNDRED AND SEVENTY-SECOND MEETING

held on Thursday, 29 January 1970, at 3 p.m.

Chairman: Mr. BERTSCHINGER (Switzerland)

later, Mr. ANAND (India)

ADOPTION OF THE REPORT (agenda item 4) (E/CN.7/L.329/Add.1 and Add.1/Corr.1 and Add.2 and 3) (resumed from the 670th meeting)

Chapter II - The draft Protocol on Psychotropic Substances (resumed from the 670th meeting)

The CHAIRMAN drew attention to the new text (E/CN.7/L.329/Add.1/Corr.1).  
Paragraph II.2 (E/CN.7/L.329/Add.1/Corr.1)

Dr. ALAN (Turkey) proposed that the word "critique" in the penultimate line of the French text should be deleted; the phrase "un examen très approfondi" was sufficient.

It was so decided.

Mr. ANAND (India) said he was not satisfied with the wording of the second sentence, which did not take account of the point he had raised when the paragraph was discussed at the 670th meeting. He proposed that the words "by WHO in the light of the criteria adopted by the Commission" should be inserted after the word "assessed" in the penultimate line.

Dr. HALBACH (World Health Organization) said that he, personally, was not convinced that the slight changes made in the criteria would necessarily require a review of the lists of substances proposed by the Expert Committee for inclusion in each of the schedules, or that, if such a review were undertaken, it would result in any modification of the lists.

If such a review were to be required, however, the financial implications would have to be considered. In the past, work involving expenditure in excess of the relevant provision in the WHO budget had been undertaken only at the formal invitation of the Council. He did not know if the review proposed by the Indian representative could be undertaken within existing budgetary provisions, or whether the Expert Committee would even be able to carry out the work at its next session, for which it already had a heavy agenda.

Mr. ANAND (India) said he appreciated those arguments, but was not fully convinced by them. Under the draft Protocol, WHO was to make the first recommendation in respect of the substances to be brought under control. It had drawn up the lists

of substances to be included in each of the schedules on the basis of certain criteria, which had been modified by the Commission. If the lists were to be meaningful, they must be in conformity with the new criteria. They might very well need no modification, but they must be reviewed if they were to be of any value to the conference which would adopt the Protocol. That view should be reflected in the Commission's report.

Dr. HALBACH (World Health Organization) said that technical discussions, at which WHO would be represented, would certainly be necessary before final adoption of the Protocol. If changes in the lists were considered necessary, WHO could give its views on the subject at that time and, in doing so, could also take any new developments into account. No delay would be caused by following that procedure.

Mr. ANAND (India) said he would not insist on including a reference to WHO in his proposed amendment; the only words to be inserted after the word "assessed" would thus be "in the light of the criteria adopted by the Commission."

Mr. NIKOLIĆ (Yugoslavia) said he thought the text of the paragraph was clear as it stood, and proposed that it should be adopted, subject only to the deletion of the word "critique" in the French version.

Dr. MABILEAU (France) and Mr. SOLLERO (Brazil) supported that proposal.

Dr. REXED (Sweden) said he thought the idea underlying the Indian amendment was sound.

The CHAIRMAN suggested that the latest Indian amendment might be accepted.

It was so decided.

Paragraphs II.4 and II.5 (E/CN.7/L.329/Add.1/Corr.1)

Dr. BABAIAN (Union of Soviet Socialist Republics) pointed out that there would be a section in the report dealing with different views; a reference should be made to that section as well as to the foot-notes to the draft Protocol and the summary records. He therefore proposed the deletion of the word "certain" before the words "minority views" in the third line and the insertion of the words "and in the section below entitled 'presentation of different views'" after the word "itself" at the beginning of the fourth line.

Mr. MILLER (United States of America) and Dr. REXED (Sweden) said they agreed that it was appropriate to include some reference to the section on different views and were thus prepared to accept the USSR amendment.

The USSR amendment was adopted.

The new paragraph II.4 replacing paragraphs II.4 and II.5 (E/CN.7/L.329/Add.1/Corr.1), as amended, was adopted.

Paragraphs II.6 and II.7 (E/CN.7/L.329/Add.1)

The CHAIRMAN pointed out that paragraph II.6 had been adopted and paragraph II.7 deleted at the 670th meeting.

Paragraphs II.8 to II.11 (E/CN.7/L.329/Add.1)

Paragraphs II.8 to II.11 were adopted.

Paragraph II.12 (E/CN.7/L.329/Add.1)

The CHAIRMAN observed that a reference to the Working Group on article 12, presided over by the representative of Canada, should be included in the paragraph.

Paragraph II.12, as amended, was adopted.

Paragraph II.13 (E/CN.7/L.329/Add.1)

Paragraph II.13 was adopted.

Paragraphs II.14 and II.15 (E/CN.7/L.329/Add.1/Corr.1)

The CHAIRMAN pointed out that document E/CN.7/L.329/Add.1/Corr.1 contained the text of a single paragraph II.14 to replace paragraphs II.14 and II.15 (E/CN.7/L.329/Add.1).

Paragraph II.14 (E/CN.7/L.329/Add.1/Corr.1) was adopted.

Dr. BABALIN (Union of Soviet Socialist Republics) said he thought that the section on different views should reflect the decisions taken by vote on all important points, including article 2, paragraph 5, dealing with the competence of the Commission, give the results of the votes and outline the various views expressed. He proposed that a new paragraph on the following lines should be inserted after the paragraph II.14 which had just been adopted:

"The Commission decided that, in considering the question of placing psychotropic substances under control, having regard to the findings and recommendations of WHO and in the light of the economic, social, legal, administrative and other factors, which in its opinion may be relevant to the question, it may concur in the recommendations and findings of WHO, reject them or take a different decision. The Commission accordingly adopted articles 2 and 2 bis in the form in which they appear in the draft Protocol annexed to this report."

Dr. REXED (Sweden) said he would have no objection to the inclusion of such a paragraph in the report, but if the majority view was to be mentioned, the same should apply to the minority view.

Mr. ANAND (India) and Mr. NIKOLIĆ (Yugoslavia) said they agree with the Swedish representative.

The CHAIRMAN suggested that consideration of the USSR proposal should be deferred until a written text had been circulated.

It was so decided.

Paragraph II.16 (E/CN.7/L.329/Add.1)

Dr. BABAIAN (Union of Soviet Socialist Republics) said he intended to submit some minor amendments relating to statements he had made during the discussion of article 23.

Dr. MABILEAU (France), supported by Mr. NIKOLIĆ (Yugoslavia), suggested that, throughout the report, the title of articles should be inserted, possibly in parenthesis, after references to them by number.

Mr. ANSAR KHAN (Secretary of the Commission) said that that had already been agreed upon in the Steering Committee. The words "concerning territorial application" should accordingly be inserted after the words "article 23" in paragraph II.16.

The CHAIRMAN said the Commission could not take a final decision on the paragraph until the Secretariat had circulated the text of the minor amendments to which the USSR representative had referred.

Paragraph II.17 (E/CN.7/L.329/Add.1)

Mr. ANSAR KHAN (Secretary of the Commission) said that a new second sentence should be added to the paragraph, to read: "This new article adopted by the Commission as article 23 bis would have the title 'Territories for the purposes of articles 6, 11, 12 and 14'".

Paragraph II.17, as amended, was adopted.

Mr. Anand (India), Second Vice-Chairman, took the Chair.

Paragraph II.18 (E/CN.7/L.329/Add.1)

Dr. BABAIAN (Union of Soviet Socialist Republics) said he had understood that four countries had voted against the motion referred to and that four had abstained from voting on it; if so, the figures "3" and "5" should be corrected. In addition, his delegation wished to suggest a few drafting changes which it would submit to the Secretariat in writing.

Dr. EL-HAKIM (United Arab Republic) said that his delegation had been one of those which had voted against the motion.

Mr. ANSAR KHAN (Secretary of the Commission) said the Secretariat's information indicated that the figures in the draft report were correct. That was confirmed by the summary record of the 659th meeting.

The CHAIRMAN said it appeared that a large majority had supported the motion. The Commission would have to defer a decision on the paragraph as a whole until it had before it the proposed drafting changes to which the Soviet Union representative had referred.

It was so decided.

Paragraph II.19 (E/CN.7/L.329/Add.1)

Paragraph II.19 was adopted.

Paragraph II.20 (E/CN.7/L.329/Add.1)

Dr. BABAIAN (Union of Soviet Socialist Republics) said that operative paragraph 2 of draft resolution B recommended for adoption by the Economic and Social Council (E/CN.7/L.329/Add.2) provided for the convening by the Council of a plenipotentiary conference for the adoption of the future Protocol. The question of the method to be recommended for the adoption of the draft Protocol had not, however, been sufficiently considered by the Commission. He did not understand why it should recommend only one method of adoption. An alternative method was available to the Council: it could, instead of convening a diplomatic conference, recommend the General Assembly to adopt the instrument. There was a precedent for that procedure, since the General Assembly had adopted the 1948 Protocol bringing under international control drugs outside the scope of the 1931 Convention as amended by the 1946 Protocol. The Commission should bear in mind the need for the future Protocol to be as effective as possible, for it to enter into force as quickly as possible, and for the procedure for its adoption to be as inexpensive as was compatible with those two considerations. Consequently, the Commission should recommend the Council to adopt whichever method best satisfied those criteria. In doing so, the Commission should perhaps refer to the conditions specified in rule 1 of the Rules for the calling of international conferences of States approved by the General Assembly in resolution 366 (IV) of 3 December 1949. Adoption by the General Assembly would certainly be cheaper than the holding of a plenipotentiary conference. In that connexion, he would like the Secretariat to state the financial implications of convening such a conference. The Commission had a duty to consider the financial implications of any action it recommended.

Mr. ANSAR KHAN (Secretary of the Commission) said that, at that stage, the Secretariat could give only a tentative estimate of the expenditure involved in holding a plenipotentiary conference, because the cost would vary considerably according to the length of the conference, the number of committees to be serviced concurrently and the amount of documentation involved. Very approximately, therefore, the cost of holding a conference of plenipotentiaries in Geneva lasting eight weeks in the spring of 1971 would be about \$200,000 in respect of services to be furnished during the conference. It should be noted that the cost of such a conference, whether held in New York or in Geneva, was reduced if it did not overlap with any other major meetings, so that some of the workload could be handled by the permanent establishment. The effect of that

factor, namely, the timing of the conference, could not yet be assessed, since the period during which the conference was to meet had still to be decided by the Council.

Mr. WITTLES (Office of Legal Affairs) read out the text of the cable he had received from the Legal Counsel (E/CN.7/L.336) in reply to the cable he himself had despatched to Headquarters following the Commission's discussion of the question of a plenipotentiary conference (670th meeting).

"While it is ECOSOC which may decide to call conference in accordance with Article 62(4) of Charter and rules provided by General Assembly, Commission on Narcotic Drugs under its terms of reference may advise the Economic and Social Council on all matters pertaining to control of narcotic drugs. It is therefore within its competence to recommend to the Council that latter call conference to adopt Protocol on psychotropic substances. In accordance with established practice of subsidiary organs generally as well as of Narcotics Commission in particular such recommendation may take form of draft resolution. Council resolution 639 J (XXVI) to call conference for adoption of Single Convention was adopted on basis of draft resolution recommended by Commission on Narcotic Drugs (see report of thirteenth session. Official Records of the Economic and Social Council, twenty-sixth session, Supplement number 9, p.58)".

Dr. REXED (Sweden) said that he fully appreciated the need for economy and realized that the adoption of the draft Protocol by the General Assembly would guarantee its consideration by a body of the highest calibre representing a very large number of countries. Technical considerations nevertheless had to be borne in mind. The precedent cited by the Soviet Union representative was not entirely comparable, because it had then been a matter simply of bringing certain substances and measures within the scope of an existing legislative structure, and the questions involved had therefore been less complex and controversial. Because of the rapid development of pharmaceuticals, the draft Protocol on psychotropic substances had far-reaching implications for the future. Many problems remained unsolved in the draft adopted by the Commission. A general discussion of the kind which normally took place in the General Assembly would not provide sufficient opportunity for the full expression of views on the various detailed points raised by the draft. Consequently, if the draft Protocol was to be adopted by the General Assembly, special debates would be necessary, entailing the participation of a large number of technical experts in addition to the political representatives of which General Assembly delegations were normally composed. That would amount to holding a conference within the Assembly on much the same scale as a plenipotentiary conference. If the draft Protocol was to be discussed in a meaningful way and to be given a final shape in which Governments could ratify it

quickly, it would have to be considered by a large body of experts. A plenipotentiary conference would be the most satisfactory way of achieving that end, and it was that course which the Commission should recommend. In doing so, the Commission would be fulfilling its duty of proposing to the Economic and Social Council what, in its view, was the most efficient way of dealing with the draft Protocol and thus ensuring that psychotropic substances were brought under effective international control as quickly as possible.

He proposed that if the Commission did not adopt a resolution containing the text of draft resolution B, the latter text should be submitted to the Economic and Social Council, perhaps in the form of a foot-note to the Commission's report, so as to acquaint it with the minority view.

Mr. MILLER (United States of America) said that his delegation normally shared the concern that had been expressed regarding United Nations expenditure. However, the overriding consideration was that an effective Protocol should enter into force as quickly as possible. He therefore supported the Swedish view that the Commission should recommend the convening of a conference of plenipotentiaries.

Dr. MABILEAU (France) endorsed the views of the Swedish and United States representatives. The Commission should recommend that a plenary conference should be convened, and that it should be held in the most economical manner possible.

Mr. RANI (India) said that the final decision rested with the Council. Consequently, the Commission should not take a definite stand on the matter either way. That view did not imply that India was not anxious to see the future Protocol in force as soon as possible.

Mr. STEWART (United Kingdom) said he fully agreed with the reasons the Swedish delegation had given for the holding of a plenipotentiary conference. At the present session, many delegations had probably accepted compromise solutions on the understanding that the issues involved would be reviewed at a later stage by a larger body of experts.

Dr. EL-HAKIM (United Arab Republic) said that his delegation strongly favoured the adoption of the draft Protocol at the earliest opportunity. He agreed with the Soviet Union and Indian representatives that the Commission should not commit itself either way.

Mr. ORTIZ RODRIGUEZ (Observer for Cuba), speaking at the invitation of the Chairman, said that although arguments had been advanced in favour of a recommendation by the Commission for a plenipotentiary conference, the question had not been adequately

discussed. Factors might be involved which the Commission had not yet considered. The Commission should therefore refrain from prejudging the issue, and should leave the decision entirely to the Economic and Social Council.

Dr. BOLCS (Hungary) said that his delegation wished the future Protocol to take effect as soon as possible. He shared the views of the Soviet Union and the United Arab Republic.

Dr. REXED (Sweden) pointed out that although his delegation had advocated the convening of a plenipotentiary conference and considered that the Commission should recommend that course, the Economic and Social Council was free to decide as it saw fit and would not be obliged to accept such a recommendation. It was important, however, that the Commission, as a technical body, should express a clear opinion on the matter. The Council, in weighing the various issues involved, would then have no doubt about the view of the technical experts.

Dr. CHAPMAN (Canada) said that his delegation favoured a recommendation for a plenipotentiary conference. He agreed with the United Kingdom representative that delegations might have accepted compromise solutions provisionally. The same argument applied to some minor points which delegations had refrained from raising at the present session on the assumption that they would have an opportunity to do so later.

Dr. MABILEAU (France) agreed with the Swedish representative that if the Commission recommended a plenipotentiary conference it would not be depriving the Council of its right of decision. It was the Commission's duty to state what it considered the most effective way of giving the draft Protocol its final shape. He would request a roll-call vote when the resolution was put to the vote.

Mr. JACHEK (Observer for Czechoslovakia), speaking at the invitation of the Chairman, said that he objected to the discriminatory formula proposed in operative paragraph 1 and paragraph 3 (b)(i) of draft resolution B. There was no reason why all States should not receive the revised draft Protocol and be invited to attend the conference. As to the method to be recommended for the adoption of the draft Protocol, he supported those delegations which thought that the Commission should refrain from expressing a preference either way.

Dr. ALAN (Turkey) pointed out that the words "Chapter IV" in operative paragraph 1 of the resolution proposed for adoption by the Commission should be corrected to read "Chapter III".

Mr. JOHNSON-ROMULD (Togo), Rapporteur, said that the text would be amended accordingly.



Dr. AZARAKHCH (Iran), Mr. BARONA LOBATO (Mexico), Dr. DANNER (Federal Republic of Germany), Mr. MOUJAES (Lebanon) and Mr. FISCHER (Switzerland) said that they thought the Commission should recommend the convening of a plenipotentiary conference.

Mr. SAGOE (Ghana) said he agreed with the Indian representative that the matter should be left to the Council.

Mr. BEEDLE (United Kingdom) suggested that the various views expressed by delegations should be included in a few introductory sentences in paragraph II.20. It should be stated, first, that in the opinion of some delegations the Commission should, for constitutional reasons, acknowledge the complete discretion of the Council in the matter; second, that the USSR delegation had proposed that the matter should be referred to the General Assembly; and third, that a number of delegations had stressed the advantage of convening a conference of experts to deal with such a highly technical matter. The introduction should emphasize, however, that the Commission was unanimous in urging the Council to ensure that the draft Protocol was completed and signed as rapidly as possible.

The CHAIRMAN said that it appeared to be the consensus of opinion that the Commission should place itself on record as being unanimously in favour of recommending the speedy finalization of the draft Protocol.

Mrs. NOWICKA (Observer for Poland), speaking at the invitation of the Chairman, said she supported the position of the USSR representative.

Dr. BABAIAN (Union of Soviet Socialist Republics) agreed with the United Kingdom representative that the views expressed should be included in the Commission's report for the information of the Economic and Social Council. He asked that the United Kingdom proposal and the cable from the Legal Counsel should be circulated in writing.

Mr. NIKOLIĆ (Yugoslavia) said that he could agree with the United Kingdom representative on the need for the speedy finalization of the draft Protocol, although he was not certain that unanimity actually did exist in the Commission.

The CHAIRMAN, summing up the discussion, said that the majority was of the opinion that it was desirable for, or even incumbent upon, the Commission to recommend to the Council what it considered to be the speediest and most effective way of bringing the Protocol into force. In its opinion, it was necessary to convene a conference of experts, since the General Assembly, being primarily a political body, could not deal with it so effectively. The minority view, on the other hand, was that at the present stage it was inappropriate for the Commission to make any definite recommendations on

the course which should be followed. Those delegations agreed that whatever method would give the speediest, most effective and most economical results should be adopted, but they felt that the decision should be left to the Council. In his own opinion, there was considerable force in both arguments. He suggested, therefore, that both the majority view, with the relevant resolution, and the minority view should be recorded in the report.

Dr. MABILEAU (France) said that, like the Yugoslav representative, he was not entirely convinced that unanimity did, in fact, exist in the Commission. It would be difficult to avoid putting the draft resolution to the vote, and in that case he would ask for a vote by roll-call.

The CHAIRMAN suggested that the question of the draft resolution in paragraph II.20 and the discussion of paragraphs II.21, II.22 and II.23 should be deferred to the following meeting.

It was so decided.

THE DRAFT PROTOCOL ON PSYCHOTROPIC SUBSTANCES (agenda item 3): (b) APPROVAL OF A REVISED DRAFT PROTOCOL (E/CN.7/AC.7/R.8; E/CN.7/L.334 and L.335) (continued)

Article 3 (E/CN.7/L.334 and L.335) (concluded)

The CHAIRMAN drew attention to his proposal (E/CN.7/L.335) for the amendment of paragraph 1 of the redraft of article 3 (E/CN.7/L.334).

Mr. MILLER (United States of America), Mr. KARIM (Pakistan) and Mr. SAGOE (Ghana) said that they supported the Chairman's amendment.

Article 3, as amended, was approved unanimously.

Article 1 (E/CN.7/AC.7/R.8) (resumed from the 670th meeting, and concluded)

Dr. MABILEAU (France), Chairman of the Technical Committee, introduced the latter's third redraft of article 1 (E/CN.7/AC.7/R.8). He pointed out that two foot-notes had been included to take account of the positions of the United Kingdom and Mexico respectively. The definition of "preparation" had been revised in accordance with a suggestion made by the observer for Belgium.

Dr. ALAN (Turkey), referring to the second foot-note, said that it was not clear to him why the Mexican Government could not undertake to require licences in regard to the substances in question.

Mr. BARONA LOBATO (Mexico) explained that his Government could not possibly control the sale of wild plants for ornamental or other purposes.

Mr. NIKOLIĆ (Yugoslavia) said that it would certainly be difficult to require licences for something which grew wild. He suggested that the Mexican representative's point might be met by deleting the words "or to require licenses in regard to them".

Mr. BARONA-LOBATO (Mexico) said that that solution was acceptable to him.  
The Yugoslav representative's proposal was adopted.

Dr. BABAIAN (Union of Soviet Socialist Republics) said that the Technical Committee's redraft of article 1 was acceptable to his delegation, although he did not think that the new definition of "preparation" represented an improvement on the old one.

Mr. JOHNSON-ROMJALD (Togo) said that he had doubts about the substitution of the word "glossaire" in the French text of the title of article 1 for the original word "terminologie".

After a brief discussion, it was decided to retain the word "glossaire" in the French text.

Article 1, as amended, was approved.

The draft Protocol as a whole, as amended, was approved.

The meeting rose at 6.35 p.m.



SUMMARY RECORD OF THE SIX HUNDRED AND SEVENTY-THIRD MEETING

held on Friday, 30 January 1970, at 9.45 a.m.

Chairman:

Mr. BERTSCHINGER (Switzerland)

ADOPTION OF THE REPORT (agenda item 4): E/CN.7/L.329 and Add.1 and Add.1/Corr.1 and Add.1/Amend.1 and 2 and Add.2 and Add.3/Rev.1 (continued)

Chapter I - Organizational and administrative matters (E/CN.7/L.329) (resumed from the 670th meeting)

Chapter I was adopted.

Chapter II - The draft Protocol on Psychotropic Substances (E/CN.7/L.329/Add.1 and Add.1/Corr.1 and Add.1/Amend.1 and 2) (continued)

The CHAIRMAN said that paragraphs II.22 and II.23 would, if necessary, be amended in accordance with the decision taken by the Commission on draft resolution B (E/CN.7/L.329/Add.2).

Mr. ANSAR KHAN (Secretary of the Commission) said that two amendments had been proposed to chapter II, the first relating to the section entitled "Presentation of different views" and the second to paragraph II.20 (E/CN.7/L.329/Add.1/Amend.1 and 2).

Mr. ANAND (India) said he did not understand why the written amendment he had submitted to the text of paragraph II.2 in the corrigendum (E/CN.7/L.329/Add.1/Corr.1) was not to be found in any of the documents before the Commission.

Mr. ANSAR KHAN (Secretary of the Commission) said that, in view of the nature of that amendment and the fact that it had met with general support, it would be inserted in the report.

Dr. BABALIN (Union of Soviet Socialist Republics) said that the first proposed amendment in the section entitled "Presentation of different views" (E/CN.7/L.329/Add.1/Amend.1) was not strictly speaking an amendment but a text intended to fill a gap in that section.

Mr. CHAPMAN (Canada) said that, as he understood it, the Commission had never had any intention of questioning WHO findings; it seemed to him, therefore, that the words "and findings" in the sixth line of the text proposed by the USSR should be deleted.

Mr. NIKOLIC (Yugoslavia) and Mr. MILLER (United States of America) said they supported the Canadian proposal.

Mr. BEEDLE (United Kingdom) said that the text proposed by the USSR was extremely useful and would certainly be studied with great care by other bodies, particularly WHO. He thought, however, that the word "may" in the fifth line of the

text, was not sufficiently positive and did not adequately reflect the strong views expressed in the Commission on that point. He proposed, therefore, that the words "the Commission may" should be replaced by the words "it was essential that it should have discretion to .....". That wording would clearly indicate the importance the Commission attached to the enjoyment of such discretion.

Mr. CHAPMAN (Canada) said that the wording proposed by the United Kingdom representative was satisfactory to him.

The CHAIRMAN said that, since the Soviet amendment was generally acceptable, the text, as amended by the United Kingdom and Canadian representatives, would be inserted in the report in the section entitled "Presentation of different views".

He invited the Commission to consider the text proposed by Sweden (E/CN.7/L.329/Add.1/Amend.1).

Dr. AZARAKHCH (Iran) said that his delegation had formed part of the majority which had been in favour of giving the Commission the right not only to approve or reject WHO recommendations but also to replace them by others; the reference to Iran in the text proposed by Sweden should therefore be deleted.

Dr. ALAN (Turkey) said he thought the word "reject" was too strong. He would prefer to substitute the expression "request a review of" and to add the words "before obtaining the agreement of WHO" at the end of the sentence.

Dr. REXED (Sweden) said that the question had been debated at length before the members of the minority had agreed on the proposed text. The type of compromise proposed by Turkey could be considered at the plenipotentiary conference, but it would be better to retain the present text as it stood.

Mr. ANAND (India) said he shared the Turkish representative's opinion, but did not wish to press the point.

Mr. NIKOLIC (Yugoslavia) and Dr. EL-HAKIM (United Arab Republic) supported the Swedish representative.

Dr. ALAN (Turkey) said he would not press his proposal.

The CHAIRMAN said that the text proposed by Sweden would be inserted in the report.

Dr. BABAIAN (Union of Soviet Socialist Republics) said that the Russian text of the second Soviet amendment (E/CN.7/L.329/Add.1/Amend.1) contained an error concerning the date of the Declaration, which was 1960.

The CHAIRMAN said that the Secretariat would make the necessary correction.

Since the third Soviet amendment was generally acceptable, its text would be substituted for the existing text of paragraph II.18.

Paragraph II.20 (E/CN.7/L.329/Add.1/Amend.2)

Mr. BEEDLE (United Kingdom) said that the Commission had unanimously taken the view that the Protocol should be adopted and put into effect as rapidly as possible, whereas in the text under consideration that opinion was attributed to a minority only. He therefore proposed that the beginning of the paragraph should be modified to read: "The Commission was unanimous about the desirability of having the Protocol adopted and put into effect as rapidly as possible. It then decided ..."

Dr. MABILEAU (France) and Mr. MILLER (United States of America) supported that amendment.

Mr. JOHNSON-ROMUALD (Togo), Rapporteur, said he had no objection to it.

Mr. BEEDLE (United Kingdom) suggested that, in consequence of the amendment he had proposed to the beginning of the paragraph, the final phrase of the paragraph beginning with the words "and the desirability of having ..." should be deleted. Since, however, the sentence expressing the view of the minority would then be unbalanced, he also suggested that the latter part of that sentence should be amended to read: "the Council to take its own decision in the light of all the factors, including budgetary factors, which appeared to it to be relevant."

Mr. RANA (India) proposed that the sentence conveying the minority view should read:

"The minority were of the view that the Commission ought not to pronounce itself upon this matter, but leave the Council to decide whether to entrust the adoption of the Protocol to the General Assembly or to convene a plenipotentiary conference, taking into consideration all the relevant circumstances, including the recommendations of the Secretary-General and the need for economy of funds."

Dr. BABAIAN (Union of Soviet Socialist Republics) said he accepted the text proposed by the Indian representative, provided that the following words were added: "and the importance of having the Protocol adopted and put into effect as rapidly as possible".

Mr. RANA (India) accepted that addition.

Dr. EL-HAKIM (United Arab Republic) said that the amendments proposed by the representatives of India and the USSR were acceptable.

Replying to a point raised by Mr. NIKOLIC (Yugoslavia), Dr. BABAIAN (Union of Soviet Socialist Republics) said he thought it was necessary to retain the words "and the importance of having the Protocol adopted and put into effect as rapidly as possible", even if the same words did appear at the beginning of the paragraph, since their deletion might create the erroneous impression that the minority attached only secondary importance to the question of speedy implementation.

Mr. SAGOE (Ghana) said he supported the text proposed by the Indian representative. The difficulty with regard to the last phrase of the paragraph could be solved by dividing the paragraph into three parts, setting out, respectively, the unanimous opinion of the Commission, the majority view and the minority view.

Mr. BEEDLE (United Kingdom) proposed that the text proposed by the Indian representative should be amended to read:

"... but leave the Council to decide whether to entrust the adoption of the Protocol to the General Assembly or to convene a plenipotentiary conference, taking into consideration all the relevant circumstances, including the recommendations of the Secretary-General and the need for economy of funds as well as the unanimous wish of the Commission to see the Protocol adopted and put into effect as rapidly as possible."

The CHAIRMAN said that the text of that paragraph would be redrafted in the light of the proposals made by the representatives of India and the USSR.

Chapter IV - Draft resolutions recommended by the Commission for adoption by the Economic and Social Council (E/CN.7/L.329/Add.2 and Add.3/Rev.1)

Draft resolution A (E/CN.7/L.329/Add.2)

No comment.

Draft resolution B (E/CN.7/L.329/Add.2)

Dr. REXED (Sweden) said that paragraph 3 (b) (ii) referred to the rights of WHO and other specialized agencies at sessions of the Economic and Social Council, whereas paragraph 3 (b) (iii) referred to the rights of the Board at sessions of the Commission. He thought it would be more appropriate to use the same terms for the Board as for WHO.

Mr. WATTLES (Office of Legal Affairs) said that the change suggested by the Swedish representative would be fully justified.

Dr. BABAIAN (Union of Soviet Socialist Republics) proposed that the words "open to all States" should be added at the end of the first preambular paragraph and that a new paragraph should be added at the end of the preamble to read: "Being convinced that the purpose and aims of the present Protocol are of interest to the



international community as a whole". He also proposed that the words "all States Members of the United Nations and States members of the specialized agencies or of the International Atomic Energy Agency or Parties to the Statute of the International Court of Justice" in the first operative paragraph should be replaced by the words "all States". He further proposed that operative paragraph 2 should be replaced by two variants. The first variant would state that the Council decided to recommend the General Assembly to adopt the Protocol as soon as possible at its twenty-fifth session, taking into account any observations subsequently formulated by Governments, and fix an early date for the opening of the Protocol for signature. The second variant would state that the Council decided, in accordance with Article 62, paragraph 4, of the Charter of the United Nations and with the provisions of General Assembly resolution 366 (IV) of 3 December 1949, to call a plenipotentiary conference to adopt the Protocol on Psychotropic Substances. Those two variants would be placed within square brackets in the Commission's resolution so as to allow the Economic and Social Council to select whichever text it found more appropriate. The whole of operative paragraph 3 would be placed within square brackets since, having regard to the amendment he had proposed to operative paragraph 2, it would have to be deleted or retained according to whichever alternative was selected by the Council.

He hoped that the Commission would accept those amendments, the purpose of which was to leave it entirely to the Council to decide on the convening of a plenipotentiary conference, since it was in fact for the Council to take that decision, having regard to the opinion of the General Assembly and the precedents on the subject.

Dr. REXED (Sweden) said that the group of amendments proposed by the Soviet Union representative could be divided into two parts. The first concerned the familiar "all-States" problem, on which the Commission had taken a decision in the Protocol. It would therefore suffice to indicate in the report that the Soviet Union representative shared the minority opinion on that point. The other proposals reopened discussion of a question which had already been debated at length, and his delegation was opposed to the Commission reconsidering the matter.

Dr. BABAIAN (Union of Soviet Socialist Republics) pointed out that every delegation was entitled to propose amendments to a text which was still a draft resolution. His delegation had no intention of opposing the convening of a plenipotentiary conference, but it thought that the right to take a final decision on the matter belonged to the Council and that the Commission should not prejudge that decision.

Dr. MABILEAU (France) wholeheartedly supported the statement by the Swedish representative. The substantive question raised by the Soviet Union representative had received lengthy consideration at the 672nd meeting, and ten delegations had expressed themselves unequivocally in favour of the convening of a conference. The Commission was, of course, fully aware that the Council could take a decision one way or the other, but he could see no reason why it should forgo its right to make a proposal which expressed the majority opinion. The views of the minority would naturally be mentioned in the Commission's report. His delegation saw no objection to accepting minor drafting changes but, where amendments relating to a substantive point were concerned, it insisted that the Commission should have written texts before it.

Mr. MILLER (United States of America) and Mr. BEEDLE (United Kingdom) shared the opinion of the Swedish representative.

Dr. BABAIAN (Union of Soviet Socialist Republics) pointed out that, under the rules of procedure, every delegation was entitled to submit amendments to any draft resolution, and the various amendments had to be put to the vote before the draft resolution to which they related. The Commission was perfectly free to decide what States should, in its opinion, be invited to participate in the plenipotentiary conference.

The CHAIRMAN informed the Commission that the Soviet Union delegation had communicated its amendments to the Secretariat in writing. He therefore proposed that the consideration of the draft resolution should be deferred until the Secretariat had circulated the text of the Soviet Union amendments in the various working languages.

It was so decided.

Draft resolution C (E/CN.7/L.329/Add.3/Rev.1)

Dr. REXED (Sweden) explained that the primary purpose of draft resolution C was to encourage Governments to take immediate legislative and administrative steps to ensure that they could apply the Protocol as soon as the requirements for its entry into force were met.

The word "existence" in the second preambular paragraph had been placed in square brackets by mistake. The brackets should therefore be deleted.

Mr. MILLER (United States of America) said that his delegation had collaborated with the Swedish and United Kingdom delegations in making a number of changes in the draft resolution and thought that the second version represented a marked improvement on the first. In the redraft the authors tried to make clear the desirability not only

to take the necessary steps for the eventual application of the Protocol but also to adopt additional measures as quickly as possible for the national as well as international control of psychotropic substances. If the Commission approved the draft resolution, paragraph II.21 of its draft report would have to be reworded accordingly.

Dr. BABALIAN (Union of Soviet Socialist Republics) suggested that the Commission should defer its consideration of the first preambular paragraph until it had voted on the matter to which that paragraph related, and that it should begin its consideration of the resolution with the second preambular paragraph, in the hope of reaching a unanimous decision. Another solution would be to adopt a sufficiently non-committal wording for the first preambular paragraph to make it unanimously acceptable.

Dr. MABILEAU (France) supported the proposal of the Soviet Union representative that consideration of the first preambular paragraph should be postponed until the following meeting.

The CHAIRMAN said that he fully endorsed the Soviet Union representative's proposal, which he found perfectly logical. He suggested that the Commission should defer its consideration of the first preambular paragraph of the draft resolution until the following meeting.

It was so decided.

Dr. ALAN (Turkey) shared the opinion of the United States representative. He suggested that the existing operative paragraph of the text should be preceded by a new paragraph inviting "Governments and the agencies concerned to promote widespread publicity for the draft Protocol" so as to make the public at large increasingly aware of the dangers of psychotropic substances. Although he had proposed that such a text should be added to the operative part of the draft resolution, he would have no objection to its being inserted in the preamble if the Commission so wished.

Dr. MABILEAU (France) said that the Turkish representative's idea of adding a new paragraph to the operative part or a new sub-paragraph to the preamble was perfectly acceptable. The Commission was most often concerned with measures of repression and it would therefore be entirely appropriate, by way of a counterpart, to emphasize its concern about prevention by seeking to enlist the services of all available information media in eliminating the growing abuse of psychotropic substances.

He would be glad to assist in the drafting of the new wording.

Mr. BEEDLE (United Kingdom) said that he wholeheartedly supported the views of the French representative. The importance of publicity in that respect could not be over-emphasized. The idea put forward by the Turkish representative could be incorporated equally well in the preamble or in the operative part of the draft resolution.

Dr. BABAIAN (Union of Soviet Socialist Republics) said he thought that, in the second preambular paragraph, it would be preferable to replace the word "existence" by the word "adoption". Furthermore, the word "effective" in that paragraph could be replaced by the words "effective and universal", which would place greater emphasis on the uniformity of the basic principles which should govern those measures. The word "widespread" in the second line was superfluous.

With regard to the Turkish representative's proposal, he thought it would be preferable to add to the end of the existing operative paragraph a phrase referring to measures to combat the abuse of psychotropic substances. His reason was that publicity was only one aspect of those measures; its value was questioned in many countries where it was regarded as nothing but an incitement to some individuals to take an unhealthy interest in substances of which they would otherwise have remained ignorant.

The CHAIRMAN asked the Swedish representative for his opinion on the various amendments suggested to his delegation's proposal.

Dr. REXED (Sweden) said he had no objection to the changes which the Soviet Union representative had proposed to the second preambular paragraph. However, the word "international" seemed preferable to the word "universal".

While the Turkish representative's suggestion was acceptable in principle, he thought it would have been easier to make that addition to the first version of the draft resolution, because the new version did not specifically refer to the Protocol. It would therefore be more appropriate to draft the recommendation in general terms and not to mention any instrument in particular.

Mr. JOHNSON-ROMUALD (Togo), Rapporteur, referring to the Turkish representative's proposal, said he thought that, in the French version at least, the expression "la plus large information" might be preferable to "une large publicité", which had too commercial a flavour.

Mr. BEEDLE (United Kingdom) observed that the draft resolution laid special emphasis on the national control measures which Governments should take so that they could apply the Protocol without delay when it came into force. But the Soviet Union representative's proposal to insert the words "and universal" after "effective" in the second preambular paragraph - or "and international", as the Swedish representative had suggested - would have the effect of obscuring the importance of the essential national measures by placing undue stress on the international aspect of the control measures. He was satisfied with the existing text, the balance of which would inevitably be affected by the addition of the word "international".

Mr. MILLER (United States of America) said that he agreed.

Dr. BABAIAN (Union of Soviet Socialist Republics) pointed out that the word "universal" was used in the fifth preambular paragraph of the 1961 Convention, which read "effective measures against abuse of narcotic drugs require co-ordinated and universal action".

Mr. BEEDLE (United Kingdom) said that if the Soviet Union representative's proposal for the replacement of the word "existence" by the word "adoption" in the second preambular paragraph was accepted, the difficulty he had just mentioned could be met by wording the paragraph as follows: "Convinced that the general adoption of effective control measures in regard to psychotropic substances ...". There was no reason why the word "existence" should not be retained in the third preambular paragraph.

Dr. HALBACH (World Health Organization) said that in order to forestall criticism, the text of the draft resolution should make it clear that the reference was only to dependence-producing psychotropic substances, not to all psychotropic substances without distinction.

Mr. MILLER (United States of America) observed that not all the substances listed in the schedules produced dependence.

Dr. HALBACH (World Health Organization) replied that all of them produced at least psychic dependence.

Mr. JOHNSON-ROMUALD (Togo), Rapporteur, pointed out that the draft Protocol contained a perfectly clear definition of what was meant by "psychotropic substances" for the purposes of the Protocol. The definition would probably be criticized, but it was too late to go back on the decision which had been taken and to introduce the notion of physical or psychic dependence.

Dr. BABAIAN (Union of Soviet Socialist Republics) said that the suggestion made by the representative of WHO had much merit, but it would be better to use the word "abuse" rather than "dependence". He proposed that a phrase should be added at the end of the operative paragraph, reading: "and of measures to combat the abuse of these substances". The Commission would thus indicate that it was not concerned solely with control and repression, but also with assistance to drug addicts in all its aspects.

Mr. BEEDLE (United Kingdom), referring to the remarks of the representative of WHO and the United States, proposed that the word "dangerous" should be inserted before "psychotropic substances" either in the title of the draft resolution or in the first preambular paragraph, and that in the remainder of the text the reference should be to "such substances".

Dr. MÅRTENS (Sweden) said he was in favour of that proposal. It would be inadvisable, however, to change the title, since that might give the impression that the draft resolution dealt with substances other than those with which the Protocol as a whole was concerned.

Mr. JOHNSON-ROMUALD (Togo), Rapporteur, said he believed that it would be better not to amend the title, in order to avoid creating any confusion of that sort.

Dr. FAZELI (Iran) suggested that "dangerous" was not the appropriate word. Many psychotropic substances were dangerous medically but did not produce dependence or cause abuse. A better way of putting it would be: "psychotropic substances liable to cause abuse".

Mr. McCARTHY (Canada) said that there was no time at that stage of the debate to try to establish categories of psychotropic substances, which the Commission had so far discussed per se. In any event, the Protocol was a legal instrument containing a perfectly clear definition of what was meant by "psychotropic substances" for the purposes of its application.

Mr. MILLER (United States of America), Dr. MABILEAU (France) and Dr. BABAIAN (Union of Soviet Socialist Republics) said that they shared that view.

Mr. BEEDLE (United Kingdom) proposed that the phrase should read "certain psychotropic substances". That word would be inserted in the title and in the first preambular paragraph, the word "dangerous" being used only in the second paragraph. If the Commission did not find that proposal acceptable, he was prepared to withdraw it.

Dr. BABAIAN (Union of Soviet Socialist Republics) said he did not think there was any real need for such an amendment to the text. There was every reason to believe that Governments would be wise enough to take the control measures appropriate to the situation in their country, relying on the advice of experts.

Mr. BARONA LOBATO (Mexico) said he was not sure whether the draft resolution the Commission was considering did not go beyond the terms of reference which the Commission had received from the General Assembly.

Mr. WATTLES (Office of Legal Affairs) replied that the Commission had been convened in special session for the purpose of completing the drafting of the Protocol and it was fully competent to adopt any draft resolution relating to it.

Mr. SOTIROFF (Chief, General Section, Division of Narcotic Drugs), recapitulating the amendments which had been accepted, said that it had been decided to replace the word "existence" by the words "general adoption" in the second preambular paragraph, to delete the word "widespread" in that paragraph and to add at the end of the operative paragraph "and of measures to combat the abuse of these substances". The Commission still had to decide whether a sentence or paragraph should be added introducing the idea of information, or whether that idea was adequately conveyed by the phrase already added to the text.

Dr. MABILEAU (France) said that the addition of a new paragraph could be avoided if the phrase it was proposed to add were amended to read: "and of preventive measures to combat the abuse of these substances".

Dr. ALAN (Turkey) said he accepted that proposal.

With the exception of the first preambular paragraph, draft resolution C, (E/CN.7/L.329/Add.3/Rev.1) as amended, was adopted.

THE DRAFT PROTOCOL ON PSYCHOTROPIC SUBSTANCES (agenda item 3)

(b) APPROVAL OF A REVISED DRAFT PROTOCOL (continued)

Preamble (E/CN.7/L.337)

Dr. BABAIAN (Union of Soviet Socialist Republics) proposed that a new paragraph worded in the same way as the fifth preambular paragraph of the 1961 Convention should be inserted after the third paragraph.

Mr. MILLER (United States of America) and Mr. CHAPMAN (Canada) supported that proposal.

Dr. BABAIAN (Union of Soviet Socialist Republics) proposed that the words "the supply of" should be replaced by "the use of" in the third paragraph.

Dr. BOLCS (Hungary) said that the notion of prevention should be introduced into the preamble by inserting the words "prevent and" between "determined" and "to combat" in the first paragraph.

Dr. MABILEAU (France) and Dr. BABAIAN (Union of Soviet Socialist Republics) supported that proposal.

The CHAIRMAN said that in the French text the word "dangerouses" should be inserted in the third paragraph after "substances psychotropes".

Mr. MILLER (United States of America), supported by Mr. BEEDLE (United Kingdom), Mr. CHAPMAN (Canada) and Mr. KAREM (Pakistan), proposed the wording "certain psychotropic substances".

Dr. BABAIAN (Union of Soviet Socialist Republics) pointed out that if that wording was used, the text might be construed as meaning that other psychotropic substances might be used for purposes other than medical and scientific.

Mr. BEEDLE (United Kingdom) said that unless the word "certain" was included, the paragraph applied to all psychotropic substances, including alcohol and tobacco.

Dr. BABAIAN (Union of Soviet Socialist Republics) thought it was quite clear from the definition of the words "psychotropic substances" given in the draft Protocol itself that alcohol and tobacco were excluded from it.

The CHAIRMAN suggested that the paragraph should simply refer to "these substances".

It was so decided.

Dr. MABILEAU (France), Chairman of the Technical Committee, said that at a meeting of that Committee it had been suggested that the Chairman of the Commission should be asked to make a formal statement, which would be recorded in the Commission's report, that nothing in the Protocol should be considered as applying to tobacco and alcohol.

The CHAIRMAN replied that he would be glad to do so at the following meeting.  
The preamble, as amended, was approved.

The meeting rose at 12.45 p.m.



SUMMARY RECORD OF THE SIX HUNDRED AND SEVENTY-FOURTH (CLOSING) MEETING

held on Friday, 30 January 1970, at 3.10 p.m.

Chairman: Mr. BERTSCHINGER (Switzerland)

THE DRAFT PROTOCOL ON PSYCHOTROPIC SUBSTANCES (agenda item 3): (b) APPROVAL OF A REVISED DRAFT PROTOCOL (E/CN.7/L.328/Add.5) (concluded)

Schedules I - IV (E/CN.7/L.328/Add.5) (resumed from the 670th meeting, and concluded)

The CHAIRMAN said that, although the schedules had already been approved in principle, it was still necessary to approve them formally so that they could be annexed to the draft Protocol. In accordance with a proposal by the United States delegation, the reference to SKF 5301 in schedule I, item 2, would be deleted. Any other mistakes in the chemical formulae would be corrected by the Secretariat on the basis of the final version of the seventeenth report of the WHO Expert Committee on Drug Dependence<sup>1/</sup>.

Dr. BABAIAN (Union of Soviet Socialist Republics) said that the schedules were acceptable to his delegation.

Mr. ANAND (India) said that the schedules, as set out in document E/CN.7/L.328/Add.5, were at best a tentative list, based on the provisional version of the Expert Committee's report (E/CN.7/L.311), which had been drawn up before the criteria had been approved by the Commission. It should therefore be made clear that they were not based on any decisions taken by the Commission and might have to be modified in the light of the criteria finally approved.

The CHAIRMAN said that the point made by the Indian representative seemed to be covered by foot-note 1, which stated that the Commission had considered the schedules to be "of a provisional nature".

Mr. BEEDLE (United Kingdom) suggested that the foot-note should include a reference to the second paragraph of chapter II, of the report (E/CN.7/L.329/Add.1, para. II.2).

Mr. ANAND (India) said that the foot-note should be amplified to indicate that the schedules had been drawn up before the criteria had been finally approved by the Commission.

Dr. MABILEAU (France), Chairman of the Technical Committee, said it was clear in any case that the Commission was aware of the provisional nature of its work.

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<sup>1/</sup> World Health Organization, Technical Report Series, 1969, No. 437.

Dr. REXED (Sweden) said that, in his opinion, the Indian delegation's point would be completely met by adopting the suggestion of the United Kingdom representative, since paragraph II.2 of the draft report now incorporated the amendment proposed by the representative of India during the discussion of document E/CN.7/L.329/Add.1/Corr.1 at the 672nd meeting.

The CHAIRMAN was in favour of the adoption of the Indian representative's amendment. The second part of the second sentence of paragraph II.2 read as follows: "it was understood that each entry in these lists would require to be closely examined and assessed at a later stage, in the light of the criteria adopted by the Commission, before they could be finalized". He suggested that a reference to the amended text of paragraph II.2 should be added to foot-note 1 in document E/CN.7/L.328/Add.5.

It was so decided.

Schedules I - IV, as amended, were approved.

#### Statement by the Chairman

The CHAIRMAN said that he had been asked to make the following statement concerning the revised draft Protocol:

"In accordance with the wish expressed by the Technical Committee, which was confirmed in plenary, I have to announce, as Chairman of this Commission, that the revised draft Protocol on Psychotropic Substances which the Commission will submit to the Economic and Social Council under Council resolution 1402 (XLVI) and General Assembly resolution 2584 (XXIV) does not apply, and is not intended to apply, to alcohol or tobacco."

ADOPTION OF THE REPORT (agenda item 4) (E/CN.7/L.329/Add.1 and 2 and Add.3/Rev.1; E/CN.7/L.338) (concluded)

#### Chapter II - The draft Protocol on Psychotropic Substances (concluded)

##### Paragraph II.20

Dr. BABAIAN (Union of Soviet Socialist Republics) introduced his delegation's proposed amendments (E/CN.7/L.338) to draft resolution B (E/CN.7/L.329/Add.2). The first three of those amendments reflected his delegation's consistent view that since the object and purpose of the draft Protocol were of interest to the international community as a whole, that instrument should be open to all States for signature. The fourth amendment contained two alternative texts which would be placed within square brackets, since it would be inappropriate for the Commission to anticipate the decision to be taken by the Council. He suggested that the first three amendments should be voted on separately.

Mr. BEEDLE (United Kingdom) proposed that the Commission should take a single vote on the first three Soviet amendments and a separate vote on each of the two variants in the fourth amendment.

Dr. DANNER (Federal Republic of Germany) and Mr. MILLER (United States of America) supported that proposal.

Dr. MÅRTENS (Sweden) said that, for the reasons already explained by his delegation on previous occasions, it must oppose the Soviet amendments and support the original draft resolution.

Dr. MABILEAU (France) associated himself with the Swedish representative's view.

Dr. BABAIAN (Union of Soviet Socialist Republics), referring to rule 59 of the rules of procedure, again requested a separate vote on each of his delegation's first three amendments.

The CHAIRMAN invited the Commission to vote on the USSR amendments to draft resolution B, one by one.

The first USSR amendment to add to the first preambular paragraph was rejected by 13 votes to 6, with 3 abstentions.

The second USSR amendment to add a new paragraph to the preamble was rejected by 10 votes to 8, with 5 abstentions.

The third USSR amendment to operative paragraph 1 was rejected by 14 votes to 6, with 3 abstentions.

After a procedural discussion, in which Mr. THOMSON (Jamaica), Mr. NIKOLIC (Yugoslavia), Dr. BABAIAN (Union of Soviet Socialist Republics), Dr. MABILEAU (France), Dr. REXED (Sweden), Mr. MILLER (United States of America), Dr. ALAN (Turkey) and Mr. GRIFFIN-WILSHIRE (Observer for Venezuela), speaking at the invitation of the Chairman, took part, the CHAIRMAN put to the vote the fourth USSR amendment.

The fourth USSR amendment to operative paragraph 2 was rejected by 16 votes to 4, with 2 abstentions.

Dr. BABAIAN (Union of Soviet Socialist Republics) said that since his delegation's amendment to operative paragraph 2 had been rejected, he would withdraw his delegation's fifth amendment, that operative paragraph 3 of draft resolution B should be placed in square brackets.

However, in view of the fact that his delegation's amendment to the first preambular paragraph had been rejected, he proposed that operative paragraph 3 (b)(i) of draft resolution B should be amended to read "All States". That amendment differed from the

one his delegation had proposed to the first preambular paragraph; what was at issue in the present instance was the Commission's right to suggest that the number of States to be invited to the Conference should be restricted. His delegation considered that the Commission would be exceeding its competence if it made any such suggestion.

Dr. MABILEAU (France) said that the Commission had already taken a stand on the matter. He supported the original wording of operative paragraph 3(b)(i).

Mr. ORTIZ RODRIGUEZ (Observer for Cuba), speaking at the invitation of the Chairman, said he agreed that the Commission would be exceeding its competence in making any suggestion regarding the States to be invited to the conference. The existing text of operative paragraph 3(b)(i) was discriminatory.

The USSR proposal to amend operative paragraph 3(b)(i) was rejected by 15 votes to 5, with 3 abstentions.

Dr. BABAIAN (Union of Soviet Socialist Republics) requested that draft resolution B should be put to the vote paragraph by paragraph.

Dr. MABILEAU (France) reminded the Commission of the request he had made at the 672nd meeting that a roll-call vote should be taken on draft resolution B. Since a roll-call vote on each paragraph would take too much time, he suggested that such a vote should be taken only on the draft resolution as a whole.

It was so decided.

The first preambular paragraph was approved by 18 votes to none, with 5 abstentions.

Dr. BABAIAN (Union of Soviet Socialist Republics), speaking in explanation of his vote, said he was not opposed to the wording of the paragraph, but had abstained from voting because he felt the scope of the treaty should be widened to include participation by all States.

The second preambular paragraph was approved by 22 votes to none, with no abstentions.

The third preambular paragraph was approved by 23 votes to none.

The fourth preambular paragraph was approved by 23 votes to none.

Mr. NIKOLIC (Yugoslavia) questioned the use of the word "first" in the fifth preambular paragraph, since it was not certain that the Commission would hold another special session.

The CHAIRMAN said he thought that point could be settled in accordance with the practice of the Secretariat in such matters.

It was so decided.

On that understanding, the fifth preambular paragraph was approved by 22 votes to none.

The sixth preambular paragraph was approved by 23 votes to none.

Operative paragraph 1 was approved by 14 votes to 5, with 4 abstentions.

Operative paragraph 2 was approved by 17 votes to none, with 6 abstentions.

Dr. BABAIAN (Union of Soviet Socialist Republics) said that his delegation had abstained from voting on operative paragraph 2, because it had been in favour of the Commission recommending more than one formula to the Economic and Social Council for the adoption of the draft Protocol.

Operative paragraph 3, with the amendments to sub-paragraph (b) (iii) approved at the 673rd meeting, was approved by 14 votes to 4, with 5 abstentions.

Dr. BABAIAN (Union of Soviet Socialist Republics) said that his delegation had voted against the adoption of paragraph 3 because it contained wording constituting political discrimination against certain States.

Mr. CHAPMAN (Canada) said that his Government had recently appointed a commission of inquiry into problems associated with drug abuse. That commission had not yet reported; consequently, although Canada supported the paragraph in principle, it had considered that it would be inappropriate to vote on it, and it had therefore abstained.

At the request of the French representative, the vote on draft resolution B (E/CN.7/L.329/Add.2), as a whole, was taken by roll-call.

Mexico, having been drawn by lot by the Chairman, was called upon to vote first.

In favour: Mexico, Sweden, Switzerland, Togo, Turkey, United Kingdom of Great Britain and Northern Ireland, United States of America, Yugoslavia, Brazil, Dominican Republic, Federal Republic of Germany, France, Iran, Jamaica, Japan, Lebanon.

Against: None.

Abstaining: Pakistan, Union of Soviet Socialist Republics, United Arab Republic, Canada, Ghana, Hungary, India.

Draft resolution B as a whole, as amended, was adopted by 16 votes to none, with 7 abstentions.

Mr. NIKOLIĆ (Yugoslavia) said that his delegation had voted in favour of the draft resolution as a whole, although it had voted against some of its individual paragraphs.

Dr. BABAIAN (Union of Soviet Socialist Republics) said that his delegation had abstained from voting on the draft resolution as a whole, firstly, because its first preambular paragraph and operative paragraphs 1 and 3 (b) (i) contained wording which amounted to discrimination against particular States and, secondly, because it presented the Council with a ready-made formula, instead of a choice of formulae for the adoption of the draft Protocol.

The CHAIRMAN said that, with the adoption of draft resolution B, the Commission had completed its consideration of paragraph II.20 of its draft report. Paragraph II.21 (E/CN.7/L.329/Add.1)

The CHAIRMAN said that the Commission still had to vote on the first preambular paragraph of draft resolution C proposed for adoption by the Economic and Social Council (E/CN.7/L.329/Add.3/Rev.1).

Dr. BABAIAN (Union of Soviet Socialist Republics) proposed that the Commission should vote on the first preambular paragraph, then on the remainder of the draft resolution, and finally on the draft resolution as a whole.

It was so decided.

The first preambular paragraph was approved by 16 votes to none, with 6 abstentions.

Dr. BABAIAN (Union of Soviet Socialist Republics) said that his delegation had abstained because it had been in favour of the Commission recommending more than one formula to the Council for the adoption of the draft Protocol.

The second preambular paragraph, as amended at the 673rd meeting, the third and fourth preambular paragraphs and the operative paragraph of draft resolution C were approved by 21 votes to none.

Draft resolution C as a whole, as amended, was approved by 15 votes to none, with 6 abstentions.

Dr. BABAIAN (Union of Soviet Socialist Republics) said that his delegation had abstained from voting for the reason he had given in connexion with the first preambular paragraph. The result of the vote would entail a change in the wording of paragraph II.21, because the vote had not been unanimous. That paragraph should show the outcome of the discussion and give the result of the vote.

The CHAIRMAN said that the appropriate action would be taken by the Secretariat.

Mr. ANAND (India) said that his delegation had abstained from voting on the same grounds as the Soviet Union representative.

Paragraph II.21 was adopted, subject to the necessary changes by the Secretariat. Paragraphs II.22 and II.23 (E/CN.7/L.329/Add.1) (concluded)

Dr. BABAIAN (Union of Soviet Socialist Republics) said that in paragraph II.22 or II.23, or elsewhere in its report, the Commission should record the fact that it decided to defer its consideration of article 27 of the draft Protocol.

The CHAIRMAN said that the Rapporteur would insert the necessary wording.

Mr. MILLER (United States of America) said that he did not think it was appropriate to apply the word "substantive", which occurred in paragraph II.22, to preparations for a conference.

The CHAIRMAN said the appropriate correction would be made.

Paragraphs II.22 and II.23 were adopted, subject to the modifications suggested by the Soviet Union and United States representatives.

Draft export declaration

Mr. KUSEVIC (Director, Division of Narcotic Drugs) suggested that it would assist Governments, particularly of countries not represented on the Commission, if a draft export declaration under article 11 of the draft Protocol was attached to the Commission's report. A draft form had been distributed, but had not been discussed.

The CHAIRMAN said that if there was no objection to suggestion made by the Director of the Division of Narcotic Drugs, he would take it that the Commission approved it.

It was so decided.

The draft report as a whole, as amended, was adopted.

STATEMENT BY THE SOVIET UNION REPRESENTATIVE

Dr. BABAIAN (Union of Soviet Socialist Republics) drew attention to document E/CN.7/L.330/Add.1, which had been circulated to the Commission but not discussed. It listed the country described as "Germany (Democratic Republic)" in such a way as to suggest that it was a non-autonomous State. He asked the Secretariat to take great care, when preparing documents, to ensure that nothing was reproduced which conflicted with reality or implied discrimination against a State.

Mr. KUSEVIC (Director, Division of Narcotic Drugs) said that the list of countries given in document E/CN.7/L.330/Add.1 had not been prepared by the Secretariat but had been taken as it stood from a document supplied to the Secretariat by UPU. The Secretariat had noted the comments of the Soviet Union representative.

CLOSURE OF THE SESSION

Dr. MABILEAU (France) said that valuable results had been achieved in the preparation of a comprehensive instrument on the control of psychotropic substances for consideration by a higher body. The draft Protocol represented progress along the right road.

Dr. BABAIAN (Union of Soviet Socialist Republics) said that, although very useful work had unquestionably been done at the special session, his delegation was seriously disappointed that the Commission had not supported its view that the Protocol,

which was an instrument of vital importance to every individual, should be open to all States. The text of the draft Protocol, as approved by the Commission, contained discriminatory provisions, resulting in inequality between States.

Mr. ANAND (India) said that the Commission had produced a draft which, although not perfect in every detail, was nevertheless satisfactory as a whole. It was a constructive step towards an instrument which countries could readily sign and ratify.

Mr. BARONA LOBATO (Mexico) said that he thought the draft Protocol would be acceptable to many States. He hoped it would soon be converted into an efficient instrument for the control of psychotropic substances.

Mr. MILLER (United States of America) said that countries were clearly moving towards the point of full co-operation in solving the problem of the abuse of psychotropic substances. He hoped that an instrument expressing that co-operation would come into operation as soon as possible.

The CHAIRMAN said that much still remained to be done to achieve full international control of psychotropic substances. Unfortunately, the Commission's views and decisions were not always accepted in other circles. For example, he had recently attended a privately-organized symposium in Zurich on narcotics and drug dependence and had been disappointed to find doctors and psychiatrists questioning, for instance, the fact that heroin and cannabis were in the same schedule, and that LSD was regarded as being so dangerous. Unless the classification of psychotropic substances was based on rigorously scientific data, the Commission and WHO would have great difficulty in securing general acceptance for their views.

After the customary exchange of courtesies, the CHAIRMAN declared the first special session of the Commission closed.

The meeting rose at 6 p.m.