UNITED NATIONS

ECONOMIC AND SOCIAL COUNCIL

Distr.
GENERAL

E/CN.7/Min.645 and
SR.646 - 659
31 March 1970

ENGLISH
Original: ENGLISH/FRENCH

COMMISSION ON NARCOTIC DRUGS

First special session

Volume I*

MINUTES OF THE SIX HUNDRED AND FORTY-FIFTH MEETING AND SUMMARY RECORDS OF THE SIX HUNDRED AND FORTY-SIXTH TO SIX HUNDRED AND FIFTY-NINTH MEETINGS

held at the Palais des Nations, Geneva,
from 12 - 21 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).

Acting Chairman and later Chairman:	Mr. BERTSCHINGER	Switzerland
Rapporteur:	Mr. JOHNSON-ROMUALD	Togo

* The summary records of the 660th - 674th meetings, held from 22 - 30 January 1970, are in volume II.

GE.70-5871
70-35349

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ABBREVIATIONS

The following abbreviations are used in this document.

Abbreviation	Full Title
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

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

Note: The meetings indicated are those at which the articles were discussed in depth. When an important reference to a particular article was made at another meeting the number of this meeting has been given between brackets.

MINUTES OF THE SIX HUNDRED AND FORTY-FIFTH (OPENING) MEETING

held on Monday, 12 January, 1970, at 11.15 a.m.

Acting Chairman

later Chairman: Mr. Bertschinger (Switzerland)

OPENING OF THE SESSION

The ACTING CHAIRMAN declared open the first special session of the Commission on Narcotic Drugs.

In his capacity as outgoing Chairman, he wished to express his appreciation of the co-operation he had invariably received both from members of the Commission and from the United Nations Secretariat, particularly the Director of the Division of Narcotic Drugs. He hoped that that spirit of co-operation would be maintained during the current session at which the Commission had to prepare a complex and delicate international instrument.

Noting the absence of Mr. Curran (Canada), who was unable to attend the session, and of Mr. Anslinger (United States of America), who was ill, he proposed that the members of the Commission should send them a collective letter conveying their regret.

It was so decided.

Mr. KUSEVIĆ (Director, Division of Narcotic Drugs) stressed the importance of the current session. The World Health Assembly, the Economic and Social Council and the United Nations General Assembly, aware of the growing anxiety throughout the world at the destructive effects of the abuse of narcotic drugs and psychotropic substances, had instructed the Commission to act swiftly. Difficulties were, of course, to be expected but the preparation of the draft Protocol on Psychotropic Substances was already well advanced and he was sure that the members of the Commission would make every effort to establish an appropriate balance between the essential controls and the flexibility of application without which the instrument would remain a dead letter. He was also confident that they would be able to discard a narrow approach and look only at the objective to be attained. For its part, the Secretariat would do all in its power to assist the Commission in its work.

ELECTION OF OFFICERS (item 1 of the provisional agenda)

Mr. BEEDLE (United Kingdom), supported by Dr. BABAIAN (Union of Soviet Socialist Republics), Dr. MABILEAU (France), Mr. NIKOLIĆ (Yugoslavia), Dr. EL-HAKIM (United Arab Republic), Mr. ZEGARRA ARAUJO (Peru) and Mr. INGERSOLL (United States of America), proposed that Mr. Bertschinger (Switzerland) should be re-elected to serve as Chairman.

Mr. Bertschinger (Switzerland) was re-elected Chairman by acclamation.

The CHAIRMAN said the fact that the Commission's parent bodies had authorised it to hold a special session and that the United Nations General Assembly had adopted two resolutions (resolutions 2433 (XXIII) of 19 December 1968 and 2584 (XXIV) of 15 December 1969 on the problem of psychotropic substances, showed how important it was to bring those substances under control as rapidly as possible. To that end, the members of the Commission should avoid ambiguities and technicalities and agree upon a text which all States could adopt. Every effort should be made to reconcile divergent points of view, particularly as the comments received from fifty-five Governments showed that the areas of difference and doubt were not wide.

He expressed his appreciation to WHO for having furnished the Commission with a list of psychotropic substances which might be covered by the Protocol. The disappointing results of the recommendations so far adopted seemed to point to the need for a treaty obligation binding governments to take the necessary legislative action at the national level and to agree to co-operate with each other with respect to international measures. It could now be seen that the Protocol had to be treated as a whole, but the interests involved were so complex that it might be advisable to provide for a theoretical right of rejection, applicable only in very exceptional circumstances, so that the proposed instrument might have a better chance of obtaining universal acceptance. It might also perhaps be wise for the Commission to avoid reaching a decision on the final provisions (articles 21 to 28), which involved highly political matters, but to refer them to the conference of plenipotentiaries. If the Commission decided not to examine those articles, they would be included in the revised text of the Protocol submitted to the Council and the report on the special session would give the reasons for that decision.

Mr. INGERSOLL (United States of America), supported by Mr. ANAND (India), Dr. Mabileau (France), Dr. EL-HAKIM (United Arab Republic), Mr. SAGOE (Ghana), Mr. MOUAES (Lebanon) and Dr. BABAIAN (Union of Soviet Socialist Republics), proposed that Mr. Beedle (United Kingdom) should be re-elected First Vice-Chairman.

Mr. Beedle (United Kingdom) was re-elected First Vice-Chairman by acclamation.

Mr. NIKOLIĆ (Yugoslavia), supported by Mr. BEEDLE (United Kingdom), Dr. REXED (Sweden), Dr. BABAIAN (Union of Soviet Socialist Republics), Mr. SAGOE (Ghana), Dr. MABILEAU (France) and Mr. INGERSOLL (United States of America), proposed that Mr. Anand (India) should be elected Second Vice-Chairman.

Mr. Anand (India) was elected Second Vice-Chairman by acclamation.

Dr. MABILEAU (France), supported by Mr. NICOLIĆ (Yugoslavia), Mr. KEMÉNY (Switzerland), Dr. ALAN (Turkey), Mr. ANAND (India), Dr. BABAIAN (Union of Soviet Socialist Republics) and Mr. INGERSOLL (United States of America), proposed that Mr. Johnson-Romuald (Togo) should be elected Rapporteur.

Mr. Johnson-Romuald (Togo) was elected Rapporteur by acclamation.

The CHAIRMAN proposed that, in accordance with the customary procedure, the former chairmen of the Commission should take part in the meetings of the Steering Committee together with the heads of the delegations of the Federal Republic of Germany, Sweden, the Union of Soviet Socialist Republics, the United Arab Republic and the United States of America.

It was so decided.

Mr. INGERSOLL (United States of America), after congratulating the officers on their election, emphasized the gravity of the problem of the abuse of psychotropic substances, not only in the United States of America but in all countries of the world in which illicit traffic was constantly growing. In fact abuse of the traditional drugs such as heroin and marijuana was also increasing sharply. Thus, there was an obvious need for a major international effort to discourage unauthorized production and thus to combat the illicit traffic at its source, however great the political, social and economic difficulties involved, as the General Assembly had recognized in its resolution 2434 (XXIII). The General Assembly of ICPO/INTERPOL, too, had been alarmed at the "epidemic proportions" of drug abuse throughout the world and had recommended in October 1969 that, in addition to the measures previously recommended for the repression of illicit cultivation, land which had been used for illicit cultivation of the opium poppy, cannabis or the coca plant should be confiscated and that the Lebanese policy of encouraging substitute crops should become the general practice. The producing countries could not, however, be expected to act alone and it was for the countries represented in the Commission to provide guidance regarding the practical steps to be taken, both at the national level and within the United Nations system. Nor could countries afford to neglect the problem of demand, which could only be dealt with effectively by rehabilitation and education.

It had to be recognized that the international instruments had proved inadequate to prevent over-production of opium, cannabis and coca leaf. Thus, the United States had been compelled by circumstances to have increasing resort to bilateral measures. The entire world community should, however, realize that the only way of solving the opiate problem was to eliminate opium production completely. Development of synthetic substitutes was rapidly diminishing the need for opium, and its cultivation was of negligible economic value in many of the producing countries. The time had come to recognize that the control of drug abuse was everybody's concern and that it was important to increase the resources devoted to that purpose and not simply to draw up legal instruments, however perfect they might be.

Mr. KANDEMIR (Turkey), supported by Mr. NIKOLIĆ (Yugoslavia) and Dr. BABAIAN (Union of Soviet Socialist Republics), thought that the Commission should strictly confine itself to the mandate it had been given, namely, to consider and adopt the draft Protocol, and that general statements had no place in its work. The Commission could, however, revert to the subject at its next regular session, in 1971.

ADOPTION OF THE AGENDA (item 2 of the provisional agenda) (E/CN.7/524)

The CHAIRMAN proposed that the Commission should adopt the provisional agenda (E/CN.7/524).

The agenda was adopted.

The meeting rose at 1.5 p.m.

SUMMARY RECORD OF THE SIX HUNDRED AND FORTY-SIXTH MEETING

held on Monday, 12 January 1970, at 3.30 p.m.

Chairman: Mr. BERTSCHINGER (Switzerland)

ADMISSION OF OBSERVERS

Mr. ANSAR KHAN (Secretary of the Commission) announced that requests to send observers to attend the special session had been received from the governments of three countries, Argentina, Israel and Tunisia, which had not been among the countries that had been invited to do so by the Secretary-General in consultation with the Chairman, as decided by the Commission at its twenty-third session.

The CHAIRMAN said that, in the absence of any objection, he would assume that the Commission agreed that observers from those additional countries should be invited to attend the session.

It was so decided.

ORGANIZATION OF WORK

The CHAIRMAN informed the Commission that the Steering Committee had decided to recommend the establishment of a technical committee to deal with the technical aspects of the draft Protocol. It had proposed that the committee should have Dr. Mabileau (France) as its chairman and that its members should be: Mr. Chapman (Canada), Mr. Danner (Federal Republic of Germany), Mr. Verde (France), Mr. Sagoe (Ghana), Dr. Bölcs (Hungary), Mr. Shimomura (Japan), Dr. Mårtens (Sweden), Mr. Kemény (Switzerland), Mr. Johnson-Romuald (Togo), Dr. Babaian (Union of Soviet Socialist Republics), Dr. El-Hakim (United Arab Republic), Dr. Cahal (United Kingdom), Mr. Blum (United States of America) and Mr. Nikolić (Yugoslavia). Representatives of WHO and of the Board would also participate.

It was so decided.

Dr. ALAN (Turkey), Dr. WALSHE (Observer for Australia), Mr. BOUZAR (Observer for Algeria), and Mr. PENGSRITONG (Observer for Thailand), speaking at the invitation of the Chairman, said that they also wished to participate in the work of the technical committee.

It was so decided.

Dr. MABILEAU (France) said it was important that members of the technical committee should participate in all the committee's meetings, and not merely in some of them.

The CHAIRMAN informed the Commission that the Steering Committee had considered the draft working paper on the organization of work and time-table of the special session prepared by the Secretariat (MNAR/13/69). In principle, it accepted the arrangements suggested, except that it did not consider a drafting committee should be set up immediately; it felt that such a committee might be established later, or the relevant work might be given to a working group, as proposed in the Secretariat paper.

The Steering Committee had thought it best that all difficult technical matters should first be considered by the technical committee. If that was acceptable, the committee could start its work with article 1 and article 2, paragraphs 1 to 10, of the draft Protocol. The Commission might start its work with a general discussion of article 2, paragraphs 11 and 12.

The proposals of the Steering Committee were adopted.

Dr. BABAIAN (Union of Soviet Socialist Republics) said that while he agreed with the procedure suggested by the Chairman, he wished to make some comments of a general nature.

At the 645th meeting, the Chairman had referred to differences of opinion about the work of the session and, in particular, to the view held by some that the Commission should deal only with articles 1 to 20 of the draft Protocol, since the remaining articles, the Final Provisions, were mainly of a legal and political nature. His delegation had already stated its views on that subject at the twenty-third session; it believed the Commission should deal with all articles.

The decision to convene a special session had been taken to enable the Commission to consider all matters relating to the control of psychotropic substances not yet under international control. Moreover, in its resolution 2584 (XXIV) of 15 December 1969, the General Assembly had requested the Council to call upon the Commission at the special session to proceed without delay to complete the draft Protocol; in other words, to prepare a complete text and not one containing technical articles only. Under its terms of reference, the Commission was responsible for dealing with all matters pertaining to the control of narcotic drugs and for preparing, if necessary, drafts of international instruments. It was thus clearly competent to deal with the legal as well as with the technical aspects of draft instruments. Its status as a plenipotentiary body was further emphasized in the foot-note to rule 12 of the rules of procedure of the functional commissions of the Economic and Social Council.

If the Commission confined itself to articles 1 to 20 of the draft, it would not only reduce its status from that of a body composed of government representatives to

that of an expert body, but it would fail to comply with the terms of the General Assembly resolution. The question would also arise of who was to deal with the remaining articles if they were left aside by the Commission.

Dr. BÖLCS (Hungary) associated himself with the views expressed by the USSR representative.

The CHAIRMAN said that the Commission had to give particular attention to the substantive articles. If sufficient progress was made, articles 21 to 28 could be dealt with at the end of the session. Referring to the Plenipotentiary Conference at which the 1961 Convention had been prepared, he pointed out that articles not strictly within the competence of the technical members of delegations had been discussed by other members after the Conference.

Dr. BABAIAN (Union of Soviet Socialist Republics) said that a matter of principle was involved. The Commission was composed of representatives of governments and not merely of experts in pharmacology, medicine or law, and its members were competent to consider all parts of the draft Protocol. Articles 21 to 28 of the draft were not secondary articles; the contrary was the case.

It should also be remembered that the Commission was meeting during the year in which the United Nations was celebrating its twenty-fifth anniversary. At its twenty-fourth session, the General Assembly had expressed a wish that the twenty-fifth anniversary should be marked by new initiatives, and it was appropriate that a new Protocol should be drawn up as a social advance to mark that anniversary.

The CHAIRMAN said that the time-table of work already provided for discussion of articles 21 to 28 on 22 and 23 January 1970. He assumed the Commission agreed that no further action was necessary for the time being.

It was so decided.

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)

Article 2 (E/CN.7/523/Rev.1, annex IV)

Mr. KUSEVIC (Director, Division of Narcotic Drugs) said that article 2 might be described as the crux of the Protocol; once agreement was reached on it, there would be little difficulty in reaching agreement on the Protocol as a whole. The first ten paragraphs of the article presented less difficulty than the last two, upon which there was greater scope for differences of opinion. The right of rejection was a cardinal issue. If it was decided to accord that right, a decision would have to be taken on whether it was to apply to all the schedules or only to some of them, and

whether it should be applied to any of the substances to be included in the Protocol at the present stage or only to substances brought under control at a later date. What was perhaps most important, if the right of rejection was allowed, it would have to be decided whether some articles of the Protocol, for example, articles 8, 11 and 12, should be binding on a Party availing itself of that right.

There was also the question of the appeals procedure. It might be held that if rejection was formulated in such a way that the interests of non-rejecting Parties were protected, the appeals machinery lost some of its importance. If there was no right of rejection, there would, of course, have to be an appeals procedure.

With regard to the recommendations in the seventeenth report of the WHO Expert Committee on Drug Dependence (E/CN.7/L.311) concerning the substances to be included in the schedules to the Protocol, it was his understanding that the so-called "analogous drugs" would not be considered for inclusion at the present stage, since there was as yet insufficient evidence to justify bringing them under control. If evidence to the contrary came to the notice of WHO, those substances would be included in the schedules either before the plenipotentiary conference or later by means of the control procedure laid down.

He did not believe that there was any difference of opinion about the special regime for controlling substances such as LSD, which would be covered by schedule I. International trade in those substances would be subject to an even stricter system than that applicable to drugs such as morphine. As regards international trade in other psychotropic substances, export-import authorizations might not prove necessary if an efficient method was evolved for the exchange of information about exports as they took place. The Secretariat had prepared a model form which might be used for that purpose for the Commission's consideration. The development of some method of returning a certified receipt of the export declaration through the postal services would obviate the need for the importing country to send the exporting country a document acknowledging receipt of an import. The representative of UPU could provide the Commission with useful advice in that connexion.

Sir Harry GREENFIELD (President, International Narcotics Control Board) said that the spread of the misuse of psychotropic substances not yet under international control had become alarming. Such misuse had begun to assume significant proportions some years previously and, in 1965, INCB had recorded the deep concern it had for some time shared with the Commission and WHO regarding the habitual misuse of barbiturates and amphetamines. The use of those substances had since spread rapidly, both within individual countries and from one country to another.

Public anxiety had correspondingly increased and the responsible elements of the community were now expressing more open concern at the effect of the phenomenon on the welfare of the younger generation. Apart from the Board's own sense of moral responsibility with respect to the problem, there was a need to satisfy that important sector of public opinion that adequate protective measures were being taken, both by the governments chiefly concerned and by the relevant international bodies.

The authorities, national and international, had of course been far from idle. The preparation of the present draft Protocol on the basis of the material examined in 1966 by the Commission's Committee on substances not under international control was in itself proof that much hard thinking had been done. General Assembly resolutions 2433 (XXIII) of 19 December 1968 and 2584 (XXIV) also provided clear evidence that the United Nations was resolved to come to grips with the problem as quickly as possible.

From the standpoint of world opinion, it was of paramount importance that the present session should succeed, and should be shown to have succeeded, in its purpose of preparing the final text of an effective and enduring instrument of international control. That text must be as all-embracing as the draft submitted for consideration, and must be seen to command the whole field of manufacture, distribution and consumption of the substances in question. That was not to say that the international control of psychotropic substances must necessarily, and in every particular, follow the same pattern as the control of narcotic drugs. On the contrary, while there were manifest parallels between those two problems, the circumstances surrounding the use, both legitimate and improper, of the two groups of substances differed so widely as to make the application of identical control systems inappropriate and indeed physically impossible. It would be for the Commission to decide what degree of control was essential and attainable in the case of each main group of psychotropic substances.

If public expectations were to be fully satisfied, however, the new instrument must not only cover the existing psychotropic substances not yet under international control, but must also make adequate provision for possible variations in the pattern of misuse so as to obviate the need for further legislation in the foreseeable future. In other words, in addition to being comprehensive in scope, the new treaty must be sufficiently flexible to meet the changes in circumstances which past experience had shown to be inevitable.

Flexibility would also be essential on administrative grounds. Little imagination was required to perceive the magnitude of the task of imposing effectual and, at the same time, tolerable controls over the movement of a wide category of substances which, even at the present time, were being used in the treatment of many millions of persons and whose utilization was bound to expand with the growth of medical services throughout the world. In approaching a task of those dimensions, it was essential to begin by laying a sound foundation of control measures and to build on that foundation as, and only as, experience showed that additional measures were necessary. To attempt to do too much too quickly might alienate the section of the public whose co-operation was essential to the successful working of the control system and undermine the confidence of the public at large.

Important as it was that the treaty should be comprehensive in scope, it was no less important that it should be comprehensive in territorial terms, that it should, as far as possible, be applied throughout the world. One of the great merits of the international narcotics control system was that it was practically universal. The Board had more than once gratefully acknowledged the fact that even countries which had not formally subscribed to the narcotics treaties nevertheless strove faithfully to comply with their provisions. Public opinion would surely expect the new treaty to be no less widely accepted and applied.

The Board's representatives were at the disposal of the Commission during the current session. The Board was also prepared to undertake any additional duties and responsibilities which might be laid upon it in connexion with the application of the Protocol when it ultimately entered into force.

Dr. MABILEAU (France), referring to the statement in the comments by governments (E/CN.7/525), that his country preferred the first alternative for the second sentence of article 2, paragraph 11, emphasized that there was a difference between substances which were already known and those which would be produced in the future and which might also be abused. It would be difficult to find criteria for substances not yet in existence.

His delegation considered that three main points should be borne in mind in connexion with the draft Protocol. Firstly, the purpose of the Protocol was to ensure that countries could prevent the entry into their territory of substances and quantities of substances other than those which they required to meet their medical and scientific needs. On that point, there seemed to be unanimous agreement in the Commission. Secondly, by international agreement, countries should include in their national legislation standard minimum regulations concerning all the substances in

question. It was of course understood that every country always had the sovereign right to enact stricter national legislation than the minimum accepted by all. That principle was also to be found in the 1961 Convention. Thirdly, in view of the very wide variety of uses of the substances the Protocol was intended to cover and in view of the volume of the perfectly legal international trade in such substances, it was essential that the Protocol should be workable and hence that its provisions should not be too inflexible.

Mr. KUSEVIĆ (Director, Division of Narcotic Drugs) said that if it was decided to provide for the right of rejection in article 2, it would be necessary to consider whether that right should be unqualified or whether it should be limited by other provisions of the Protocol. It might, for example, be stipulated that it should apply to schedules III and IV, but not to schedules I and II, or an obligation might be imposed to issue an export declaration, even where a government had rejected control at the national level. Article 12 recognized the basic principle that a country had the right not to accept imports of certain substances into its territory. Other countries should respect that decision and prohibit the export of those substances to the country concerned.

Dr. ALAN (Turkey) asked whether any other international instruments provided for the right of rejection.

Mr. WATTLES (Office of Legal Affairs) said that, so far as he knew, there was no other example of the right of rejection. However, the right of reservation had always been widely recognized in international instruments, and that right seemed to be parallel to the right of rejection.

Mr. ZEGARRA ARAUJO (Peru) said his Government considered that every country should have the absolute right to reject decisions with which it disagreed. The Protocol should also provide for an appeals procedure, and the right to enter a reservation on ratification or accession should be granted on a broad basis.

Mr. MILLER (United States of America) said his Government believed that provision for the right of rejection was essential to the successful operation of the Protocol. In its view, automatic control should not be indiscriminately extended to new drugs. The relevant provisions should be flexible and countries should be free to adapt their public health measures to their own domestic conditions, provided that controls in other countries were not adversely affected. The United States had therefore expressed itself in favour of the second alternative with some modification. But although it could not accept full control over psychotropic substances, it could

agree to subject them to certain controls. It would, for example, be prepared to make them available on prescription only, and also to prohibit their export to countries which did not wish them to enter their territory. The United States was, however, concerned at the provision in the second alternative that control decisions by the Commission should become effective after a period of ninety days; it thought that a period of 180 days would be more realistic.

Mr. NIKOLIĆ (Yugoslavia) said it had been argued that a right of rejection was necessary because a new system was being instituted. If, however, it had not been considered necessary to provide for a right of rejection in any of the conventions which had established the system of control over natural drugs, he did not see why it should now be regarded as a matter of urgency to provide for such a right in the case of synthetic drugs.

Mr. WATTLES (Office of Legal Affairs) pointed out that article 49 of the 1961 Convention which dealt with transitional reservations, provided for a system equivalent to rejection, although a different legal technique was used. That article permitted reservations to many important provisions of the Convention, and had been included because of the inability of many governments to make an immediate adjustment to the new regime which was being introduced by the Convention.

Dr. BABAIAN (Union of Soviet Socialist Republics) said that his delegation preferred the first alternative. It was difficult to see how effective control could be ensured if provision was made for the right of rejection. The second alternative was therefore unacceptable to his delegation.

It was clear that paragraph 11 sought to protect the interests of all countries, and it was therefore essential that the maximum number of countries should become Parties to the Protocol, not only States Members of the United Nations.

Dr. ALAN (Turkey) said that his delegation was opposed to the idea of giving Parties the right to reject the Commission's decisions, since that would be incompatible with the international application of the draft Protocol. Perhaps, however, Parties might be given some right of appeal.

Mr. CHAPMAN (Canada) said that, as had already been pointed out, the draft Protocol should possess a certain degree of flexibility, since otherwise it would not be accepted by a majority of States. For example, some countries, such as his own, might have constitutional difficulties in enforcing decisions by the Commission which called for action by their individual provinces. Moreover, different social attitudes led to different patterns of abuse: a drug might well be subject to abuse in one

country and not in another. His delegation, therefore, favoured the second alternative. It was prepared, however, to consider some qualification of the right of rejection; for example, it would be willing to make the dispensing of certain compounds subject to medical prescription and to require exporters to take into account the controls imposed on certain drugs in other countries. He did not think that there would be many cases in which his Government would not agree with the decisions taken by the competent international bodies.

Dr. REXED (Sweden) said that, at present, the Commission seemed to be divided between two extreme positions, the first being the adoption of an instrument which would categorically prohibit the use of any substance which was found to be dangerous, and the second being the inclusion of provisions which would give Parties the right to reject any recommendation of the Commission. In his opinion, the adoption of the second position would render the draft Protocol valueless, since its signatories would have no guarantee that it would give them any assistance in controlling dangerous drugs. Like the French representative, he thought it was necessary to accept certain standard minimum regulations with regard to substances such as LSD, which all experts agreed were dependence-producing and had harmful chronic effects. Even countries which had no experience with LSD should have no difficulty in agreeing to place it under international control. Since, however, the Commission was divided between the two extreme positions, he suggested that the technical committee should be asked to try to find some common area of agreement between them.

Mr. MILLER (United States of America) said he wished to make it clear that, in advocating the granting to Parties of the right to reject the Commission's decisions, his delegation was not referring to the substances that would be listed at the end of the Protocol at the time of its entry into force - substances on which considerable experience was available. It was rather concerned with future action by the Commission on new drugs concerning which experience was lacking.

The 1961 Convention, which was intended to introduce a strict system of control, nevertheless contained a flexible provision such as article 2, paragraph 5(b), under which a Party was not required to take the action prescribed in that article if, in its opinion, the "prevailing conditions in its country" made it inappropriate. In order to give the draft Protocol a similar measure of flexibility, his delegation considered it necessary to include the right of rejection provided for in the second

alternative. He did not think that countries would abuse that right, since all would be fully aware that they were exposed to international criticism.

The CHAIRMAN, summing up the discussion, noted that the Swedish representative had suggested that the problem of the two alternatives for the second sentence of paragraph 11 should be referred to the technical committee. In his personal opinion, however, such action would be premature. Those who favoured the second alternative seemed to agree that it should not apply to substances which were known to be dangerous, but only to those on which precise knowledge was not yet available. Since some delegations appeared to find the word "non-acceptance" too strong, he suggested that the Office of Legal Affairs might find some other suitable term, such as "reservation".

The meeting rose at 5.25 p.m.

SUMMARY RECORD OF THE SIX HUNDRED AND FORTY-SEVENTH MEETING

held on Tuesday, 13 January 1970, at 10.15 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) (continued)

Mr. ANSAR KHAN (Secretary to the Commission) informed the Commission that, in accordance with the Chairman's decision, summary records would be produced of the plenary meetings, although shorter minutes had been produced of the opening meeting. The Commission would thus be exercising the right conferred upon it under Council resulution 1379 (XLV) of 2 August 1968 concerning summary records of subsidiary organs of the Council.

The Commission approved the Secretary's statement.

Article 2 (E/CN.7/523/Rev.1)(annex IV) (continued)

Mr. MOUJAES (Lebanon) said that, for the second sentence of article 2, paragraph 11, of the draft Protocol, his Government preferred the second alternative. There was every reason to believe that the countries which were in favour of the right of non-acceptance would not be found wanting in caution, as was shown by the decision taken by the Lebanese Government as early as August 1967 to make the issue of barbiturates to private persons, subject to presentation of a prescription which the pharmacist had to keep for not less than five years. He did not agree with the French representative (646th meeting) that some other term should be substituted for "non-acceptance".

Mr. BEEDLE (United Kingdom) congratulated the Secretariat on the first-rate documentation it had submitted to the Commission.

The need for a right of non-acceptance depended to some extent on the efficiency to be expected from the new decision-making machinery proposed, which would have to make a wider range of judgements and choices than that required under the 1961 Convention. The Swedish authorities had made a long and full evaluation of their public health problem with amphetamines, but for other drugs the evidence of epidemic spread and public health risks was less well reported. Once the Protocol was in operation, WHO would no doubt be kept informed about emerging patterns of abuse, so that Parties generally would have some preliminary informal warning of a new dangerous substance as its effects were increasingly reported. Nevertheless, the Protocol contained certain rigidities which required attention. First, there was the problem

of provisional application of controls. Was it realistic to think that, without advice from WHO, the Commission could decide to include a substance provisionally in schedules I or II? Second, there was the problem of timing. If the Commission met biennially would it take decisions, whether provisional or final, by correspondence vote? Should it have some power to modify acceptance of a WHO recommendation, so that time would not be wasted referring a recommendation back to WHO for modification before control was imposed? Third, the pattern of proposed criteria contained overlaps which could generate controversy and misunderstanding about the reasons for which WHO recommended, and the Commission decided upon, the selection of a particular schedule.

Those considerations strengthened his conviction that a clause providing for the right of non-acceptance should be included. That clause might be of limited duration, say twenty-five years or whatever period would allow parties to see whether the Protocol was operating effectively.

Mr. ANAND (India) said that the debate on article 2 was of the utmost importance, for it would depend on the form which that article finally assumed whether the Protocol was effective or whether, on the contrary, the existing situation continued.

His delegation did not consider that countries wishing to exercise the right of non-acceptance should be allowed to do so for twenty-five years, for that would be tantamount to leaving the final decision to the next generation. Some delegations had argued that the Protocol should be very flexible. That must not, of course, mean that each country should be able to take a unilateral decision on the control measures to be applied to a particular substance; if that were so, the Protocol would be pointless. It was the measures themselves that should be flexible, not the methods of applying them. Any disagreements that arose would relate to the schedules in which substances were to be entered rather than to the control that was instituted.

Some delegations seemed to fear lest WHO, in its anxiety to safeguard world health, might make recommendations incompatible with national interests. Personally he did not think that any such situation was likely to arise, since WHO took its decisions only after mature reflection. Besides, before it was applied, the decision must be endorsed by the Commission and by the Council, to which countries could still appeal. The validity of such a decision should not be open to question, and differences of opinion would probably be few in relation to the very large number of substances it was proposed to place under control. If they did arise, national interests should yield to the general interest.

The Indian delegation was not in favour of the right of non-acceptance, but it considered that guiding principles should be laid down whereby WHO would be bound to take into consideration all the consequences of a control measure before recommending that it should be applied. The clause in the Protocol providing that the Commission might alter a recommendation by WHO should be construed to mean that the Commission could transfer a substance from one schedule to another of a less restrictive nature, to make its regulation less stringent.

Mr. KEMENY (Switzerland) said he was afraid unduly strict provisions would be counter-productive. Referring to articles 21 and 22 of the Constitution of WHO, which allowed member States to make reservations within a stated period by complying with certain formalities, he proposed that the drafting committee should be requested to take those provisions as a guide in redrafting article 11. The article should provide for a right of non-acceptance, but not for an indeterminate one, since all countries should be bound to co-operate in preventing the abuse of certain substances.

Dr. STREET (Jamaica) observed that the Commission was in unanimous agreement on the principle that the use of dangerous substances, which at the present time was causing problems of varying gravity in every country, should be curbed. He was in favour of provisions flexible enough to enable all countries to sign the Protocol. The faculty to make reservations seemed preferable to a right of non-acceptance, and he was in favour of the idea of taking the time factor into account in establishing a control system.

Dr. DANNER (Federal Republic of Germany) said that some limitation should be imposed on the right of non-acceptance, and that what the Commission really had to do at the current session was to find a reasonable compromise in determining how far the non-acceptance of a decision by the Commission could go.

Dr. ALAN (Turkey) explained that article 22 of the WHO Constitution, to which the Swiss representative had referred, authorized member States to make reservations to a regulation prepared by the World Health Assembly. Such reservations, however, had to be accepted by that Assembly and, if they were not, the member State was bound to apply the existing regulation. The situation differed, however, in the case of the draft Protocol, for that was an instrument which did not yet exist. He was not in favour of a non-acceptance clause, for he asked himself what the Commission's position would be if contracting Parties were allowed not to accept a decision it had taken.

Dr. BABAIAN (Union of Soviet Socialist Republics) said that psychotropic substances were virtually no problem in the USSR, where their production and sale were subject to strict control; but for the sake of international solidarity and world health his delegation was prepared to support all control measures calculated to curb the abuse of those substances.

Over the years, the Commission had already taken action by making various recommendations and adopting resolutions which were not necessarily binding upon governments. At the present time the situation was such that a new international instrument was required. Certainly the Commission was entitled to take decisions and to give its views for or against any particular control measure; but it had better not discuss paragraph 11, which contained a clause permitting escape from the responsibilities imposed by the Protocol, until after it had weighed the stringency of the proposed control measures and defined the various forms of control. The WHO Constitution, to which some representatives had referred, was in an entirely different class of international instruments and in no way provided a relevant precedent. It was not the right of non-acceptance that would ensure the requisite adaptability, but rather the content of the schedules in which the substances were entered. Since one representative had mentioned the possibility of granting a right of non-acceptance in relation to what seemed to be the main issue in the draft Protocol, it would be as well to have the opinion of the Board on that point and to see whether any earlier instruments had contained provisions of that nature.

Mr. SAGOE (Ghana) said that paragraph 11 was the most important paragraph in the Protocol, since it posed the choice between the right of non-acceptance or reservation and absolute control. As the President of the Board had said at the 646th meeting, it seemed reasonable to proceed by stages. A provision might perhaps be included enabling the Commission to examine recommendations by WHO before taking a decision. Paragraph 11, and more particularly the second alternative, could surely not be separated from paragraph 12, which dealt with the question of the time-limit for notification. His delegation was not in favour of a right of non-acceptance, since that would deprive the Protocol of all its force. He therefore appealed to the countries which supported such a right to reconsider their position, for it was most unlikely that three or four international organs as competent as WHO, the Council and the Commission would all go wrong in their recommendations.

Dr. EL-HAKIM (United Arab Republic) said that a solution must be found for the difficulties of applying the Protocol, and agreement must be reached in particular on the actual principle of a right of non-acceptance. Being all for a certain amount of flexibility, his delegation was in favour of the right of non-acceptance, the duration for which was the first thing to be decided.

Dr. MABILEAU (France) said it was encouraging to find that all the members of the Commission appeared to agree on the need to draft at the special session an instrument supplementing the 1961 Convention by establishing a stricter regulation for the use of substances such as hallucinogens and amphetamines. After delicate negotiations, the Commission had already unanimously adopted a draft resolution providing national control measures for those substances, corresponding as closely as possible to those provided by the 1961 Convention for the substances listed in schedule I. There should be no difficulty, therefore, in accepting equally strict control measures in the Protocol, since a unanimous decision had already been taken concerning them, and he could not see why it should take twenty-five years for the control to be accepted or rejected. What was rather required was a deferred decision, and a compromise might perhaps be sought along those lines.

Mr. INGERSOLL (United States of America) said it was a matter, not of discovering ways of escaping control, but of finding how to face up to scientific realities. The difficulty was that innumerable substances were now being manufactured whose effects were little known and whose use and abuse, moreover, varied greatly from country to country. It was fair enough, therefore, to provide for a right of non-acceptance, although he was willing to agree that it would be applicable only for twenty-five years, as the United Kingdom representative had suggested.

So far as concerned the acceptance of, or reservations to, WHO recommendations by countries, the decisions of governments were dictated by non-medical considerations liable to pose problems which would not be solved for a long time. Primarily, however, it was the lack of any specific standards for judging the danger presented by each substance that made countries reluctant to accept or reject the listing of a particular substance in a particular schedule. There was every reason to believe that the progress of science would make it possible gradually to remove the uncertainties and that the efficacy of the Protocol could be improved by periodic review of the data with a view to reclassification, where necessary, of substances in the schedules.

Replying to the legal objection put forward by the Soviet Union representative to the effect that reservations could not be made to the essential clauses of a treaty, he pointed out that the article was relevant only after a treaty had been completed, and signed, and that what the Commission was now doing was drafting the essential provisions.

Mr. SHIMOMURA (Japan) said he was in favour of the second alternative for the second sentence in paragraph 11. It had the merit of providing a certain flexibility, and it was hard to see how it could impair the Protocol's effectiveness.

Mr. CHAPMAN (Canada) explained that though his delegation was in favour of the right of non-acceptance, it was prepared to continue the discussion to enable the Commission to reach complete agreement, especially on the schedules to be annexed to the Protocol. The difficulty arose from the new substances about which nothing was yet known which would have to be included in the future. The lack of any provision for reservation or refusal in the Protocol would amount to delegating governments' powers of decision in the matter to international bodies like WHO, the Commission and the Council. The procedure leading to the listing of a substance in a schedule, however, eliminated the danger of any unduly hasty decision, and Canada had been one of the first countries to adopt legislation very close to the provisions proposed for the Protocol. There was every reason to believe, therefore, that few reservations would be made. It should accordingly be possible to prepare a Protocol providing simultaneously for an essential control and for the right of countries to reserve their position in exceptional circumstances, while safeguarding the interests of those which accepted the provisions unconditionally.

Mr. NIKOLIC (Yugoslavia) said he was afraid the debate might give the public the unfortunate impression that the Commission was chiefly concerned to protect manufacturers of psychotropic substances and amphetamines against decisions by international bodies. It was paradoxical for the Commission to start by considering clauses providing for the rejection of an instrument which it was responsible for preparing. Since a compromise was necessary if the text was to be realistic, a sub-committee might perhaps be set up to seek one.

Dr. REXED (Sweden) observed that the instruments previously adopted to regulate the use of narcotic drugs and related to well-defined natural substances, the effects, uses and abuses of which were well known. The situation today was very different: an almost unlimited number of synthetic substances were now being manufactured whose effects on the central nervous system were not well known, and there was every reason to

believe that new ones would go on being invented. The procedure for listing a substance in a schedule should therefore be equally applicable in the present and in the future. A Protocol which did not cover all dangerous substances and left countries completely free to reserve their position on any of them would not work. It would be better to risk prohibiting the distribution of a substance even if it was of some use, for it must not be forgotten, either, that there would always be people ready to exploit their fellow-men by the traffic in harmful substances. The Commission should appeal to the international conscience of all countries manufacturing synthetic substances to accept an international instrument as stringent as the circumstances required. Nevertheless, it should be possible to find a compromise, as the French representative had suggested.

Dr. CAMERON (World Health Organization), replying to a question about reservations to the conventions and agreements adopted by WHO, explained that under its Constitution WHO could adopt conventions or agreements (article 19), which could be accepted (article 20) by the member States, and regulations (article 21), to which reservations might be made (article 22). The Constitution contained no provision to the effect that the World Health Assembly must accept a reservation by a member State. There was, however, a special provision in the International Sanitary Regulations whereby reservations to that instrument must be submitted to the World Health Assembly for approval. If a reservation was not accepted by the World Health Assembly, the regulation in question did not become operative for the reserving member State.

Mr. KUSEVIC (Director, Division of Narcotic Drugs) said that, with a view to giving a more specific turn to the discussion, the Secretariat had drafted, as a basis for discussion, a text which would be distributed to the Commission at the next meeting.

The CHAIRMAN, replying to a question asked at the 646th meeting, said that some international instruments contained provision for the possibility of refusal to accept the decision even of a body of high standing.

He invited the members of the Commission to address themselves primarily to the substances for which it was hard to devise national and international control measures.

The meeting rose at 1 p.m.

SUMMARY RECORD OF THE SIX HUNDRED AND FORTY-EIGHTH MEETING

held on Tuesday, 13 January 1970, at 2.50 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/L.311) (continued)

Article 11 (E/CN.7/523/Rev.1, annex IV)

Mr. KUSEVIČ (Director, Division of Narcotic Drugs) drew the Commission's attention to the draft export declaration form (MNAR/2/70) which had been drawn up by the Division with a view to simplifying the procedure for obtaining an export authorization as laid down in article 11. Under the proposed new system, the exporter would complete two copies of that form and send them to the competent authorities of his government, which would forward one copy to the corresponding authorities of the government of the importing country. The latter would then detach and return the acknowledgement form at the bottom of the export declaration, although that might not be necessary under the postal procedure suggested by UPU.

Mr. BERNEZ (Universal Postal Union) explained that receipt of the export declaration would be acknowledged automatically if it was sent by registered post to a member country of UPU.

The CHAIRMAN, referring to article 11, paragraph 2, said that, on the basis of the provisional classification of psychotropic substances prepared by the WHO Expert Committee on Drug Dependence in its seventeenth report (E/CN.7/L.311), the Commission would have to decide which of schedules II, III and IV should be mentioned in the first sentence of that paragraph. Schedule I, of course, was already covered by article 6.

Dr. ALAN (Turkey) said it was not entirely clear to him what the role of the importing country's authorities would be if the suggested new export declaration form was adopted. Surely it would be little more than that of a post office. He questioned, therefore, whether such a form of notification would be consistent with the spirit of the draft Protocol; he would prefer some other arrangement which would give the government of the importing country the right to submit a prior import authorization covering psychotropic substances.

Mr. KUSEVIČ (Director, Division of Narcotic Drugs) pointed out that every country was free to limit its internal trade in narcotic drugs as it saw fit, and to enact stricter regulations than those envisaged in the draft Protocol. If a country

did not wish to limit its imports, however, the suggested new export declaration form provided the exporting country with a simple means of informing the authorities of the importing country of the export, without the latter country having to return any receipt, as had been explained by the representative of UPU.

Dr. ALAN (Turkey) considered that, in that case, the attention of importing countries should be drawn to the fact that they were free to apply their own internal measures of control; thus, he did not think the proposed form satisfactory.

Mr. NIKOLIC (Yugoslavia) said that he shared the doubts expressed by the Turkish representative about the suggested new export declaration form, which failed to mention any action to be taken by the importing country.

Mr. KUSEVIČ (Director, Division of Narcotic Drugs) said that the Division had discussed the question whether the export declaration should be followed up by an import declaration, but had reached the conclusion that a simplified, one-way system of declaration would be sufficient to inform the importing country, which could then take whatever action it wished.

Mr. KEMENY (Switzerland), after pointing out that the contents of schedules I, II, III and IV had not yet been finally determined, proposed that schedule II should be omitted from article 11, paragraph 2. On the other hand, it would be possible for schedules III and IV to be combined.

Mr. BEEDLE (United Kingdom) said that he supported the important point which had been made by the Turkish representative. In its present form, the draft article was admittedly silent on the need for importing countries to take what measures might seem necessary to establish that minimum national control which the Commission in the past had considered essential for international control. He agreed that, somewhere in the draft Protocol, mention should be made of the obligation of the Parties to control or prohibit imports as well as exports of particular drugs. Under any control system, the government of an importing country should be informed, first, whether the persons engaged in the transactions were properly licensed and, second, what those transactions actually were. Since article 10 required both exporters and importers to keep records, there was no reason why governments should not, in fact, be so informed.

With regard to substances in schedule I, there was general agreement that the only safe procedure was prior authorization by the two governments concerned. For other substances, both governments could be satisfied that the transaction was between licensed firms by requiring the firms in their respective countries to notify them of

the export or import, as the case might be, or by sending their inspectors to make checks. The only difficulty about a simple procedure of that kind was that at no stage would the two governments check with one another that the respective firms were, in fact, properly licensed. That difficulty could be got round by a procedure such as that provided for in article 11, paragraphs 2 and 3. The basic policy question to be decided by the Commission was, therefore, how to distribute those procedures between the four schedules. With regard to schedule IV, a simple declaration by the respective firm in each country might be sufficient. In the case of schedules II and III the suggested export declaration form represented a new procedure, and he would welcome views on its possible defects.

Mr. ANAND (India) pointed out that, under the 1961 Convention, no narcotic drug could be either exported or imported without an authorization; the government of an importing country must authorize the import and send its authorization to the government of the exporting country. He did not see why any different procedure should be adopted in the case of psychotropic drugs which were considered dangerous. He suggested tentatively that drugs in schedules II and III, which were all known to be dangerous, should be covered by the procedure outlined in article 11, paragraph 1, while those in schedule IV might be made subject to some less strict regime. If a majority of the Commission so agreed, he would not be opposed to applying the suggested new export declaration form to substances in schedule IV; that would undoubtedly simplify the notification procedure and avoid delays.

Mr. KEMENY (Switzerland) drew the Commission's attention to article 12, paragraph 1, which stated that "a Party may inform the other Parties through the Secretary-General that it prohibits the import into its territory of one or more substances, in schedules II, III or IV ...". In normal cases, however, it would be difficult to apply the same degree of control to all the schedules. His own Government, for example, applied strict controls to schedule I substances, such as hallucinogens, and agreed on the need for fairly strict controls and a full exchange of information between governments in regard to schedule II substances. In the case of substances in schedule III, however, it considered that an exchange of notifications should be sufficient.

Mr. NIKOLIC (Yugoslavia) recalled that there had been universal agreement at the Commission's twenty-third session on the need to bring the psychotropic substances under control because of their danger. He failed to see why attempts were now being

made to find ways of reducing controls for some of them to a minimum. No such question had arisen during the preparation of the 1961 Convention. If a substance was dangerous, it was dangerous and should be subjected to control.

Dr. ALAN (Turkey) said he shared the views of the Indian and Yugoslav representatives.

All countries which had acceded to the 1961 Convention and other narcotics treaties already had considerable experience in using the import form and were familiar with the system of import-export authorization. They would have little difficulty in adapting the system to psychotropic substances. It would seem better to retain a well-known system than to introduce a new one which might give rise to problems.

Dr. MÅRTENS (Sweden) said he was puzzled by the disagreement regarding the control system to be applied to substances other than those in schedule I. At its twenty-third session, the Commission had unanimously agreed that the central nervous system stimulants should be brought under controls as similar as possible to those applicable to substances covered by the 1961 Convention. Moreover, in its seventeenth report (para. 5.2), the WHO Expert Committee on Drug Dependence had stated that, technically, those stimulants were assimilable to the drugs in schedule I to that Convention.

His delegation saw no reason for providing a milder form of international control for the central nervous system stimulants than had been provided for narcotic substances, and was in favour of retaining article 11, paragraph 1, of the draft Protocol, which should be made applicable to all central nervous system stimulants, irrespective of the schedule in which they were placed.

Mr. KEMENY (Switzerland) said he thought that his earlier statements might have been misunderstood. At the present stage, discussion was based on the assumption that there would be four schedules, in which a number of well-known substances had been placed. Those substances had been grouped according to the degree of danger they presented, and did not all require the same degree of control.

Mr. SAGOE (Ghana) said that if the Commission adopted the criteria proposed by WHO in connexion with paragraphs 5, 6, 7 and 8 of article 2 for the inclusion of substances in the schedules (E/CN.7/525), it must accept the thesis that the substances in schedules II and III constituted a threat to public health. That being the case, he considered that international trade in those substances could be effectively controlled only through a system of import-export authorizations. Paragraph 2 of article 11 was acceptable to his delegation.

Mr. NIKOLIC (Yugoslavia) proposed that the system of import-export authorization should apply to substances in schedules I, II and III, while substances in schedule IV should be controlled through a system of exchange of information.

Mr. ANAND (India) supported that proposal. So far, the consensus of opinion seemed to be that substances in schedules II and III were so dangerous that they should be covered by paragraph 1 of article 11. A mere exchange of information would not prevent the illicit entry of substances into an importing country. For example, even if an exporting country A and an importing country B exchanged declarations, there would be nothing to prevent country A from exporting large quantities of substances to a country C which had no import restrictions, or had less strict restrictions than those of country B, and the substances could then easily be smuggled from country C into country B. The basic purpose of the control would thus be nullified. It was essential that all countries should be kept informed and should adopt basic measures of control in the interests of protecting mankind as a whole.

Mr. BEEDLE (United Kingdom) said that his delegation considered the Swedish proposal to be a sound one and could agree to it.

With regard to the seventeenth report of the WHO Expert Committee on Drug Dependence, his delegation would welcome some clarification of the words "prior agreement" (schedule in para. 4.5), since it was not certain whether they were to be interpreted solely in terms of an import-export system similar to that established by the 1961 Convention.

As to substances in schedule III, import-export authorizations were not the only means of controlling them. His delegation would have to justify to his Government the expansion of the administrative machinery that would be needed to meet the additional requirements of import-export licensing for all the substances that might be included in schedules I, II and III. He would be glad if any delegation could demonstrate that the notification procedure would be ineffective in respect of substances in schedule III. In his delegation's view, none of the examples given seemed to detract from the potential value of that procedure, as it had been explained in the Commission.

Dr. CAMERON (World Health Organization), replying to the question put by the United Kingdom representative, said the WHO Expert Committee had recognized that prior agreement could take various forms. It could be the matching of import-export authorizations before shipment or, in accordance with article 12 of the draft Protocol, it could be an arrangement under which governments exchanged information in advance

concerning the principles that would govern trade between them. The Committee had simply wished to state its view that some form of prior agreement was necessary with regard to the substances in the first three groups.

It should be noted that, of the groups suggested by the Expert Committee, group (a) contained ten substances which moved so little in international trade that strict controls would impose little, if any, burden on governments. Group (b.1) listed five substances, international trade in which might not be very large. Group (b.2) contained five substances, international trade in which might be somewhat larger.

Mr. SHIMOMURA (Japan) said that his Government was in favour of an import-export authorization system for substances in schedules I and II, provided the substances in schedule II were limited to amphetamine, dexamphetamine and methamphetamine. With regard to schedules III and IV, his Government supported in principle the system of declaration by importers and exporters. It thought, however, that such a system might burden the administrative machinery of countries. It therefore suggested that in article 11, paragraphs 2, 3 and 4, the word "shall" should be replaced by "may", so that governments could adopt appropriate measures in the light of actual conditions in their territories.

Dr. BÖLCS (Hungary) said that the application of an export-import authorization system would require considerable administrative machinery. There was a danger that in some cases it might cause delays in the delivery of medical supplies. His delegation therefore believed that a strict import-export licensing system should be applied only to substances in schedule I and, perhaps, to the central nervous system stimulants. The declaration system should be applied to substances in all other schedules. His delegation supported the declaration system proposed by the Secretariat, which would enable governments to establish appropriate national controls over the substances in question.

Mr. INGERSOLL (United States of America) said that his Government's written comments on paragraph 1 might have been somewhat negative, because they had been drafted at a time when it was not known what specific substances were to be listed in schedule II. It now transpired that that schedule would probably contain certain amphetamines of whose abuse the United States had convincing evidence, and which constituted a substantial threat to public health. In a spirit of compromise, his delegation could now agree to an export-import authorization system for substances in schedule II. However, for the reasons given by the United Kingdom and Swedish representatives, it saw no need to impose greater restrictions in respect of drugs in schedules III and IV than the declaration called for in article 11, paragraph 2.

Dr. MABILEAU (France) considered that the Commission had made much progress. Indeed, it was now clear that it was of little importance which substances were in the schedules; it was the existence of the schedules themselves that was important. Members seemed to be in general agreement with regard to the amphetamines. With regard to barbiturates, he noted that the WHO Expert Committee's report listed barbital in the last group of drugs (group c) considered to be among the least dangerous. Yet the Commission had received reports year after year that tons of barbital mixed with heroin were smoked at Hong Kong; he would therefore have thought that that drug would be of interest to the Committee. With regard to the group corresponding to schedule III, it was known that secobarbital was smoked in certain regions for purposes which were not medical or scientific.

Mr. ZEGARRA ARAUJO (Peru) reaffirmed the position taken by his delegation at the twenty-third session with regard to schedule I, namely, that substances in that schedule should be subject to even stricter controls than those provided for substances in schedule I to the 1961 Convention. Where the amphetamines and similar stimulants were concerned, his delegation's views were in line with the consensus of opinion at the Commission's twenty-third session.

Mr. CHAPMAN (Canada) said his delegation considered it necessary that the strictest controls should be imposed on central nervous system stimulants, particularly the amphetamines. It therefore believed that import-export authorizations should be required for those compounds.

It was somewhat concerned at the administrative machinery that would have to be established for the exchange of copies of declarations but, in view of the fact that many delegations considered such documents necessary, it was prepared to support that procedure in respect of substances in schedules III and IV.

The CHAIRMAN said that the suggested new text of article 2, paragraph 11, would be a good basis for discussion. He thought, however, that the text should be redrafted and therefore suggested the setting up of a working party which would meet as soon as possible for that purpose. He proposed that the chairman of the working party should be the representative of Sweden and that the other members should be the representatives of the Federal Republic of Germany, Ghana, India, Turkey, the Union of Soviet Socialist Republics, the United Kingdom and the United States of America.

It was so decided.

Mr. CHAPMAN (Canada) said that his delegation would like to be a member of the working party.

It was so decided.

The meeting rose at 4.40 p.m.

SUMMARY RECORD OF THE SIX HUNDRED AND FORTY-NINTH MEETING

held on Wednesday, 14 January 1970, at 10.50 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.301 (continued)

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

Mr. KUSEVIĆ (Director, Division of Narcotic Drugs) said that the Secretariat suggested that it should be specified in article 12 that any Party which prohibited the import of one or more substances into its territory might nevertheless authorize the import of small quantities of those substances for scientific or medical purposes. If the Commission agreed, the Secretariat would submit a suitable text.

Sir Harry GREENFIELD (President, International Narcotics Control Board) said that the proposal was a very useful one, judging from the Board's experience in applying the international treaties on narcotic drugs.

Dr. ALAN (Turkey) said that it was unnecessary expressly to mention such an exception to the general prohibition, since every Party was entitled to specify in its notification to the Secretary-General that it was reserving the right to import certain quantities for scientific purposes.

With regard to the phrases left between square brackets in the text of the article, the Turkish delegation considered that the square brackets round the words "through the Secretary-General" should be deleted in paragraph 1, since he was best situated to transmit notifications to Parties. The words "a list attached to" in square brackets in paragraphs 1 and 2 and in alternative 1 for paragraph 3, which the Turkish delegation supported, should, however, be deleted.

Dr. AZARAKHSH (Iran) said that he too thought the words "a list attached to" were superfluous.

Dr. MABILEAU (France), referring to the proposal by the Director of the Division of Narcotic Drugs, said that any country which prohibited the import of a substance was entitled to state that it nevertheless wished to obtain a small quantity, regardless of the purpose.

Mr. JOHNSON-ROMUALD (Togo) said that a provision should be added to article 12 to prevent substances being illicitly placed on the market of a country which had prohibited their import, in areas where it was very easy to move from one country to another owing to the purely notional nature of frontiers.

Mr. ANAND (India) said that the term "psychotropic substances" should be substituted for the word "drugs" in the English title of the article.

The Indian delegation was in favour of the first alternative for paragraph 3, but in view of the very good point made by the representative of Togo, it would be as well to add a phrase to that provision such as: "The Parties shall also co-operate in ensuring that exports to third countries are not diverted illegally to the territory of the notifying Party".

The CHAIRMAN observed that the Indian representative's proposal with regard to the title of the article applied to the English and Spanish texts only; the Secretariat would make the necessary change.

With regard to the comment by the representative of Togo, there seemed to be no reason to add the provision requested to article 12, since action against the illicit traffic was provided for in article 17.

Mr. SAGOE (Ghana) said that information should be transmitted through the Secretary-General, and the square brackets round the words in paragraph 1 should therefore be deleted. As he saw it, there was no need to attach a list to the notification, so that the words "a list attached to" in paragraphs 1 and 2 and in alternative 1 for paragraph 3, which his delegation preferred, should be deleted.

Dr. BABAIAN (Union of Soviet Socialist Republics) said he agreed with the representative of Ghana. A reference to schedule I should be added to the list of schedules in the second line of paragraph 1.

The CHAIRMAN drew the Commission's attention to the Belgian proposal (E/CN.7/525) to amend article 12, paragraph 1, so that a Party might inform the other Parties that it prohibited not only import into its territory, but also the manufacture or distribution of, or trade in, one or more substances. He would appreciate the Commission's views on the proposal.

Mr. ANDERSEN (Observer for Denmark), speaking at the invitation of the Chairman, said he was in favour of the proposal. A country ought not to impose restrictions on import unless it prohibited the manufacture of the relevant substance or substances on its territory.

Mr. CHAPMAN (Canada) said he supported the proposal by the Director of the Division of Narcotic Drugs concerning the import of small quantities of substances for experimental purposes.

All the square brackets in paragraphs 1 and 2 and in the first alternative for paragraph 3 should be deleted. The Canadian delegation was in favour of that alternative, except that it would like the words "shall not permit" to be replaced by "shall prohibit".

Dr. STREET (Jamaica) said he agreed with the Canadian representative and supported his proposal.

Mr. INGERSOLL (United States of America) said he too considered that notifications by Parties should be transmitted through the Secretary-General, and that the prohibited substances and the authorized recipients should be mentioned in the body of the text of the notification, not in an attached list. His delegation was in favour of the first alternative for paragraph 3. It supported the proposal by the Director of the Division of Narcotic Drugs concerning the import of small quantities of prohibited substances by way of establishing comparative standards as well as for experimental purposes. Article 17 appeared to meet the points raised by the representatives of Togo and India.

With regard to the Belgian proposal on paragraph 1, the prohibition of the manufacture or distribution of and trade in a substance on national territory was essentially within the competence of States, and it would be improper to mention it in article 12.

Mr. BOUZAR (Observer for Algeria), speaking at the invitation of the Chairman, observed that article 12 applied only to substances in schedules III and IV, since the substances in schedules I and II already came under the system of import and export certificates established by the 1961 Convention. There was no need, therefore, to mention schedules I and II in article 12.

Mr. BARONA LOBATO (Mexico) said that the export referred to in the first alternative for paragraph 3, which his delegation supported, should appear in the title of the article, which would then read: "Restrictions on the import and export of psychotropic substances." He was in favour of the deletion of the square brackets round the words "through the Secretary-General", but considered that the words "a list attached to" were unnecessary, as the information required could be given in the body of the notification.

Furthermore, paragraph 2 should be couched in positive terms; that could be done by substituting the words "permits only" for "does not permit" in the first and second lines and by deleting the words "other than those" in the third line.

Mr. MOUJAES (Lebanon) said he supported the Mexican representative's proposals. He also supported the Canadian representative's proposal to substitute the words "shall prohibit" for "shall not permit".

Mr. ZEGARRA ARAUJO (Peru) said he was in favour of the first alternative for paragraph 3. Communications should be transmitted to the parties through the Secretary-General and it was not necessary to attach a list to notifications. He supported the proposal by the Director of the Division of Narcotic Drugs.

Mr. NIKOLIČ (Yugoslavia) said that the proposal by the Director of the Division of Narcotic Drugs was most useful. Like the United States representative, he believed that the Belgian proposal was not appropriate in an international instrument, since every country was in fact free to take measures stricter than the international regulations. He could not agree with the observer for Denmark. A country could prohibit the import of a given substance, but continue to manufacture it to meet its domestic requirements.

Dr. BABAIAN (Union of Soviet Socialist Republics) said he agreed with the Yugoslav representative.

Mr. KEMÉNY (Switzerland) said that he was in favour of the Belgian proposal on paragraph 1, since it would make it possible to combat the illicit traffic more effectively, especially in the circumstances to which the representative of Togo had referred, by prohibiting not only the import, but the existence of prohibited substances in a country's territory.

The Swiss delegation was in favour of the first alternative for paragraph 3 and of the deletion of the square brackets in paragraphs 1, 2 and 3.

Dr. ALAN (Turkey) said he agreed with the United States representative about the Belgian proposal. He supported the Canadian representative's proposal to substitute "shall prohibit" for "shall not permit". With regard to the comments by the observer for Algeria, he would ask the Secretariat to explain whether it was really necessary to refer to schedules I and II in the paragraph.

Mr. KUSEVIČ (Director, Division of Narcotic Drugs) replied that the special provisions in article 6 covered the substances listed in schedule I, and it was therefore unnecessary to refer to that schedule in article 12. It would only be possible to know whether schedule II should be mentioned when the Commission had decided whether a license would or would not be required for the import and export of the substances listed in it.

Dr. BABAIAN (Union of Soviet Socialist Republics), reverting to the question of the "list attached", said that he would prefer that the phrase were deleted, since there was nothing to prevent the substances in question being mentioned in the body of the notification. The exception might weaken the text. It was obvious that every country should be able to decide what means it preferred. He agreed with the Turkish representative that it would be simpler to draw up a list of the prohibited preparations, since it would certainly be shorter than a list of the permitted substances.

Mr. INGERSOLL (United States of America) said that he preferred the expression "psychotropic substances" in the English title, as it indicated more precisely the type of substance with which the article in the Protocol was dealing. He supported the Canadian representative's proposal that the words "shall prohibit" should be substituted for "shall not permit" in the first alternative for paragraph 3. He was also in favour of a list of the prohibited substances, and agreed with the Director of the Division of Narcotic Drugs that there was no need to mention schedule II.

Dr. MABILEAU (France) said he agreed with the United States representative.

Mr. BEEDLE (United Kingdom) said that he agreed with the Indian representative that the English title should refer to "psychotropic substances". An immediate decision on that point would not preclude the Commission from considering at some other time what exactly was meant by that term. He supported the proposal by the Director of the Division of Narcotic Drugs concerning the import of small quantities of a prohibited substance for scientific purposes. He also agreed with the Soviet Union representative that the provisions of the Protocol should not be made unnecessarily cumbersome. He further endorsed the suggestion made by the observer for Algeria, for it would be as well for national administrations to have lists of duly authorized recipients and lists of prohibited substances, so that they would not have to consult the recipient country in every case when an application for an export licence came before them.

The CHAIRMAN said that the Secretariat felt it had sufficient information to prepare a new text of article 12.

Article 8 (E/CN.7/523/Rev.1, annex IV)

Mr. ANSAR KHAN (Secretary of the Commission) drew the Commission's attention to the reference to the question of prescriptions in paragraphs 45 and 46 of the report of the Secretary-General containing comments made by Governments (E/CN.7/525).

Dr. MÅRTENS (Sweden) said that the expression "therapeutic functions" in the fourth line of paragraph 1 was not clear. He would prefer the expression "medical functions". With regard to paragraph 2, he would prefer the deletion of the phrase in square brackets in the third line as well as of the words "III and" in square brackets in the fifth line, since the substances in schedule III were relatively less dangerous than those in schedule IV.

Dr. EL-HAKIM (United Arab Republic) said he agreed with the Swedish representative.

Dr. BABAIAN (Union of Soviet Socialist Republics) said that he too considered the phrases "or other licensed retailers" and "III and" should be deleted.

Mr. KUSEVIĆ (Director, Division of Narcotic Drugs) said that the explanation of the expression "therapeutic functions" in article 8, paragraph 1, was, according to the Office of Legal Affairs, that it covered all functions, including those of dentists, pharmacists and veterinary surgeons, which, however, would not be covered by the expression "medical functions".

The phrase "or other licensed retailers" in paragraph 2 related in particular to some developing countries where there were so few pharmacists that other persons had to be authorized to supply medicaments. There was a danger that if it was deleted, some developing countries might be unable to become Parties to the Protocol.

Mr. JOHNSON-ROMUALD (Togo) said he agreed with the representatives of Sweden, the United Arab Republic and the Soviet Union. After what the Director of the Division of Narcotic Drugs had said, he realized that the words "or other licensed retailers" might lead to confusion since, in some developing countries, the retailer might be any licensed merchant, and the notion should be made more precise in order to avoid situations of that kind.

Dr. ALAN (Turkey), said that the expression "therapeutic functions", which had a broader meaning, was preferable, since it went without saying that persons performing those functions were duly authorized to do so. The Turkish delegation considered that the reference to schedule III should be deleted in paragraph 2. With regard to the expression "or other licensed retailers", the Turkish Government had requested in its comments that the phrase should be deleted. The special circumstances in some countries should nevertheless be taken into account, and the request made by the representative of Togo ought therefore to be borne in mind.

The CHAIRMAN observed that the definition had given rise to similar discussions during the preparation of the 1961 Convention, and suggested that the Secretariat should take the text of article 1, paragraph 1, subparagraph x(iv) of the Convention as a basis in drafting the passage under consideration.

Mr. SAGOE (Ghana) said he could support article 8, paragraph 1, but considered that the phrases in square brackets in paragraph 2 should be deleted. He did not believe that emergencies were likely to arise for prescribing psychotropic substances, which should invariably be supplied on prescription. Only pharmacists should supply the substances in schedule IV, which were after all fairly dangerous, without prescription.

Mr. ANAND (India) said that the provision in the first paragraph whereby prescriptions for substances listed in schedules II and III were automatically limited regarding the number of times they might be refilled, the duration of their validity and the quantities of drugs they might authorize, was far from clear. If it was tantamount to saying that the doctor was not authorized to prescribe the quantities he considered necessary, it appeared impracticable. As for the expression "therapeutic functions", there must be no doubt that it covered everything intended; otherwise the Secretariat, after consulting the Office of Legal Affairs should find a more satisfactory formula.

In paragraph 2, he could see no objection to authorizing pharmacists to supply substances in schedule IV, which were not particularly dangerous, but that should not apply also to those included in schedule III. In certain rural areas, urgent cases could undoubtedly arise and, in the absence of a doctor, pharmacists and even certain licensed retailers could be authorized to supply those substances without prescription, on condition that appropriate precautions were taken (registration of the quantity supplied, nature of the case, name and address of the patient), the licence for the retailer being issued by the competent health authorities of the country, as the representatives of Togo and Turkey had requested.

Mr. NIKOLIC (Yugoslavia) said that the reference in paragraph 2 to schedule III should be deleted.

Dr. MÅRTENS (Sweden) said, with reference to the scope of the expression "therapeutic functions", that a similar formula used in article 4 was defined in foot-note 9.

Dr. BÖLCS (Hungary) proposed that the second sentence of paragraph 2 concerning the maintenance of records should be deleted, as it seemed to be devoid of practical significance. He thought that the reference to schedule III should be retained since "small quantities" only were involved.

Dr. WALSHE (Observer for Australia), speaking at the invitation of the Chairman, did not think that substances normally requiring a prescription could be freely distributed to the public unless a written medical prescription was delivered within the following twenty-four hours. Furthermore, paragraph 2 provided adequate safeguards if limited quantities were involved.

Mr. KUSEVIĆ (Director, Division of Narcotic Drugs) said it was for each Government to limit the quantities which could be prescribed on one prescription. It was not a question of restricting a doctor's right to prescribe any quantity for his patient

the purpose in the present instance was to limit the administrative form in which the doctor could prescribe the substances in question, a new prescription being required if the doctor wished to prescribe for his patient quantities in excess of those authorized.

Mr. SHIMOMURA (Japan) said that the words between square brackets in the draft articles should be retained, but could be better phrased.

Dr. MABILEAU (France) proposed that the word "shall" before the words "require medical prescriptions" in the first line of paragraph 1 should be replaced by the word "may", in order that the restriction in question should not be compulsory. Although it was essential that the substances listed in schedules I and II should be prescribed only by specialists, a certain flexibility could be permitted with regard to the substances in schedules III and IV, which did not present the same danger. In the last line of paragraph 2, it would be better to use the word "transfer" or "delivery" rather than "sale". The Chairman had, very appropriately, recalled a formula used in the parallel work which had led to the preparation of the 1961 Convention, and the Secretariat could make use of it to submit to the Commission a text which would serve as a basis for discussion.

Mr. KUSEVIČ (Director, Division of Narcotic Drugs) said that the purpose of the provision to limit the quantities medically prescribed was to protect countries which wished to establish controls and to prevent a certain type of illicit traffic. It was not sure that the French representative's proposal would tend to do so.

Dr. MABILEAU (France) said he could not see why it was necessary to adopt stricter regulations for the psychotropic substances included in schedules III and IV than for narcotic drugs themselves. Moreover, the usual therapeutic quantity was well known to pharmacists, who would soon notice a doctor prescribing exaggerated quantities, with due allowance for the fact that, in areas of very difficult communications, a doctor could prescribe a quantity corresponding to a treatment of a certain duration.

Mr. BEEDLE (United Kingdom) said it was difficult to find an administrative solution to such a complex problem, since it was not only a question of the quantities prescribed but also of the duration of treatment, and it was not always easy to expose medical malpractices. It might be possible, perhaps, to prepare a text stating clearly that governments should take the necessary steps to regulate the system of prescriptions, their renewal and the duration of their validity. It was necessary, however, to avoid a solution which would be unacceptable to the medical profession.

Mr. CHAPMAN (Canada) said he agreed with the representatives of France and the United Kingdom concerning paragraph 1 with regard to the quantities prescribed. In the case of paragraph 2, he thought, like the representative of Togo, that the other licensed retailers who might be authorized to supply the substances in question should be defined with greater precision.

Mr. NIKOLIĆ (Yugoslavia) thought it unnecessary to replace the word "shall" in the first line by the word "may", as the French representative had proposed.

Dr. ALAN (Turkey) said that it was necessary to be more circumspect in the case of psychotropic substances than in the case of narcotic drugs, the effects of which were more universally and traditionally known. In the case of psychotropic substances, the Protocol had also an educational aspect which justified certain measures stricter than those contained in the 1961 Convention, because the world had to be shown the dangers of those new substances. In the first paragraph, the word "automatically", which seemed to have produced an unfavourable impression, could perhaps be deleted. On the other hand, it should be specified that the quantities prescribed were "maximum" quantities, as in the case of narcotic drugs, the prescription being renewable if necessary.

Dr. BABAIAN (Union of Soviet Socialist Republics) warned the Commission against the temptation to enter reservations which would make it possible to evade the international control measures established by the Protocol. Such measures could not hamper the honest practitioner, who would always prescribe the limited quantities which were essential. There was no question, either, of harming the interests of the patient by limiting the quantities that could be prescribed. Many accidents occurred as a result of taking excessive quantities of medicaments. On the other hand, the preservation of medicaments required certain precautions which were adopted in pharmacies but not always in families. There was no point, therefore, in prescribing excessive quantities of medicaments which would not keep. It should be remembered, too, that the duration of the treatment should also be limited and that, in his prescription, a doctor took account of dosage and the duration of the treatment. It was not rational to authorize just anybody to supply medicaments, even in developing countries which had themselves stressed the dangers of such practices, and the amendments proposed with a view to watering down international control measures hardly seemed likely to enable the Commission effectively to carry out the mission entrusted to it.

The meeting rose at 1.15 p.m.

SUMMARY RECORD OF THE SIX HUNDRED AND FIFTIETH MEETING

held on Wednesday, 14 January 1970, at 3.10 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.1; E/CN.7/L.311) (continued):

Article 8 (E/CN.7/523/Rev.1, annex IV) (continued)

Dr. DANNER (Federal Republic of Germany) said that, in principle, his delegation was in favour of requiring medical prescriptions for the supply of substances in schedules II, III and IV. It therefore supported paragraph 1 of article 8.

Paragraph 2 would eventually lead to the compilation of national lists of preparations which could be dispensed without medical prescription, at the discretion of pharmacists, to individuals for urgent use. The draft Protocol provided for the preparation of an international list of exempted preparations (schedule V), and the national lists compiled under article 8, paragraph 2, would thus correspond to schedule VI. Though he did not wish to make a formal proposal, he thought consideration might be given to combining those two types of list.

Mr. MILLER (United States of America) said that considerable difficulty would be encountered in the United States in complying with the provision limiting the quantities a physician might prescribe. He did not think that a government or administrative body was in a position to impose any such limits. As a general rule, only the prescribing physician was qualified to judge the quantity of drugs that should be administered in each individual case. There was no doubt that the large majority of the world's physicians had the best interests of their patients at heart. His delegation believed that the medical profession, at least in the United States, would look very carefully at any proposal to limit the quantities of drugs that could be dispensed, and would tend to oppose it. In a spirit of compromise, his delegation was prepared to accept the proposal made by the French representative at the 649th meeting, but wished to propose the insertion of the following text after the word "validity" in the second sentence of paragraph 1: "and if the prevailing conditions in its country render it an appropriate means of protecting the public health and welfare."

With regard to paragraph 2, his delegation supported the general proposition that licensed pharmacists should be permitted to dispensesmall quantities of psychotropic substances on an emergency basis. That was a reasonable provision and one which recognized an existing practice. His delegation therefore saw no reason for restricting the provision to substances in schedule IV, and believed that it should also be extended to substances in schedule III. It wished to stress that such authorization should be restricted to licensed pharmacists.

Dr. CAMERON (World Health Organization), in response to a question, said that, as he understood it, the limitation on prescription, as envisaged in the draft Protocol and in the report of the WHO Expert Committee on Drug Dependence (E/CN.7/L.311), related to the number of doses and not to the size of the dose. The physician would remain perfectly free to prescribe whatever dose he thought appropriate. The idea of a limitation on quantity was simply a logical corollary of the limitations on the duration of validity of prescriptions and on the number of times they might be refilled, since such limitations would be largely meaningless if the initial quantity issued was excessive.

The WHO Expert Committee had in mind limitations on quantity which would not interfere with the activities of legitimate practitioners but which would serve as a deterrent to the occasional person who might divert drugs into the illicit traffic. Such a limitation would necessarily differ from drug to drug, and probably also from country to country. In that connexion, he drew the Commission's attention to the foot-note to the schedule in paragraph 4.5 of the Expert Committee's report. The question of fixing limitations was largely an internal matter unless the amounts prescribed became so large as to facilitate diversion to illicit traffic. In general, sound medical practice suggested that prescriptions should not be written for total quantities of drugs that would carry the patient far beyond the time when he should be seen again by the physician. It was thought possible to set limits that would curtail possible diversion of controlled drugs, yet in no way interfere with their use in sound medical practice.

Mr. SAGOE (Ghana) said his delegation considered that the words "to individuals for urgent use" in paragraph 2 should be amended to read "to individuals in emergency cases only". That would enable the pharmacist to use his discretion in supplying drugs in emergency situations. The present wording of the paragraph seemed to give the individual the right to decide what substances he should take, an undesirable situation from the public health standpoint.

Dr. ALAN (Turkey) said that the Commission was seeking, through the Protocol, to attain its objective of protecting the public from the abuse of psychotropic substances. With regard to the question of sound medical practice, he did not think any conscientious physician would prescribe psychotropic substances in such quantities as to constitute an abuse. Nor did he think that physicians would object to the imposition by the Protocol of restrictions on the quantities of drugs that they could prescribe. As a rule, physicians wrote out prescriptions for a specific period of time. If they considered that the patient required further medication, they would write out another prescription. He thought that the text of paragraph 1 could be improved by the deletion of the word "automatically" from the second sentence. The physician had a duty to limit the quantity of drugs to what was necessary. In exceptional cases, appropriate measures would have to be taken.

Dr. BABAIAN (Union of Soviet Socialist Republics) observed that every country had a national pharmacopoeia which established the maximum dose of drugs that could be taken over a certain period of time. Physicians were thus accustomed to certain restrictions, and would not object to the imposition of limitations in respect of certain substances. WHO had repeatedly drawn attention to the danger involved in the use of certain substances. It was the duty of every physician to explain to his patients that drugs should be taken in a reasonable manner and under medical supervision. It was generally known that psychotropic substances were abused. The over-all limitation of the quantities of drugs that could be prescribed was a basic element in the control of the substances in question.

Mr. MILLER (United States of America) asked whether the term "therapeutic functions" in the first sentence of paragraph 1 would include functions in the scientific research field.

Mr. WATTLES (Office of Legal Affairs) replied that, in his view, it would not; if the United States delegation wanted that field to be covered, some special reference would be necessary.

Mr. MILLER (United States of America) said that, in those circumstances, he wished to propose the insertion of the words "and scientific" before the words "therapeutic functions" at the end of the first sentence of paragraph 1.

Dr. BABAIAN (Union of Soviet Socialist Republics) agreed with the United States representative that a reference to the scientific research field should also be included.

Mr. KUSEVIĆ (Director, Division of Narcotic Drugs), referring to the term "urgent use" in the first sentence of paragraph 2, said it had been agreed at the twenty-third session that that term would apply only to small quantities of psychotropic substances.

The CHAIRMAN said there was general agreement that that term applied to cases where the drug was consumed at once, due to some medical emergency, and not to the refilling of a prescription which a patient needed for general therapeutic use.

Mr. FISCHER (Switzerland), referring to the words "supply or dispensation" in the first line of paragraph 1, proposed the deletion of the words "supply or", since there could be no question of the supplying of psychotropic substances for manufacturing or processing purposes.

He further proposed that the word "substances" in articles 8 and 9 should be replaced by "substances and preparations" or, alternatively, by the word "psychotropes", which had been suggested by the French representative.

The CHAIRMAN, summing up the discussion, said that the Secretariat would take into account the improvements which had been suggested in the text of article 8. There appeared to be a division of opinion about the quantities of psychotropic substances which physicians should be permitted to prescribe. Governments which had experience with unethical practitioners had learned that such control posed problems of a profoundly political and practical nature; they were therefore reluctant to impose any excessive discipline. As the United States representative had said, paragraph 1 would present serious practical difficulties if it attempted to govern a large number of varied situations and purposes. He therefore suggested that the Secretariat should be asked to prepare two alternative versions of the references to quantities, one of which would keep close to the present text but leave sufficient latitude for local conditions, as suggested by the United States and French representatives, while the other would direct attention to the risk of the misuse of drugs and the importance of prescriptions in that connexion. There was also a division of opinion about the discretion to be allowed to licensed retailers in paragraph 2. One solution might be, as had been suggested, to amend the phrase "urgent use". He had been impressed by the point made by the United States representative that, while it was desirable to limit the risk by confining such cases to schedule IV, there might in practice be a more pressing need to use the drugs covered by schedule III.

Article 2 (E/CN.7/AC.7/R.1)(resumed from the 647th meeting)

Dr. MABILEAU (France), Chairman of the Technical Committee, drew the Commission's attention to the redraft of article 2 which had been prepared by the Technical Committee (E/CN.7/AC.7/R.1). He proposed that the Commission should consider paragraph 3 (b), which appeared within square brackets, when it discussed article 11.

The CHAIRMAN thought that the Commission should first dispose of paragraph 3 (b), since paragraph 3 (a) by itself might seem to be incomplete.

Dr. MÅRTENS (Sweden) agreed that paragraph 3 would be incomplete unless subparagraph (b) was retained. From the preventive point of view, it was better to enable the Commission to take rapid action in the case of new drugs which were potentially dangerous. He proposed, therefore, that the square brackets around subparagraph (b) should be removed.

Mr. ANAND (India) said he supported that proposal. Schedules I and II applied to substances which were subject to abuse and which could represent a grave danger to public health. In order to avoid unnecessary risk, the Commission should be authorized to act speedily when controls were called for.

Dr. BABAIAN (Union of Soviet Socialist Republics) and Mr. SAGOE (Ghana) also supported the Swedish proposal.

Dr. BABAIAN (Union of Soviet Socialist Republics), referring to paragraph 4 (a), proposed that the square brackets should be deleted.

Mr. ANAND (India) said that if the square brackets were removed, the meaning would be completely changed, since subparagraph (a) would then include all substances which could produce any of the symptoms mentioned. The subparagraph should be specifically confined to substances which were similar to those included in schedules I, II, III and IV.

The CHAIRMAN thought the removal of the square brackets might make it more difficult for WHO to evaluate new drugs, the nature of which was not yet fully known. He asked the representative of the Office of Legal Affairs to comment on the implications of the word "similar".

Mr. WATTLES (Office of Legal Affairs) said that its inclusion would have a definitely limiting effect, the exact extent of which could not be known until the schedules were drawn up.

The CHAIRMAN asked whether, if the hallucinogens, for example, were placed in schedule I, that meant that they could never in future be placed in any other schedule.

Mr. WATTLES (Office of Legal Affairs) replied that, in his opinion, the removal of the square brackets would not prevent the inclusion in schedule II of a drug which was similar to one in schedule III but more pronounced in its effects.

Dr. DANNER (Federal Republic of Germany) pointed out that ill effects could vary in intensity. He proposed, therefore, that the word "similar" before the words "ill effects" should be replaced by the words "similar and comparable".

Dr. MÅRTENS (Sweden) asked the representative of WHO whether the removal of the square brackets would make the work of his organization more difficult.

Dr. CAMERON (World Health Organization) replied that the effect of the word "similar" would be to relate new drugs to those already under control. Some drugs covered by the 1961 Convention were stimulants while others were depressants, but it was clear that the drugs covered by both the 1961 Convention and the draft Protocol had one feature in common: they were all dependence-producing. It would be necessary, therefore, to consider three questions: first, under which instrument would a Party make its notification; second, what would be WHO's opinion concerning the substance in question; and, third, what would be the Commission's opinion concerning WHO's recommendation.

The CHAIRMAN said that there might obviously be some doubt as to whether a new substance would come under the 1961 Convention or the draft Protocol; that would certainly make WHO's evaluation of it more difficult. He therefore asked the representative of the Office of Legal Affairs whether the draft Protocol was designed to be a separate instrument or whether it would be linked to the 1961 Convention.

Mr. WATTLES (Office of Legal Affairs) replied that the choice of the instrument to be applied to a particular substance was a question of fact that would have to be decided by experts in the field. The draft Protocol was being drawn up as a separate instrument, but when the same States were Parties to two successive instruments, an effort was generally make to construe those instruments together.

The CHAIRMAN said it was conceivable that, without some further addition to the text, two countries might make simultaneous reports on the same substance under different instruments. Obviously, some safeguard against such a contingency should be provided.

Mr. WATTLES (Office of Legal Affairs) said it had already been pointed out that cannabis was covered by the 1961 Convention but that, according to the proposals before the Commission, the tetrahydrocannabinols would come under the draft Protocol.

Sir Harry GREENFIELD (President, International Narcotics Control Board) said that a possible solution might be to include in paragraph 1 a statement to the effect that the substances in question were not covered by the provisions of the 1961 Convention.

Dr. REXED (Sweden) observed that there was at least one other case in which a preparation of a substance already covered by the 1961 Convention was included in a schedule to the draft Protocol. In future, the Protocol might perhaps be preferred to the 1961 Convention for the control of all dependence-producing substances, because it was more flexible, providing for a graduated control. It might be better to delete the word "similar" in square brackets in paragraph 4 (a), so as to allow for that possibility.

Dr. BABAIAN (Union of Soviet Socialist Republics) recalled that, at the Commission's previous sessions, he had proposed that because of their similarity to narcotic drugs, all the psychotropic substances it was wished to place under control should be brought under the 1961 Convention. Others had disagreed on the grounds that the substances were not sufficiently similar to the narcotic drugs and, in the interests of protecting mankind, his delegation had agreed, purely as a compromise, to the preparation of a separate instrument. He had therefore been surprised to find that those who had formerly agreed that the psychotropic substances were too unlike narcotic drugs to include under the 1961 Convention were now contending that they were so similar that WHO would have difficulty in deciding under which instrument they should be controlled.

He nevertheless thought that the problem was being artificially complicated. Since the Commission was drafting a legal, not a scientific, document, it would be a mistake to become involved in abstruse pharmacological distinctions. There was no doubt about the inclusion of such substances as LSD and the amphetamines, but the position was less clear-cut in the case of some of the other substances mentioned. The simplest solution was to relate harmful substances to those about which there could be doubt by using a term such as "similar". He would not, however, insist on its retention. Similarly, harmful, dependence-producing preparations of those substances, such as morphine and cannabis, which were controlled under the 1961 Convention, should be included in the 1961 C nvention and not elsewhere. He did not believe that it would be difficult to decide under which instrument controls should be applied. In any event, each case would be considered by WHO experts and by national authorities, and the final decision would rest with the Commission.

Mr. NIKOLIĆ (Yugoslavia) said it appeared from subparagraph (b) that, in the event of WHO recommending that a substance should be added to a given schedule, the Commission would have no choice but to follow that recommendation it it wished to accept WHO's findings that the substance in question was dangerous. Such a situation was illogical, since the Commission had to consider more than the medical aspects of any drug problem. Moreover, if Parties to the Protocol were to be given the right to reject the Commission's decision, it would not be for medical, but for other, reasons that they would reject them. It was only logical that the Commission should have the right not only to accept or reject WHO's recommendations, but also, in the light of considerations other than medical ones, to select the schedule to which a given substance should be added.

The CHAIRMAN remarked that the Yugoslav representative had raised an important problem, which would arise again in connexion with the interpretation of the last sentence of paragraph 6. It was worth the Commission's while to spend some time on the matter, particularly since, under the several paragraphs of the article, WHO was clearly given the responsibility for evaluating substances, not only from the public health standpoint, but also from the social standpoint. There was another factor, not mentioned in the text, which ought to be borne in mind, namely, timing. Unless special arrangements were made for conducting the Commission's business, or unless the Commission was to meet annually, a difficult situation might arise if the Commission, while accepting WHO's findings on a substance on medical grounds, should find itself unable to accept the specific recommendation made by that organization. That problem had a bearing on paragraph 3 (b) and on the right of rejection.

The problem was not new; there was a formula in the 1961 Convention under which WHO assumed certain functions and responsibilities, but it was necessary to consider whether, in the new circumstances, the difficulty could be overcome. If it was not overcome, there was a risk that what might have been a flexible treaty would become extremely rigid and unsatisfactory. It might be useful for the Commission to hear the views of WHO on what it expected its responsibilities to be.

Dr. CAMERON (World Health Organization) said that the problem of timing depended largely on the frequency with which the Commission met or expected to meet. Apart from the solution suggested by the Chairman, there were two other possible solutions: to allow WHO to make the decision itself, as it did under certain international instruments for the control of narcotics, or to include in paragraph 3 (b) of the draft Protocol a provision making it possible for WHO, when making its recommendation to the Commission, to recommend the taking of emergency action by Governments. Adoption of the latter solution might assist the Commission in connexion with the substances referred to in paragraph 4 (b).

With regard to the nature of the decisions which would have to be made on the substances to be covered by the Protocol, it was clear that the decision on the capacity of a substance to produce the effects set forth in paragraph 4 (a) would be based on medical evidence and on evidence provided by scientific research. WHO was uniquely qualified to make such decisions and, in fact, they were clearly within the terms of its Constitution. The decision on whether abuse of a substance was liable to produce a public health problem was also a medical matter. By definition, a public health problem produced a social problem, and it was no accident that WHO, a medical body, should be asked to take decisions in that field. The possibility that the medical effects of drugs could produce social problems in the absence of public health problems was so remote that it was unnecessary to provide for it in the Protocol. The question of findings on the convertibility of a substance (paragraph 4 (b)) was one for chemists and pharmacologists. The Division of Narcotic Drugs had one expert on its staff, whereas WHO had many experts on its staff. It was normal to expect that the necessary knowledge and expertise would be available in WHO. The decisions to be made under paragraphs 5 and 6 again related to purely medical matters.

It would thus appear that the findings to be made were medical in character. Those findings would lead to recommendations which would greatly affect medical practice and public health problems; in other words, they would be largely medical in scope. WHO was the organization responsible for international work in the health field, and felt that it was the organization technically competent to make recommendations on the technical issues involved. The Commission was the body which was competent to judge the political and social wisdom of implementing those recommendations.

It would be a mistake if, out of a desire for flexibility, a situation were created in which one international body, not competent in medical matters, could modify the medical recommendations of another international body which was competent in such matters.

Mr. NIKOLIČ (Yugoslavia) said it would be an absurd situation if the Commission could reject WHO's recommendations entirely, but could not soften them.

Mr. ANAND (India) said the point made by the Yugoslav representative was a vital one, and one which he himself had raised in a different context at the 647th meeting. He entirely agreed that the Commission should have power to alter the recommendations of WHO. It should not, however, have power to place substances under stricter control than that recommended by WHO.

While it was true that WHO was the competent body in the medical and public health fields, the Commission could at least consider its recommendations from the standpoint of the political and social desirability of implementation. He was sure WHO did not expect its decisions merely to be rubber-stamped by the Commission. As long as the Commission was responsible for taking the final decisions, it was natural that it should reach an independent judgement on each case.

The meeting rose at 5.20 p.m.

SUMMARY RECORD OF THE SIX HUNDRED AND FIFTY-FIRST MEETING

held on Thursday, 15 January 1970, at 11 a.m.

Chairman: Mr. ANAND India

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 and L.312 (continued)

Mr. ANSAR KHAN (Secretary to the Commission) drew the Commission's attention to the fact that, pursuant to resolution 2584 (XXIV), adopted by the General Assembly on 15 December 1969, the Economic and Social Council, by a decision of 14 January 1970 (1654th meeting), had called upon the Commission on Narcotic Drugs to proceed without delay, at its special session, to complete the draft Protocol for the control of psychotropic substances not yet under international control.

Mr. INGERSOLL (United States of America), taking leave of members, said he was glad the Commission had engaged in a frank and open discussion of the thorny problems before it. He was convinced that, despite certain differences of opinion on the means of applying principles and attaining objectives on which all its members seemed to agree, the Commission would be able to find its way towards drafting the best possible protocol. He hoped that a similar goodwill would continue to be displayed in the application of the instrument, when it had come into force.

Article 2 (E/CN.7/523/Rev.1, annex IV) (continued)

The CHAIRMAN reminded the Commission that the general principles that were to govern the listing of certain preparations in schedule V were set out in article 2, paragraph 9.

Dr. MÅRTENS (Sweden) said he doubted whether a schedule V would be really useful, because of the almost insuperable difficulties which its application would entail. Useful comments on the classification of preparations which contained one or more substances placed under control and which should, as a general rule, be placed under a control as strict as that applied to the substance most stringently controlled, were to be found in the report of the WHO Expert Committee on Drug Dependence (E/CN.7/L.311, para. 4.6). It would be simpler not to list preparations containing concentrations too weak to give rise to dependence, or whose component was very hard to recover.

Dr. EL-HAKIM (United Arab Republic) observed, with reference to article 2, paragraph 9, that it hardly seemed possible to draw up a complete list of the thousands of preparations containing very small quantities of psychotropic substances.

Mr. KUSEVIĆ (Director, Division of Narcotic Drugs) said that though it was indeed hard to draw up a list of all preparations containing psychotropic substances, it would perhaps be possible to adopt a rule that preparations containing less than a certain quantity of those substances might be exempted from control, and to take that rule as a basis for discussion.

Dr. ALAN (Turkey) observed that the final sentence in article 2, paragraph 9, was not quite accurate, since the preparations in question could not be exempted from all measures of control, such as registration and the notification of information on their composition, nature and first destination. Under the new paragraph 4 to be added to article 10, preparations listed in schedule V would be exempted from all the provisions of the Protocol except those contained in that paragraph. It would be as well to hear the opinion of WHO as to what preparations might be listed in schedule V.

Mr. MILLER (United States of America) proposed the following text for article 2, paragraph 9: "The parties may by regulation exempt any compound, mixture or preparation containing any psychotropic substance listed in schedules II, III and IV from the application of any part of this Protocol if the compound, mixture or preparation contains one or more active medicinal ingredients not having a stimulant or depressant effect on the central nervous system, provided that such admixtures shall be included therein in such combinations, quantity, proportion or concentration as to vitiate the potential for abuse of the substances which do have a stimulant or depressant effect on the central nervous system".

Dr. ZEGARRA ARAUJO (Peru) said that in theory schedule V might be dropped, but that to do so would mean allowing preparations containing certain amounts of psychotropic substances to circulate freely. It would therefore be necessary to state the conditions in which a Party could, in accordance with its health regulations, exercise a control over substances affecting the central nervous system. Some patients might need such preparations for stimulating certain functions. For instance, an analgesic combined with a sedative would help to make pain more bearable, since the somatic factor was invariably associated with a mental factor.

Dr. BABAIAN (Union of Soviet Socialist Republics) said that schedule V was not essential and would only lead to complications. If the Parties, or WHO, considered that certain preparations containing very limited quantities of psychotropic substances which would be hard to recover presented only a negligible and improbable risk of abuse and need not be entered in the list of preparations subject to control, the Commission might decide that such preparations should be exempted from the Protocol.

Mr. KUSEVIĆ (Director, Division of Narcotic Drugs) said he was afraid the Soviet Union proposal would be hard to put into practice, since a vast amount of time would be required to examine the 20,000-odd preparayions already known, and to reach a decision. It would be preferable to fix certain minimal quantities below which preparations might be exempted from control.

Mr. NIKOLIĆ (Yugoslavia) supported the suggestion by the Director of the Division of Narcotic Drugs. It would not be wise to give each country discretion to decide for itself what preparations were or were not to be placed under control.

Dr. CAMERON (World Health Organization) in response to a question, said that the WHO Expert Committee on Drug Dependence had been of the opinion that the matter of so-called exempt preparations was very complex. If a control system was to be adopted that provided for a schedule in which "exempt preparations" were to be listed, consideration must be given, among others, to two important points. The first had to do with the nature of controls from which such preparations were to be exempt. Article 2, paragraph 9, as currently drafted, provided that such preparations "shall be exempted from this Protocol". If they were exempt from all provisions of the Protocol, it might well seriously impair the controls of the basic substances listed in other schedules. If manufacturers were not required to keep a record of the initial distribution of "exempt preparations", there would be no way to account for the use of the basic psychotropic substances involved.

The second point had to do with the manner in which "exempt preparations" were to be identified. Because of the very substantial number of such preparations potentially involved, the rapidity with which new preparations were formulated, and the numerous manufacturers from many different countries making such preparations, the Expert Committee did not consider it feasible for WHO, or any other organization, to endeavour to draw up and maintain an up-to-date list of all preparations that might well be included in schedule V. Such a system would in effect call for a review of all preparations of the substances listed in schedules I to IV, many of which could not be "exempted". Rather, the Expert Committee proposed that Parties be required to request the exemption of particular preparations or groups of preparations, and to submit balanced scientific and other data bearing on the request.

While the identification of "exempt preparations" would doubtless be burdensome, the advantage was, of course, to eliminate a significant amount of record-keeping on preparations which presented little or no risk of abuse.

Dr. ALAN (Turkey) said that the Commission obviously wished to make psychotropic substances subject to national and international control, since that was the purpose of the Protocol. It was therefore necessary to find a formula which would make it possible to control, with maximum effectiveness, the use that was made of the psychotropic substances which entered into the composition, even if in very small quantities, of innumerable preparations. For that purpose, the preparations which were to be included in schedule V should be subject to registration. In addition, it was also important to find a formula whereby the Parties would not be in danger of losing even the traces of the psychotropic substances contained in the preparations that were eventually exempted from the provisions of the Protocol; it might be possible, for instance, in consultation with WHO, to prescribe the maximum quantity of a psychotropic substance which a preparation exempted from the provisions of the Protocol could contain, so that the Parties would have at least some indication of how to go about selecting such preparations. Since it had proved possible, in the 1961 Convention and other earlier instruments, to make exceptions for preparations containing infinitesimal doses of substances under international control, there should be some way of doing so for the Protocol as well.

Mr. MILLER (United States of America) said he did not think the Turkish representative's proposals were feasible. In the United States, a committee of experts had tried in vain to establish criteria whereby certain substances might be exempted from control, to draw up a list of the various main and secondary components of thousands of preparations, and to fix criteria for the classification by category of substances subject to control. Owing to the extremely large number of preparations which it would have been necessary to study, that committee had not been able to devise an appropriate formula for exceptions on the basis of the maximum dose, as had been done in the case of substances included in schedule III of the 1961 Convention. Such a task would, a fortiori, be impossible at the international level.

Dr. MABILEAU (France) said it would be tempting, not so much to draw up a list of preparations to be included in a schedule as to establish criteria governing exemption in the light of the quantity of the active substance per therapeutic unit and per treatment unit, as the Director of the Division of Narcotic Drugs had proposed and as was already being done at the national level. The idea was, however, that the

Protocol should be a means, not of countering the therapeutic risks involved when a substance was correctly used in accordance with medical prescriptions and the manufacturer's instructions, but of preventing the use or abuse of preparations which were much sought after on account of the special effects they produced other than those for which they had been manufactured. The improper use or the abuse of preparations containing even infinitesimal doses of narcotic drugs constituted an enormous danger to public health, not so much through the effects of the narcotics themselves as through those of the other substances they contained. The problem should therefore be studied in depth, with a view to finding out what exemptions were possible at the foreign-trade levels while leaving countries considerable latitude at the national level.

Sir Harry GREENFIELD (President, International Narcotics Control Board) stressed the utility, to Governments and to international trade alike, of a schedule which would clearly indicate the preparations or group of preparations to which the provisions of the Protocol would not apply.

Mr. STEWART (United Kingdom) said that the question of a schedule for exempted preparations was plainly an important one, but it seemed to be beset with difficulties and a cautious approach was advisable. That seemed to have been recognized by the WHO Expert Committee on Drug Dependence when it suggested in its report that Governments might be allowed a period of grace before applying full control to the preparations of drugs which had been newly assimilated to a schedule. Looking to the future, it might well be a matter for regret if sensible provision were not made in the Protocol for procedures whereby preparations could be exempted, and such provision could prove especially desirable as and when new substances were added to schedule IV, the lowest level of control.

Mr. KUSEVIĆ (Director, Division of Narcotic Drugs) said that the difficulties, though real, should not be exaggerated. If the Commission retained the WHO classifications, it would have to examine only thirty-one substances to establish the criteria for exemption at the international level. The Technical Committee might, perhaps, be able to find a formula acceptable to everyone.

The CHAIRMAN said that the Secretariat and the Technical Committee now had sufficient information at their disposal to assess the situation.

Article 11 (E/CN.7/L.312) (resumed from the 648th meeting)

The CHAIRMAN said that the new text before the Commission reflected the consensus which had emerged from the Commission's discussion of article 11. The points on which the Commission had failed to reach agreement had been left between square

brackets, particularly the question of the schedules to which the provisions of paragraphs 1, 2 and 3 respectively should apply. The Commission could not reach a final decision on that point, however, since the Technical Committee had not yet finished its work on the subject. He therefore requested the members of the Commission to give their general views on the subject.

Mr. KRISHNAN (India) said he thought that previous import and export authorizations should be required for the substances in schedule III, just as for those in schedule II. The fact was that some substances which most members of the Commission considered dangerous would be included in schedule III, and there seemed to be no justification for exempting them from control. The simple exchange of information provided for in paragraphs 2 and 3 was not enough, since, even if bilateral agreements existed between importing and exporting countries, there was a danger that the substances in question might enter the import-limiting country's territory through the intermediary of a third country in which the regulations were less strict and which, having surpluses at its disposal, would dispose of them through the illicit traffic. A foolproof control system applicable to all exports from all countries must therefore be devised. Consequently, the square brackets round the words "and III," in paragraph 1 (a), should be removed.

Mr. STEWART (United Kingdom) said that the system of import and export authorizations should not apply to the substances included in schedule III. The number of preparations based on substances included in that schedule was so large that such a system of authorization would be an extremely heavy burden on the national authorities responsible for applying it.

Countries which, nevertheless, wished to prohibit the importation of such substances were sufficiently protected by article 12 concerning restrictions on the import of psychotropic substances. Moreover, if it appeared that the abuse, or possibilities of abuse, of a particular schedule III substance were such as to indicate a need for stricter control of exports, it might be possible for action to be taken to have the substance transferred to schedule II, thus reflecting the elements of flexibility which some members wished to see provided for in the operation of the Protocol. He was of the opinion, therefore, that there should be no reference to schedule III in article 11, paragraph 1(a), of the Protocol.

Dr. DANNER (Federal Republic of Germany), Mr. MILLER (United States of America), Mr. SHIMOMURA (Japan), Mr. CHAPMAN (Canada), Dr. BÖLCS (Hungary) and Mr. KEMENY (Switzerland) agreed that, for the reasons given by the United Kingdom representative, there was no reason to mention schedule III in article 11, paragraph 1(a).

Mr. SAGOE (Ghana) thought that, on the contrary, to judge by the WHO criteria, the substances in schedule III should be subject to the same import and export authorization system as those in schedule II. Although the therapeutic value of the substances in schedule III might, perhaps, be greater than that of those in schedule II, it was still necessary to protect public health. Moreover, there was no lack of products which could be used for therapeutic purposes in place of the substances trade in which would be hampered by their inclusion in schedule III.

Although the preparations based on schedule III substances were extremely numerous, the substances themselves were not. A distinction must therefore be made. He suggested that it might be possible, as a compromise and to prevent useless overloading of national services, to keep the reference to schedule III in article 11, paragraph 1(a), on the understanding that the import and export authorization system would apply only to the substances themselves.

Dr. AZARAKHCH (Iran) endorsed the views of the Ghanaian representative.

Dr. MABILEAU (France) said he too was of that opinion. Although the Commission must envisage and express all the possibilities which the Protocol had to take into account, that did not mean that it must necessarily settle all the problems arising. That was a task which could be left to the conference of plenipotentiaries which would meet to approve the Protocol.

Mr. NIKOLIĆ (Yugoslavia) and Dr. ALAN (Turkey) said they thought it was pointless to discuss whether the reference to schedule III should be retained in article 11, paragraph 1(a), so long as the Commission had not taken a final decision on the kind of substances to be included in the schedules, particularly schedule III.

Mr. KUSEVIĆ (Director, Division of Narcotic Drugs) proposed that the members of the Commission should base their discussion on the principle that they would accept the groups proposed by WHO for the classification of medicaments in terms of the severity of the controls required. Those groups comprised the substances themselves and not "similar substances", and consisted of group (a), group (b.1), group (b.2) and group (c), corresponding to schedules I, II, III and IV respectively.

Once it had received the Technical Committee's report, the Commission could decide whether there was any reason to amend the list of substances in each of the groups, it being understood that the groups themselves, however, would remain as they were.

The meeting rose at 12.55 p.m.

SUMMARY RECORD OF THE SIX HUNDRED AND FIFTY-SECOND MEETING

held on Thursday, 15 January 1970, at 2.50 p.m.

Chairman: Mr. ANAND (India)

In the absence of the Chairman, Mr. Anand (India), Second 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/L.311 to L.313) (continued)

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

Dr. ALAN (Turkey), speaking on paragraph 1 of the revised draft of article 11 (E/CN.7/L.312), said he fully understood the difficulties which would face exporting countries if substances in schedule III were subjected to control under the system of import-export authorizations; such an arrangement would also involve difficulties for importing countries. On the other hand, while the system of notification by declaration had its merits, it would not meet the needs of countries wishing to limit the import of any substance. If the international trade in any substance was to be satisfactorily controlled, importing countries must have prior knowledge of any transactions in that substance and must be in a position to limit the quantity imported. As had been suggested, the application of article 12 might provide a solution to the problem, but only if that article were extended to include notification through the Secretary-General of a limitation on imports of any substance or substances.

Mr. KUSEVIĆ (Director, Division of Narcotic Drugs) said there was no reason why article 12 should not be extended to include notification of a limitation on imports. It would, however, be extremely difficult to ensure that the limitation was not exceeded, particularly if it was fixed at a low level and the number of suppliers was relatively high. Many of the problems could be dealt with by national legislation. Importing countries could, for example, require importers to obtain import licences; on the basis of such licences and on export declarations by exporting countries, they could control the entire trade and limit imports of any substance to the quantity desired.

Mr. KRISHNAN (India) said the fear expressed by the United Kingdom representative and others that the type of control envisaged in article 11, paragraph 1, might be unduly restrictive and expensive was perhaps exaggerated. Some of the drugs controlled under the 1961 Convention were also widely used by the medical profession, but no complaints had been received that the system of import-export authorization had led to drug shortages or other difficulties. There was, therefore, no reason to suppose that the application of the same system to the dangerous substances to be covered by the Protocol would endanger the free flow of those substances for medical use.

He did not understand the contention that application of the system might be unduly expensive. The 1961 Convention covered a large number of substances and, in operating the controls applied to them, all Parties used the system of import-export authorizations. If the system had not been found to be a financial burden in the case of those substances, there seemed to be no reason why it should prove to be so in the case of the substances to be covered by the Protocol. Moreover, the countries exporting the substances covered by the 1961 Convention were, in the main, developing countries, which were poor. If they did not find the operation of the system unduly costly, the much wealthier advanced countries, which were the exporters of the substances to be covered by the Protocol, should not do so.

The United States representative had said that if an importing country had problems over import limits, the exporting country would be glad to discuss with it measures for tightening up procedures and controls. Desirable though such co-operation was, it would be confined to bilateral trade; it would not apply to an exporting country's trade with third countries which might have no import limitation, and a gap, which would be difficult to fill, would thus be left in the system of control. Even if article 12 was extended to cover notification of a limitation on imports, his delegation's point that exports to third countries should be brought under control would not be met.

Mr. NIKOLIĆ (Yugoslavia) said he would like to wait until the Technical Committee had considered the substances to be included in schedule III before giving a final opinion on the system of control to be applied to substances in that schedule.

He did not think it necessary to amend article 12, as suggested by the representative of Turkey. The fixing of quotas was a well-known mechanism in international trade, and by fixing quotas for any substance or substances, governments could exercise complete control over the quantities imported.

While he agreed with most of what the Hungarian representative had said, he could not accept the argument that application of the system of import-export authorizations might lead to delays in obtaining psychotropic substances urgently required for medical treatment.

Mr. STEWART (United Kingdom) said he was attracted by the compromise suggested by the representative of Ghana, namely, that the system of import-export authorizations should apply only to the basic substances included in schedule III and not to preparations of those substances, which need be subjected to the system of export declaration only.

Under the 1961 Convention, non-metropolitan dependent territories were able to act independently of the government of the metropolitan country in operating the import-export authorization system. Since the wording of paragraph 1 did not make the position clear, he would like to be sure that such territories would enjoy the same freedom in the operation of the system for substances covered by the Protocol.

Mr. WATTLES (Office of Legal Affairs) said that, under the present draft, each State was regarded as constituting a single territory for purposes of importing and exporting psychotropic substances, which was a different system from that provided for in the 1961 Convention. For countries with dependent territories which enjoyed complete or partial freedom of action in such matters, the 1961 Convention system was obviously much easier to operate. If it was so wished, the present text of the draft Protocol would be modified to provide for the same system.

The question had been raised at the 651st meeting of the applicability of article 11, as now drafted, to trade between Parties to the Protocol and non-parties to the Protocol. That was a difficult question to answer because of the complexity of the situation. Where the exporting country was a Party and the importing country was not, it would be necessary, under paragraph 1 (c), for the exporting country to require the importing country to provide an import authorization in the prescribed form before it issued an export authorization. The arrangement would have to be made on a bilateral basis, but it would be mandatory for the exporting country to obtain such an import authorization. Then, under paragraph 1 (d), a copy of the export authorization would have to accompany each consignment and the government issuing the export authorization would have to send a copy to the government of the importing

country, even although the latter was not a Party. Where the importing country was not a Party, it might be impossible to apply the provisions of paragraph 1 (e), although it was to be hoped that the importing country would voluntarily comply with its provisions. Where the importing country was a Party and the exporting country was not, the importing country would be required to issue an import authorization and to send it to the exporting country. It would be left to the exporting country to decide whether or not to issue an export authorization and to comply with the other provisions of the paragraph; but, there again, it was to be hoped that it would do so voluntarily.

Turning to the general question of the inclusion in the draft of words or phrases in square brackets and alternative texts, he urged the Commission to leave as few as possible in the text of the draft to be submitted to the plenipotentiary conference, as the procedures generally followed at such conferences made it difficult to deal with them.

Dr. ALAN (Turkey) explained that his purpose in suggesting the amendment of article 12 was to find a generally acceptable solution. Turkey itself operated a quota system, but some other countries might not. If article 12 was extended to include notification of a limitation on the import of a substance into the territory of an importing country, exporting countries would be aware of the quantities of a substance permitted to enter a given country before any transaction took place.

Mr. WATTLES (Office of Legal Affairs) recalled that the question had been raised at the Commission's twenty-third session, when it had been shown that the quantitative limitation of imports posed innumerable legal, administrative and other problems. The difficulty stemmed from the fact that one exporting country would have no means of knowing what quantities of any substance an importing country was obtaining, or had obtained, from other exporting countries. Since it would be virtually impossible to devise an international system for providing up-to-date information on the state of an importing country's imports, the limitation of imports was a matter which would have to be dealt with at the national level.

Mr. MILLER (United States of America) said that, in discussing the question of exempting drugs in schedule III from the requirement for an import-export authorization, his delegation did not wish to give the impression that there would be no controls whatever over those substances. There would still be the notification

system which, in his delegation's view, would enable a government to determine whether an import had reached its destination, and which fulfilled the same function as the import-export authorization requirement. Furthermore, the provisions of article 12 would make it possible for a government to regulate the quantities of substances which they wished to import and to ensure that only firms designated by them received the substances.

Dr. JOHNSON-ROMUALD (Togo) said that in view of the extensive use of the substances in question and their extreme variety, their control would clearly involve considerable difficulty and require a vast administrative machinery. He supported the Ghanaian representative's suggestion (651st meeting) that control should be restricted to the pure substances. He also endorsed the French representative's proposal (650th meeting) that the question of the square brackets should be referred to the Technical Committee. If the Committee was unable to settle the matter, the decision should be left to the plenipotentiary conference.

Dr. FAZELI (Iran) said that substances in schedule III were more addictive than those in schedule II, since the former substances caused physical, not merely psychological, dependence. If the export-import authorization requirement system did not interfere with the physician's facilities to prescribe substances in schedule III, he thought that the reference to such substances should be retained in article 11, paragraph 1.

Dr. MABILEAU (France) supported the United Kingdom representative's views regarding the position of dependent territories. The text of the draft Protocol should be homogeneous and provide for a single system corresponding to that in the 1961 Convention. Article 1, subparagraph (i), and article 11, paragraph 1(d) should therefore be brought into line with one another.

Mr. KUSEVIČ (Director, Division of Narcotic Drugs), referring to the Yugoslav representative's suggestion that a quota system would provide a solution, said it was true that in many cases there were import-export quota arrangements between countries. However, there were instances in which no such quotas existed, particularly in the case of psychotropic substances. Where quotas did exist, the responsibility for ensuring that they were not exceeded lay with the importer, since the exporter was not in a position to know whether the importing country had already received the quantity specified in the quota. In his view, the use of a quota system would be feasible, but its operation would require a rather large international administration.

Mr. GATTI (Observer for Italy), speaking at the invitation of the Chairman, said that, contrary to the view expressed by the representative of India, he thought there was a considerable difference between the situation with regard to the control of narcotic drugs and that with regard to the control of psychotropic substances. Narcotic drugs were essentially used for the relief of pain, whereas psychotropic substances were used for a very much wider range of purposes. Furthermore, the latter substances varied widely in importance and also with respect to the quantities used. According to the recommendations of the WHO Expert Committee, schedule III would, for example, contain a product like aminorex, which was of relatively little importance, as well as products such as chlordiazepoxide and diazepam, which were used in very large quantities. Since therapeutic methods were constantly changing, it was not possible to foresee with any degree of accuracy the quantities of substances that would be required for treatment in the future.

Dr. ALAN (Turkey) said that his previous remarks appeared to have been understood. In suggesting the amendment of article 12, the idea he had had in mind was that importing countries should be enabled to restrict their imports, not by imposing a quantitative limit, but by means of a system of prior authorization. Such a system would not differ greatly from the authorization system. An exporting country could not be expected to know whether an import limitation had been already reached but, if informed of the issue of a prior authorization by the importing country, it would know that its proposed export came within the quota and would be accepted by the importing country. A system of prior authorization would also ensure that importing countries were better informed of the quantities of substances and preparations imported into their territory. With regard to the question of exempting preparations from the export-import authorization system, he thought it was necessary to bear in mind that some countries were not in a position to manufacture preparations from imported substances, and had to import them. In such circumstances, it would seem inadvisable to exempt preparations from the export-import authorization requirement.

Dr. BABAIAN (Union of Soviet Socialist Republics) thought that article 12, paragraph 1, should be referred to the Technical Committee.

With regard to the statement by the representative of the Office of Legal Affairs concerning the preparation of the final text of the Protocol by an international conference, his delegation wished to point out that, under Generaly Assembly resolution 2584 (XXIV) of 15 December 1969, the Commission had been called upon to complete the draft Protocol.

With regard to the point raised by the United Kingdom representative regarding the application of the Protocol to dependent territories, the system provided for in the present text seemed to him to run counter to General Assembly resolution 1514 (XV) of 14 December 1960, on the granting of independence to colonial countries and peoples.

Dr. BÖLCS (Hungary) said he was not convinced that the application of a licensing system to substances in schedule III was necessary to ensure their effective control. Article 7, paragraph 1, of the draft Protocol provided that governments should require a licence for trade in psychotropic substances, including export and import trade. Likewise, under article 10, exporters and importers would have to keep records showing the amounts of psychotropic substances manufactured or produced. Those two articles, together with article 11, offered a broad guarantee that national authorities could exercise satisfactory control over the substances in question. In addition, article 19 provided that countries should apply stricter national control measures than those required by the Protocol. In his view, therefore, there was no need to require an import-export authorization for the substances to be included in schedule III.

Dr. CAMERON (World Health Organization) wished to draw the Secretariat's attention to a technical point regarding the drafting of article 11, paragraph 1(b). He noted that many countries had no national pharmacopoeia or formulary, and that the present wording of the paragraph would preclude the use of existing international pharmacopoeia. Furthermore, the present provision would lead to a variety of names, because different pharmacopoeia used different terms. He therefore wished to suggest the addition of the following text after the words "international non-proprietary name" in the first line of the paragraph: "or lacking such a name, the other designation given in the schedule". That wording would ensure that the designation would always be in conformity with the name listed in the international instrument.

The CHAIRMAN, summing up the discussion, said that three schools of thought were represented in the Commission. The first, which consisted mainly of manufacturing countries, held that the reference to substances in schedule III should be deleted from article 11. The second school of thought, which consisted of delegations from what might be called importing countries, took the opposite view. The third school of thought consisted of delegations which adopted a middle-of-the-road position. The manufacturing countries apparently feared that the provisions of article 11 would unduly burden their administrative machinery, because the number of substances to be

included in schedule III was likely to be very large. The importing countries considered that the substances in schedule III were sufficiently dangerous to be controlled as strictly as those in schedule II, and were afraid that unless governments could exercise such control by means of an import-export authorization system there was a danger that excessive amounts of psychotropic substances in schedule III would be imported into their territory. Both those fears were genuine, but he wished to point out that the objective was the same in both cases, namely, to ensure that the dangerous substances were subject to strict control, less stringent measures being applied to substances which were less dangerous from the social standpoint.

Discussion was hampered by the fact that the substances to be included in schedule III were not yet known. As suggested by the French representative (650th meeting), the matter might be solved by retaining the brackets and submitting the question to the plenipotentiary conference. He himself thought, however, that such a solution should be adopted only as a last resort. As the representative of the Office of Legal Affairs had said, it would be preferable for the Commission to make a definite recommendation. The consensus of opinion seemed to be that a decision on the question should be postponed pending a recommendation by the Technical Committee, particularly as that Committee was already dealing with schedules I to V.

In the absence of any objection, he would take it that the first reading of article 11 was concluded.

It was so decided.

Articles 8 and 12 (E/CN.7/L.313) (resumed from the 649th and 650th meetings)

The CHAIRMAN invited the Commission to consider the redraft of articles 8 and 12 prepared by the Technical Committee.

Dr. ALAN (Turkey) said that since article 11, which referred to article 12, had been sent to the Technical Committee for redrafting, it might be advisable to await the results of the Technical Committee's work on article 11 before discussing article 12.

It was so decided.

Mr. CHAPMAN (Canada), referring to article 8, paragraph 1, said that his delegation would be satisfied with either of the alternatives which had been placed within square brackets, but would prefer the second one.

Mr. MILLER (United States of America) said that his delegation also preferred the second alternative.

The CHAIRMAN said that the exact meaning of "therapeutic" should be explained somewhere in the draft Protocol.

Mr. WATTLES (Office of Legal Affairs) suggested that it could be defined in article 1 (Use of terms).

Dr. MARTENS (Sweden) said that his delegation also preferred the second alternative, but that it would accept the suggestion of the representative of the Office of Legal Affairs.

Dr. BABAIAN (Union of Soviet Socialist Republics) said that he supported the suggestion of the representative of the Office of Legal Affairs.

Dr. ZEGARRA ARAUJO (Peru) said that his delegation preferred the first alternative, which was broad enough to cover all functions.

Dr. ALAN (Turkey) said that his delegation also preferred the first alternative. In any attempt to list all the relevant professions, there was a danger that one or two might be overlooked.

The CHAIRMAN asked the Secretariat to take note of the very valid point made by the Turkish representative and to make the language sufficiently general.

Mr. STEWART (United Kingdom), referring to paragraph 2, said discussion of that paragraph had shown that both delegations and WHO were concerned about the possibility of unethical practitioners prescribing excessive quantities of substances in schedules II and III, thus leading to their misuse. On the other hand, many countries saw difficulties in subjecting medical and veterinary practitioners to internal regulations in that respect. The second alternative, therefore, would seem to offer the best solution, although its language was perhaps not as felicitous as might be desired. The word "over-prescribing", for example, would be used for the first time in an international instrument, and he was not sure that it had the same meaning in all countries and for all persons.

His delegation proposed, therefore, that the second alternative for paragraph 2 should be amended to read as follows:

> "The Parties shall take measures to ensure that prescriptions for substances in schedules II and III are issued in accordance with sound medical practice and subject to such regulation as will protect the public health and welfare".

Mr. MILLER (United States of America) said that his delegation supported the second alternative as amended by the United Kingdom.

Dr. MABILEAU (France) said that the language was still very imprecise. There might be a wide variation, for example, in dosages for human beings and dosages for large animals. In his opinion, paragraph 2 should provide that prescriptions for substances in schedules II and III should be issued in accordance with strict necessity.

The CHAIRMAN said it was because of the imprecision referred to by the French representative that the United Kingdom representative had proposed that the reference to "over-prescribing" should be deleted. Perhaps the first alternative, if suitably amended, would be the best solution.

Mr. KUSEVIČ (Director, Division of Narcotic Drugs) pointed out that a medical prescription was an internationally valid document which, with few exceptions, could be filled in any country.

Dr. BABAIAN (Union of Soviet Socialist Republics) said that he shared the view of the French representative. If greater precision was wanted, the first alternative would be preferable.

Dr. MÅRTENS (Sweden) said that the amendment proposed by the United Kingdom was a definite improvement. Nevertheless, prescriptions should certainly be subject to limitation as regards the number of times they could be refilled and the duration of their validity. Moreover, mention should be made of schedule IV as well as of schedules II and III. If the United Kingdom amendment could be revised to take account of his suggestions, he would support it.

Mr. KUSEVIČ (Director, Division of Narcotic Drugs) said that he agreed with the first point made by the Swedish representative. In some countries a medical prescription might continue to be valid for fifteen or twenty years, and even after the death of the patient.

Dr. ALAN (Turkey) said that although the United Kingdom representative's version of the second alternative represented an improvement, he still preferred the first alternative. An international instrument should at least indicate the measures of control which should be taken, such as those with respect to duration of the validity of the prescription, the number of times the prescription could be refilled, and the quantities which could be prescribed. It was not a question of prescribing ordinary medicines but psychotropic substances which might present a danger to public health. The draft Protocol should not only be an international legal instrument but should also play an educational role by informing doctors and the general public throughout the world about the potential dangers of those substances.

The CHAIRMAN said that the Commission would have to decide whether it was necessary to define in detail the kind of regulations which the Parties to the Protocol should enact.

Dr. MABILEAU (France) said that his delegation would support either the first alternative, subject to removal of the square brackets, or the United Kingdom text as amended by the Swedish representative.

Mr. MIKOLIĆ (Yugoslavia) said that he supported the position of the French Delegation.

Mr. WATTLES (Office of Legal Affairs) said that the United Kingdom version of the second alternative, as amended by the Swedish representative, read as follows:

> "The Parties shall take measures to ensure that prescriptions for substances in schedules II, III and IV are issued in accordance with sound medical practice and subject to such regulation, particularly as to the number of times they may be refilled and the duration of their validity, as will protect the public health and welfare".

Article 8, paragraph 2, as amended, was approved.

Mr. SAGOE (Ghana) said that, in the light of the preceding discussion, he questioned whether paragraph 3 should be included in the draft Protocol at all. In any case, his delegation was opposed to authorizing licensed retailers to supply the substances in question and would, at most, agree to permit licensed pharmacists to supply those substances at their discretion without prescription.

The meeting rose at 5.25 p.m.

SUMMARY RECORD OF THE SIX HUNDRED AND FIFTY-THIRD MEETING

held on Friday, 16 January 1970, at 10.20 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/L.311, E/CN.7/L.313) (continued)

Mr. BARONA LOBATO (Mexico) said that he must complain of the delay in the issue, in Spanish, of the documents needed for the Commission's session. That was a breach of the rule that documentation must be issued in all the working languages.

Mr. ANSAR KHAN (Secretary to the Commission) said that the technical services were sparing no effort to ensure that the documents were issued in time, but in some cases, luckily fairly infrequent, there might be bottlenecks which caused some delay. The Mexican representative's complaint was wholly justified, but he hoped that that was an exceptional case and would not recur.

Article 8 (E/CN.7/L.313) (continued)

Mr. JOHNSON-ROMUALD (Togo) referring to the phrase "[or other licensed retailers]", in square brackets in paragraph 3 of the redraft of article 8 (E/CN.7/L.313) said that in a country such as Togo, where there was an extreme shortage of qualified doctors and pharmacists, the distribution of medicaments caused serious problems. It was to be feared, however, that in the attempt to remedy that state of affairs a risk of abuse might be created if medicaments containing psychotropic substances were left within the reach of all and sundry. It would therefore be preferable to try to find some other formulation which would preclude the possibility of any exploitation of that provision for mercenary ends and restrict to pharmacists and members of the paramedical services the right to supply or dispense such medicaments.

Dr. ALAN (Turkey) said he noted that the concern which he himself had expressed with regard to paragraph 3 was shared by other delegations. He proposed that no retailers authorized to dispense such medicaments should be allowed to do so without a special permit from the national health authorities.

The CHAIRMAN said that the Secretariat would try to find a formulation which would cover that point but would still be drafted in sufficiently broad terms to meet the needs of countries with very different conditions and health regulations.

Mr. ANAND (India) said that the provisions of paragraph 3 caused him a good deal of anxiety. They would authorize certain retailers to sell medicaments containing psychotropic substances without prescription, in other words freely, but they said nothing about the patient. A patient might produce to a pharmacist or licensed retailer an out-of-date prescription and, in such cases, it was understandable that the pharmacist or licensed retailer might, if absolutely necessary, be permitted to supply him with the substance, since it had already been prescribed by a doctor. But if for some reason or other, a patient had not been able to see a doctor, how could he know what medicament to ask for? How could the retailer himself advise the patient what medicament would be suitable? At most, he might be able to give him a small quantity of a drug to relieve the pain until he could consult a doctor.

Mr. MILLER (United States of America) said that pharmacists should be authorized to supply substances without prescription in certain urgent cases, but that did not necessarily mean that they should have complete freedom to decide what drugs should be supplied. The paragraph might be made applicable to cases in which a prescription was no longer valid and in which, since the patient was known to the pharmacist, the pharmacist could safely supply him with the amounts he required immediately until he could see his doctor again and obtain a fresh prescription: that practice was already permitted in emergencies. With regard to the phrase "or other licensed retailers", the suggestion by the Turkish representative was a sound one; one might perhaps say "specially licensed retailers".

Dr. REXED (Sweden) said he had listened with great interest to the arguments of the Indian representative; but in Sweden, where only qualified pharmacists were authorized to supply medicaments containing psychotropic substances, they were not permitted to do so without a medical prescription, and even in emergencies no medicaments containing the substances listed in schedules II, III and IV could possibly be obtained without a prescription. No matter how paragraph 3 was worded, Sweden could not accept it, since there would be too great a risk of abuse. Nevertheless, he could agree that some countries might be permitted to adopt such a provision because of special geographical conditions or owing to a shortage of doctors.

Dr. WALSHE (Observer for Australia), speaking at the invitation of the Chairman, said that although in some areas Australia's population was widely scattered, her Government was opposed to authorizing the supply of psychotropic substances without prescription, even in emergencies; it was, however, prepared to concede that some countries might be permitted to do so.

Dr. SADEK (United Arab Republic) said that sick persons were all too prone to prescribe drugs for themselves, and a provision such as that contained in paragraph 3 could only lead to abuse and to the spread of drug addiction.

Mr. SAGOE (Ghana) said that he saw no need for paragraph 3, since only a doctor could decide whether a patient did or did not need treatment with psychotropic substances. The consideration of article 8, paragraph 2, had shown that even the quantities prescribed by a doctor should be limited. A fortiori, therefore, no pharmacist or licensed retailer should be authorized to supply such medicaments without prescription. Even in a developing country such as his own, it was hardly possible to conceive of a situation such as that envisaged in paragraph 3. The most that could be accepted was the case mentioned by the United States representative, where a patient produced an out-of-date prescription, a case which was not peculiar to developing countries. In a spirit of compromise, his delegation would be prepared to agree to pharmacists or other licensed retailers being authorized to supply small quantities of such medicaments against a medical prescription even if it had expired.

Dr. BABAIAN (Union of Soviet Socialist Republics) said he noted that most of the countries for which the provisions of article 8, paragraph 3, were designed did not consider them essential. In any event, the last sentence of the paragraph, which dealt with certain formalities for maintaining a record - formalities which seemed hardly calculated to ensure effective control - was not of any great value. Since the substances were to be classified in four schedules in accordance with their probable danger, the simplest course would be to see which preparations should be placed under control because of the quantity of psychotropic substances they contained, and to stipulate that they might not be supplied without prescription; no special provision would then be needed for the other preparations. With regard to emergencies, obviously there could be such cases, that of epileptics, for example, who might be subject to fits if their treatment with barbiturates was interrupted. All the same, it was rather surprising to find the representative of the United States of America proposing that such provisions should apply to the substances listed in schedule II, which included amphetamines, when the Commission had adopted a resolution demanding that amphetamines should be placed under very strict control and supplied only on prescription.

Mr. JOHNSON-ROMUALD (Togo) said that article 8, paragraph 3, should be kept, but the phrase "or other licensed retailers" should be made more precise, so as to make better provision for conditions prevailing in many African countries. Thus in

Togo, where there were areas of 100,000 to 200,000 inhabitants with only a single doctor, by the mere fact of his absence - sometimes for several months on end - the entire responsibility for health matters fell on the paramedical staff alone. That state of affairs had obliged the authorities, with some reluctance, in 1962, to relax the regulations governing the supply of medicaments in such areas; but the system was naturally closely supervised by the Ministry of Health.

Mr. ZEGARRA ARAUJO (Peru) said there seemed to be some contradiction between paragraph 2 and paragraph 3. He was categorically opposed to paragraph 3, since it denied the very aim they were all striving for, namely, to safeguard health. A situation in which any retailer whatever, whether licensed or not, with inadequate medical knowledge or even none at all, would be able to supply medicaments in haphazard fashion, thereby risking converting patients into drug addicts, must be prevented at all costs. It was the Peruvian Government's aim that every person living on its territory should have access to treatment by a doctor, either civilian or, if need be, military.

Mr. BARONA LOBATO (Mexico) said that international instruments should state general principles and not go into details, which were a matter for each country to deal with by its own domestic legislation. The Commission should therefore try to devise a text for paragraph 3 which, while leaving countries entirely free to decide what exceptions they should allow for conditions peculiar to themselves, would be likely to attract the widest possible support.

Dr. FAZELI (Iran) said he agreed with the representatives of India, Ghana and the Soviet Union that paragraph 3 should be deleted and that countries should be given discretion to make provision for any exceptions they deemed necessary.

Dr. MABILEAU (France) said he wondered whether the hesitations of some members of the Commission were not due to the fact that the expression "or other licensed retailers" did not specify what authority should issue the licence. In order to reassure the advocates of stricter control, the words "designated by the public health authorities" might be inserted after that phrase and the phrase "in an emergency" might be kept in the fifth line.

Mr. NIKOLIĆ (Yugoslavia) said he thought that paragraph 3 should be retained, but that it should be so worded as to make it possible for the Parties to enter reservations.

The CHAIRMAN said it appeared from the debate that the Commission might provisionally decide to put the whole of paragraph 3 in square brackets and request the Secretariat to amend it as suggested. It might also request the Secretariat to consider, with the help of the Office of Legal Affairs, the possibility, appropriately suggested by the Yugoslav representative, of getting over their difficulties by giving countries which wanted stricter control than those provided for in article 8, the right to make reservations to the article when signing the Protocol. He would ask the representative of the Office of Legal Affairs if, a priori, he thought that would be possible.

Mr. WATTLES (Office of Legal Affairs) said that it was legally possible to draft such a clause.

Mr. KUSEVIĆ (Director, Division of Narcotic Drugs) said he did not think the provisions of paragraph 3 were intended to apply to the substances in schedule II. On the other hand, the rule that they set out was applicable to all countries, with very few exceptions. Many examples could be quoted of cases where inability to obtain a small quantity of a vital medicament had had, or might have had, tragic consequences. As the French representative had proposed, therefore, the authorization referred to could be limited to emergencies, but it would be a mistake to lay down too strict a rule which would lead many countries to enter reservations or make it difficult for them to sign the Protocol. Reservations should be entered only where the rule was applicable to a very few countries. That was not so in the present case. It would be better to draft the provision in such a way that the Parties were left free to apply it or not, according to their own particular situation.

Mr. JOHNSON-ROMUALD (Togo) said that the general principle stated in paragraph 3 was not disputed and that if it was necessary to relax it in certain cases, that was purely a question of domestic law. His delegation was prepared to agree that the Commission should postpone its decision until a later stage, if the Chairman's suggestions enabled them to reach agreement.

Mr. NIKOLIĆ (Yugoslavia) said he supported the Chairman's suggestion that the whole of paragraph 3 should be placed in square brackets and the Secretariat requested to formulate it so that reservations could be entered to it; the different viewpoints could then be reconciled.

The CHAIRMAN suggested that the decision on article 8, paragraph 3, be postponed until later and that the Secretariat be invited to prepare a new text for the paragraph in the light of the various opinions expressed.

It was so decided.

Article 12 (E/CN.7/L.313) (continued)

Sir Harry GREENFIELD (President, International Narcotics Control Board) said that, to avoid difficulties or delays, it would be better to specify in the last sentence of paragraph 1 that the import control authorities should already have received the special import licence when the consignment arrived.

Mr. WATTLES (Office of Legal Affairs) said that the slight modifications which he had been requested to make to the text to facilitate application of the Protocol to Parties which exercised sovereignty over several territories would be incorporated in the final version of the text.

Dr. ALAN (Turkey) recalled that the Commission had decided (652nd meeting) to postpone consideration of article 12 until it had reached a decision on article 11, since its decision as to which schedules article 11 should apply to would affect article 12.

Article 10 (E/CN.7/523/Rev.1, annex IV)

The CHAIRMAN pointed out that paragraphs 34, 35, 47 and 48 of the report by the Secretary-General transmitting comments made by Governments (E/CN.7/525) also dealt with article 10.

Paragraph 1

Dr. ALAN (Turkey) said that it would make matters easier for the Parties if schedule IV were not mentioned in paragraph 1.

Mr. JOHNSON-ROMUALD (Togo), Mr. CHAPMAN (Canada), Dr. DANNER (Federal Republic of Germany) and Dr. WALSHE (Observer for Australia), Mr. ANDERSEN (Observer for Denmark), Mr. GATTI (Observer for Italy), Mr. FOURATI (Observer for Tunisia), and Mr. SAMSOM (Observer for the Netherlands), speaking at the invitation of the Chairman, all said they were opposed to any mention of schedule IV in paragraph 1.

Mr. KEMENY (Switzerland) said he agreed. Also, in order to facilitate control of the various transactions in substances covered by article 10, it would be better to replace the last part of the last sentence, from the word "date", by the phrase "such other particulars as may be necessary to trace transactions in these substances from the stage of manufacturing to that of retail trade".

Mr. ANAND (India) said that the essential purpose of the Commission's special session was to bring under control psychotropic substances which constituted a danger to public health, and that the obligation to keep records at every stage from

manufacture to final consumption was one of the best methods of ensuring effective control. Such control should cover all such substances without exception. The reference to schedule IV in paragraph 1 should therefore be retained.

Mr. MILLER (United States of America), Mr. SAGOE (Ghana), Mr. NIKOLIĆ (Yugoslavia) and Dr. MÅRTENS (Sweden) said they shared that view.

Dr. MABILEAU (France) said he agreed that the substances in schedule IV should be subjected to control by keeping records. It should be made clear, however, whether or not the term "records" included modern electronic or automatic recording systems.

Mr. GATTI (Observer for Italy), speaking at the invitation of the Chairman, said that each Party could be left to adopt whatever record-keeping system it wished; it was quite appropriate to refer to records.

The CHAIRMAN suggested that the words "and IV" in paragraph 1 be kept in square brackets until the second reading of article 10.

It was so decided.

Paragraph 2

Dr. ALAN (Turkey) said that the references to schedules III and IV should be deleted.

Mr. MILLER (United States of America) said he thought that schedules III and IV should be mentioned in paragraph 2.

Mr. ANAND (India) said he agreed. However, retailers should be required to keep a record of disposals, as well as acquisitions, of the substances in question.

Mr. CHAPMAN (Canada) said that, in the interests of an effective control, the reference to schedule III should be kept but the reference to schedule IV deleted.

Mr. KEMENY (Switzerland) said that neither schedule III nor schedule IV should be mentioned. Furthermore, the word "retailers" should be replaced by the words "pharmacists, dispensing physicians" and, in the French version the words "de cure ainsi que" should be added after the words "hospitaliers et".

The meeting rose at 12.35 p.m.

SUMMARY RECORD OF THE SIX HUNDRED AND FIFTY-FOURTH MEETING

held on Friday, 16 January 1970, at 3.20 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/L.311) (continued)

Article 10 (E/CN.7/523/Rev.1, annex IV) (continued)

Paragraph 2 (continued)

Mr. SAGOE (Ghana) said that, in the opinion of his delegation, hospitals should not be required to furnish records of the disposal of substances in schedules III and IV, since such disposal was already recorded in the form of prescriptions. He therefore supported paragraph 2 as it stood, subject to the removal of all the square brackets.

Dr. DANNER (Federal Republic of Germany) said that his delegation considered that paragraph 2 should apply only to substances in schedule II. He therefore proposed that the paragraph should end with the words "in schedule II".

Mr. MILLER (United States of America), referring to paragraph 2, said that his delegation favoured the removal of all the square brackets, as well as of the second reference to schedule III. The latter part of the paragraph would then read: "in schedules II and III, but in respect of substances in schedule IV ...".

Mr. KUSEVIČ (Director, Division of Narcotic Drugs) said that, since the substances included in schedules III and IV were the ones most widely used in the majority of countries, it would place a considerable burden on pharmacists if they were required to keep special records of them.

The CHAIRMAN pointed out that, at the 653rd meeting, the Indian representative had drawn attention to the difference between retailers (or pharmacists), hospitals and scientific institutions. In revising the text of paragraph 2, therefore, the Commission might wish to prescribe different rules for each of those three types of users.

Dr. SAMSOM (Observer for the Netherlands), speaking at the invitation of the Chairman, said that, in the opinion of his delegation, paragraph 2 should be limited to substances in schedule II.

Dr. BABAIAN (Union of Soviet Socialist Republics) said that the Commission seemed to be creating unnecessary difficulties for itself. Surely all manufacturers knew how much of a given substance they produced and all pharmacists kept records of the quantities they received and dispensed.

Mr. ANAND (India) said that hospitals and scientific institutions should be required to keep records of the acquisition of the substances in question, but not of their disposal. In his opinion, records of both acquisition and disposal should be kept by retailers, although he did not, like the Chairman, think that retailers were necessarily pharmacists. It had been proposed that the substances in certain schedules should be exempted from the requirement for the maintenance of records. He did not, however, see how any control of such substances would then be possible. It might be better to remove them from the schedules in question and place them in schedule V, for which no control was considered necessary.

Dr. MABILEAU (France) drew the Commission's attention to his Government's comments on paragraph 2, which contained the following statement:

> "It is the present practice for retailers and institutions to keep records of disposals of psychotropic medicaments, as it is at the time of supply to the patient that particular care must be exercised. The keeping of records of acquisitions does not seem appropriate, especially since purchasing orders to suppliers, retailers or institutions for hospitalization already provide details of acquisitions" (E/CN.7/525).

Mr. SAGOE (Ghana) said that since, under article 8, prescriptions were required for the substances in all schedules, he did not consider it necessary to require retailers and hospitals which dispensed those substances on prescription to keep any special records.

Mr. McCARTHY (Canada) said that, for constitutional reasons, it was difficult for his Government to require manufacturers and producers to provide the kind of information called for in paragraph 1 in the absence of some particular purpose. His delegation could, however, accept that paragraph, if the words "for sale or other disposition" were added to the end of the first sentence.

Dr. ALAN (Turkey) said his delegation considered that the provisions of article 10 were a matter for national rather than international regulation. The draft Protocol should not attempt to make records mandatory for all schedules, but should leave some discretion to the Parties.

Mr. FISCHER (Switzerland) said he agreed with the Turkish representative that it was not the purpose of the draft Protocol to regulate psychotropic substances in all their aspects. The Secretariat should be asked to draft a text which would enable all countries to support the draft Protocol within the framework of their respective national legislation.

Dr. EL-HAKIM (United Arab Republic) said that retailers and pharmacists should be required to keep records only in respect of substances in schedules II and III, while hospitals and scientific institutions should be required to keep such records only in respect of substances in schedule II. He hoped that the Secretariat would revise paragraph 2 in such a way as to make it clear exactly which schedules applied to each of the three categories of users mentioned.

Dr. BÖLCS (Hungary) said that paragraph 2 was not acceptable to his delegation, unless it was specifically limited to schedule II.

Dr. BABAIAN (Union of Soviet Socialist Republics) said that he supported the view of the Hungarian representative. He proposed that the words "to keep such records" in paragraph 2 should be replaced by some such expression as "to keep the necessary accounts", which would cover records that might be in the form of invoices.

Mr. FOURATI (Observer for Tunisia), speaking at the invitation of the Chairman, said that records should be required only for substances in schedule II. He agreed with the French representative that purchasing orders and invoices could replace records of acquisition in the case of substances in schedules III and IV.

Dr. MÅRTENS (Sweden) said that the distinction, if any, should be made between schedule II and schedules III and IV, since the two latter schedules mainly comprised sedatives and barbiturates. He proposed that the words "and III" within square brackets in paragraph 2 should be deleted and that the square brackets around "and IV" should be removed.

The CHAIRMAN, summing up the discussion, said it was agreed that the reference to schedule IV in paragraph 1 should be retained. It was further agreed that the word "records" did not refer to some special type of records but to any satisfactory records, including original documents, which could be used in a system of inspection. The additional phrase proposed by Canada for inclusion in that paragraph could be accepted.

Concerning paragraph 2, there was some uncertainty regarding the precise meaning of the term "retailer"; but that problem could be left to the Secretariat, which might consider the possibility of drawing up separate requirements for retailers, hospitals and scientific institutions. He said that the first reading of article 10 was concluded.

Article 14 (E/CN.7/523/Rev.1, annex IV)

Paragraphs 1 and 2

Dr. BABAIAN (Union of Soviet Socialist Republics) suggested that the word "national" in the penultimate line of paragraph 1 should be replaced by the word "State".

Mr. WATTLES (Office of Legal Affairs) said he thought the problem was a linguistic one and would be referred to the translation services when the revised text was being prepared.

Mr. KEMENY (Switzerland) suggested that the information received by the Secretary-General under the provisions of paragraphs 1 and 2 should be submitted annually in the form of a summary to the Commission and to the Parties, even if the former was not to meet annually.

Dr. MÅRTENS (Sweden) supported that suggestion.

Mr. KUSEVIC (Director, Division of Narcotic Drugs) said that the procedure suggested by the Swiss representative could be followed if the Commission so wished.

The CHAIRMAN thought the text already implied that the information in question would be communicated to the Commission and the Parties. The Secretariat might, however, be asked to review the text of paragraphs 1 and 2 with a view to ensuring that the Swiss representative's point was adequately covered.

Mr. BARONA LOBATO (Mexico) said that, having regard to the nature of the reports in question, it was desirable that the Commission should meet annually. If it met only once every two years, it might be discussing events which had taken place nearly two years previously and it would be too late for any preventive measures. He hoped, moreover, that the Board would be able not only to maintain its independent status, but also to meet twice a year, as had been suggested.

The CHAIRMAN said he did not think that the question of the frequency of the Commission's sessions could properly be dealt with under article 14. The point raised by the representative of Mexico would, however, be borne in mind.

Paragraph 3

Mr. MILLER (United States of America) drew attention to a revised text for paragraph 3 which his Government had submitted (E/CN.7/525/Add.1) in the belief that it would facilitate the task of governments if the reporting requirements were broken down by schedule. He suggested that the United States text might be taken as the basis for the Commission's discussion.

It was so decided.

Dr. MÅRTENS (Sweden) said his delegation had intended to suggest that a distinction should be made in the reporting requirements for substances in the different schedules, and the arrangement suggested by the United States Government was acceptable to it.

Mr. KEMENY (Switzerland) said the United States proposal was comparable to the proposal made by the Swiss Government (E/CN.7/525). His Government also considered that statistics on consumption need be provided only for substances in schedule I and that, since the value of estimates had already been questioned with regard to narcotics, no provision for the preparation of estimates should be included in the draft Protocol.

Dr. ALAN (Turkey) said the United States text was acceptable to his delegation. He questioned, however, whether it was necessary to require quantitative statistics of consumption. If the amounts produced and the amounts held in stock were known, it would be a matter of simple arithmetic to determine the amounts consumed.

Dr. DANNER (Federal Republic of Germany) said his delegation considered that the obligations to furnish statistical reports under paragraph 3 should be limited to substances in schedules I and II.

Mr. ANAND (India) said that subparagraph (a) of the United States text was acceptable to his delegation, since its provisions would ensure that complete information was obtained on substances in schedules I and II from production to consumption. He did not, however, understand why different treatment was proposed for substances in schedules III and IV. If national records were to be kept for substances in all four schedules, as the United States delegation had recommended in the discussion on article 10, it was natural that the information so collected should be transmitted to the Board. Only if that procedure was followed by all countries would the Board have a complete picture of the movements of substances in all schedules. The provisions of subparagraph (b) of the United States text were seriously inadequate, since they would mean that no information could be obtained on the quantities of substances in schedules III and IV entering the illicit traffic. Unless complete statistics for those substances were kept and furnished to the Board, the problem of smuggling would steadily increase. He therefore proposed that subparagraph (b) of the United States text should be deleted and subparagraph (a) amended to include all four schedules.

Mr. NIKOLIČ (Yugoslavia) said that the United States draft was acceptable to his delegation in principle. He would, however, like to know why import statistics were not to be required as well as export statistics for substances in schedules III and IV.

The CHAIRMAN said it might have been thought that information on exports and information on imports covered the same ground.

Mr. NIKOLIČ (Yugoslavia) said he did not agree that there was no need for statistical information on imports if information was provided on exports. Both types of information should be provided.

Mrs. HIRLEMANN (France) said that her Government considered, like the United States Government, that complete annual statistical reports need be supplied only for substances in schedules I and II.

Mr. McCARTHY (Canada) said his Government believed that, on the basis of present knowledge, it would be difficult to apply the same provisions on reporting to substances in schedules III and IV as were to be applied to substances in schedules I and II. It supported the arrangement proposed by the United States Government.

Mr. SAGOE (Ghana) said that his delegation's attitude was based entirely on the advice given by the WHO Expert Committee on Drug Dependence in its seventeenth report (E/CN.7/L.311), which had made it clear that substances in schedules II and III represented an equal public health risk. He was sure, moreover, that the report being prepared by the Technical Committee on the classification of substances under the different schedules would show that some substances in schedule III were more dangerous than those in schedule II. For those reasons, his delegation proposed that subparagraph (a) of the United States text should be amended to include substances in schedule III; its subparagraph (b) would then only cover substances in schedule IV. He agreed with the Yugoslav representative that both export and import statistics were necessary, and proposed that subparagraph (b) should be amended to include the latter.

Mr. MILLER (United States of America) agreed that the words "and consumed" should be included within square brackets in subparagraph (a).

It was necessary to fix some limit on the maintenance of records of pharmaceutical products. Because substances in schedules I and II were already the subject of widespread international abuse, his Government had proposed that detailed statistics be furnished in that connexion.

He had no objection to import statistics being required under subparagraph (b).

The CHAIRMAN said it would be useful for the Commission to know the views of the Board on the need for full information on substances in schedules III and IV, particularly in view of the possibility that it might be wished in future to move substances from one schedule to another.

Sir Harry GREENFIELD (President, International Narcotics Control Board) said the Board felt that governments should not be obliged to furnish more information than was strictly essential. The volume of statistical information required might be increased as and when experience showed what was necessary.

The Board would need a minimum of information such as manufacture, exports and imports which would enable it and the Parties to have an overall picture of the utilization of the drugs which would be brought under the new treaty. He agreed with the Yugoslav representative that import, as well as export, statistics should be required under subparagraph (b), which referred to schedules III and IV.

Dr. BABAIAN (Union of Soviet Socialist Republics) recalled that, at the Commission's twenty-third session, the majority of members had expressed the view that the necessary forms should be prepared by the Board in collaboration with the Commission and with Parties. Some reference to that point should be included in the text.

Mr. DITTERT (International Narcotics Control Board) said that the Board had little latitude in the matter; the forms would have to be prepared in conformity with the provisions of the Protocol.

Sir Harry GREENFIELD (President, International Narcotics Control Board) said that the forms for reporting under the 1961 Convention had been evolved over a number of years. No complaints had been received, so it was assumed that they were satisfactory to the Parties. It went without saying that, in preparing the forms referred to in paragraph 3, the Board would, as a matter of course, have the benefit of a full exchange of views with the Director of the Division of Narcotic Drugs and would be informed of the Commission's views.

The CHAIRMAN said that the Commission should certainly discuss such practical matters with the Board. He suggested it should be left to the Secretariat to consider how best to reflect that important point in the draft Protocol.

Sir Harry GREENFIELD (President, International Narcotics Control Board) pointed out that the Director of the Division of Narcotic Drugs attended the Board's sessions personally as often as possible and sent a representative whenever he was unable to do so. The Board was in continuous close collaboration with the Division on all matters. In fact, in the past, the forms in question had been prepared in consultation with the Director.

The CHAIRMAN invited the representative of WHO to comment on the suggestion in paragraph 4.5 of the WHO Expert Committee's report that reporting to existing international organs should be along the lines now required for narcotic drugs under the 1961 Convention.

Dr. CAMERON (World Health Organization) said that, in making that suggestion, the Committee had merely wished to indicate the broad nature of the system it believed should be applied to the various groups of drugs. It had recommended that the system

should cover the drugs listed in both groups (b.1) and (b.2), which corresponded to schedules II and III, because their liability to abuse constituted a substantial risk to public health. The two groups of drugs could not, however, be placed on an equal footing in other respects, as they produced different types of effects. The WHO Expert Committee had not recommended that the system should cover drugs in group (c), as the number of drugs involved was likely to be much larger and the burden of reporting correspondingly greater.

Mr. ANAND (India) said he still believed that substances in schedule III should receive the same treatment as those in schedule II, particularly in view of the recommendation by the WHO Expert Committee that the reporting system should cover the psychotropic substances in schedules I, II and III. It had been stated in the Commission that it was the amphetamines which constituted the real danger to the future of the world. In many countries, however, the barbiturates presented a real danger at the present time and at least some of the barbiturates were potentially as dangerous as the amphetamines. Since, according to the WHO Expert Committee, the two groups of substances constituted an equal danger to public health, he did not see why they should not be subject to the same reporting system, or even be included in the same schedule.

Mr. FAZELI (Iran) observed that it might be very difficult for some countries to supply detailed statistical reports on the import and consumption of substances in both schedules III and IV. He nevertheless thought it was essential that substances in schedule III should be included in paragraph 3 of the United States proposal.

In reply to a question put by the CHAIRMAN, Dr. CAMERON (World Health Organization) said the WHO Expert Committe did not consider that the substances included in schedules II and III were identical; had it taken that view, it would have placed them in a single schedule. The main difference between the two groups was in their medical usefulness. Since international reporting would not interfere with the availability of drugs which were medically useful, and since both groups constituted a considerable public health hazard, the Expert Committee had taken the view that international reporting should be required in both cases.

The CHAIRMAN suggested that, in redrafting the text, the Secretariat should take account of the views which had been expressed during the discussion. With regard to the proposal by two delegations that the words "held in stock" should be deleted, he thought that those words might be placed within square brackets for the time being. In response to a point raised by the Turkish representative, the United States delegation

had also agreed to include the words "and consumed" within brackets. In the light of the comments made, he would suggest that a reference to schedule III should be included within brackets in paragraphs (a) and (b) of the United States text for paragraph 3.

It was so decided.

The CHAIRMAN invited the Commission to consider the alternative suggestion appearing in annex IV of the report of the twenty-third session (E/CN.7/523/Rev.1).

Mr. NIKOLIĆ (Yugoslavia) said that his delegation was opposed to including a provision for estimates of drug requirements, since he did not believe such estimates served a useful purpose even in the case of the 1961 Convention.

Mr. MILLER (United States of America) said that his delegation was also opposed to the inclusion of such a provision since, in its view, the estimate system currently in use for narcotic drugs was not suitable for psychotropic substances.

Dr. BÖLCS (Hungary) supported the remarks made by the Yugoslav representative.

Mr. ANAND (India) said that, with regard to the substances in schedules I and II, his delegation believed estimates would be of considerable help to international organizations and countries, particularly those in which such substances were produced. Production of such substances would not progress geometrically every year. A provision requiring countries to report on estimates of drug needs would serve as a deterrent to over-production. Estimates had been used in that way in the case of narcotic drugs. In his delegation's view, estimates would enhance international control as well as national control, at least over the most dangerous kinds of drugs. The estimates should be broad indications of the national production of the substances in question. It would be for the Commission to decide for which schedules they should be submitted.

Dr. AZARAKHCH (Iran) supported the Yugoslav representative's remarks. It would be difficult to prepare estimates of psychotropic substances, and such a provision would merely serve to complicate the application of the Protocol. In his delegation's view, estimates would serve no useful purpose.

Dr. BABAIAN (Union of Soviet Socialist Republics) said that the activities of the international control bodies over a long period had shown that estimates were a very important element of control and served to regulate the level of production. In his delegation's view, therefore, it was essential to provide such estimates in order to ensure the effective functioning of the Protocol. The argument that estimates would be difficult to prepare was not convincing, and his delegation considered it perfectly normal to provide for such a requirement at the international level.

Dr. ALAN (Turkey) said he supported the views expressed by the Yugoslav representative.

Mr. CHAPMAN (Canada) said his delegation did not support the alternative suggestion providing for estimates of drug requirements.

He wished to point out that use of the hallucinogenic compounds in schedule I was permitted in Canada for research purposes only, and that it would be difficult to estimate the quantities necessary for such purposes, which would in any event be very small. Where schedule II was concerned, amphetamines were not manufactured in Canada, and imports had declined considerably since 1966.

Mr. SAGOE (Ghana) associated his delegation with the USSR representative's remarks. The Commission had been told that the substances to be included in schedule I constituted an especially serious risk to public health and had very little therapeutic usefulness. Consequently, the only effective means of ensuring control over those substances was to institute an estimates system.

Mr. KEMENY (Switzerland) said that, so far as requirements for substances in schedule I were concerned, he could inform the Commission that according to the information so far available world requirements in 1969 had amounted to only fifteen grams. He therefore thought it would scarcely be possible to estimate the requirements of individual countries.

Mr. SHIMOMURA (Japan) said that, in his Government's opinion, estimates would be of little use for purposes of control. His delegation was therefore not in favour of the alternative suggestion.

Dr. WALSH (Observer for Australia), speaking at the invitation of the Chairman, said that her delegation did not support the alternative suggestion regarding estimates of substances in schedules I and II.

In reply to a question by the CHAIRMAN, Dr. CAMERON (World Health Organization) said that it was not possible for the WHO Expert Committee to predict whether the amounts of the substances in groups (a), (b.1), (b.2) and (c) would be large enough in the future to make the submission of estimates worth while. The Committee had made a clear distinction between legal and illegal production, and it had noted that the legal production of substances in group (a) would be very small. He did not believe that an estimates system would provide much information about the illicit market.

Mr. KUSEVIĆ (Director, Division of Narcotic Drugs) said that he failed to see how an estimates system would help to end abuse of the substances in question, or how it would serve the purposes of the Board or the Commission.

In reply to a question put by Mr. ANAND (India), Sir Harry GREENFIELD (Chairman, International Narcotics Control Board) said that, in the opinion of the Board, the control system envisaged by the Protocol for substances in schedule I was so tight as to make an estimates system superfluous. With regard to the substances in schedule II, if adequate statistics of production, imports and exports were obtained, the Parties and international bodies concerned would know whether any producer had been guilty of excess production, and it would then be possible to take corrective action without the need for an estimates system.

The CHAIRMAN asked the representatives of Ghana and the USSR whether they would agree not to burden the Secretariat at the present stage with the task of preparing a text for the alternative provision under consideration, it being understood that the Secretariat would be informed of their wishes. No final decision would be taken at the current meeting, and those representatives and other delegations would be free to raise the matter on second reading.

It was so decided.

The meeting rose at 6.30 p.m.

SUMMARY RECORD OF THE SIX HUNDRED AND FIFTY-FIFTH MEETING

held on Monday, 19 January 1970, at 9.40 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, and L.312/Rev.1) (continued)

Article 11 (E/CN.7/L.312/Rev.1) (resumed from the 651st meeting)

The CHAIRMAN invited the Commission to decide whether the words "and III" which had been left in square brackets in paragraph 1(a) of the second redraft of article 11 should be retained or deleted.

Dr. ALAN (Turkey) said that his delegation was in favour of import or export authorizations being required for the substances in schedule III, and therefore supported the retention of the reference to schedule III in paragraph 1(a).

Dr. AZARAKHCH (Iran) said he supported that view.

Mr. ANAND (India) said that he too believed that the control system provided for in paragraph 1(a) should be applied to the substances in schedule III as well as to those in schedule II. The purpose of article 11 was to control imports and exports of dangerous psychotropic substances, and in the classification by the WHO Expert Committee, both the substances in schedule III - the barbiturates - and the substances in schedule II - the amphetamines - had a "liability to abuse constituting a substantial risk to public health", the only difference between the two types of substance being that those to be listed in schedule III had a moderate to great therapeutic usefulness. The easier they were to obtain, the greater their danger to public health. They would not be the first substances having a therapetuic usefulness to be placed under strict control. Abuse of amphetamines was already giving rise to serious problems in some countries, Sweden in particular, and the barbiturates should not be allowed to take the same course.

Mr. KEMENY (Switzerland) said that there was no need to include a reference to schedule III in paragraph 1(a).

Mr. MILLER (United States of America) said he too felt that the reference to schedule III might be deleted. The substances which were being considered for listing in that schedule were in current use of therapeutic purposes almost all over the world and, to avoid imposing a vast amount of work on the appropriate administrative

authorities, the exchange of information provided for in paragraph 2 would seem sufficient so far as those substances were concerned. Countries which wished to impose stricter control could do so at any time by applying article 12 and, if the situation deteriorated, the substances in question could be transferred from schedule II to schedule II. To subject the substances in schedule III to the same control as that applied to the substances in schedule II was tantamount to removing an important distinction in the levels of control.

Dr. DANNER (Federal Republic of Germany) said he agreed. The danger to public health from the substances in schedule III was not sufficient to justify subjecting them to the system of import-export authorization.

Dr. BABAIAN (Union of Soviet Socialist Republics) said he was quite unable to agree with that view. It might be argued that the control system laid down in article 11 would be hard to apply to the substances in schedule III because there were so many of them, but that they were dangerous was undeniable. They were extremely liable to cause drug addiction, and that was a danger which should not be underestimated The measures logically required for the protection of public health should therefore be taken.

Mr. SAGOE (Ghana) said he would be in favour of retaining the reference to schedule III in paragraph 1(a), but in view of the therapeutic usefulness of the substances in question and of the fact that controlling their import and export would place a tremendous burden on the administrative authorities, the Commission might perhaps decide that the control established by article 11 should apply to the substances in schedule III, but not to preparations.

Mr. KUSEVIČ (Director, Division of Narcotic Drugs) said he must point out that article 3, paragraph 1, stated that "preparations other than those exempted pursuant to article 2, paragraph 9, and described in schedule V, are subject to the same measures of control as the psychotropic substances which they contain". If the system of control to be applied to substances and preparations was to differ, the first thing to decide was whether a preparation meant a mixture of psychotropic substances with active or inactive substances. Unfortunately, that would be difficult, since practically all mixtures had a base of substances regarded as medicinal.

Dr. MÅRTENS (Sweden) said that the substances in schedule II most certainly did pose a serious social problem in his country, but they were far more dangerous than those in schedule III, and the more easily the measures of control provided for

could be applied, the wider would be the support the Protocol would attract. He was, however, prepared to accept the retention of the reference to schedule III in paragraph 1(a).

Dr. MABILEAU (France), Chairman of the Technical Committee, said that the Committee had not yet considered article 1 on the use of terms, but according to paragraph (f) of that article, "preparation" meant any mixture or solution, in whatever physical state, containing one or more psychotropic substances.

Speaking as the representative of France, he said that three views were emerging in the discussion: the first, in favour of applying to the substances in schedule III a system of import-export control; the second, against applying that system; and the third, towards establishing a distinction between substances and preparations, the control system to be applied to the former, but not to the latter, owing to the large number involved. No one was unaware that preparations gave rise to dangerous abuse, that drug addicts displayed unfailing ingenuity in procuring their drugs and that even though cases of barbiturate addiction were rare, they were nevertheless always serious and were often joined to addiction to amphetamines. All necessary and feasible measures should therefore be taken, and to that end the Commission should decide whether substances in the strict sense should be placed on the same footing as preparations. In any event, a roll-call vote would be desirable if the question had to be put to the vote.

Mr. JOHNSON-ROMAULD (Togo) said that the amount of administrative work entailed in controlling the import and export of substances listed in schedule III was a cogent argument against retaining a reference to that schedule in paragraph 1(a). But it would be a different matter if a distinction were drawn between substances and preparations. The Technical Committee should therefore be asked to try to draft a definition of preparations, taking into account not only their composition, but also their psychotropic substance content by therapeutic unit and package unit. If the definition then proposed by the Technical Committee was acceptable, his delegation would be in favour of the solution advocated by the Ghanaian delegation.

Mr. KUSEVIC (Director, Division of Narcotic Drugs) said that the distinction between substances and preparations not only raised difficulties of definition, but also affected the provisions of article 12, which provided that a Party might inform the other Parties that it prohibited the import into its territory of one or more specified substances. But if, despite article 3, preparations were no longer automatically to be treated in the same way as substances, that would have to be made

clear in article 12. Since, however, the number of preparations was almost infinite, it was impossible to draw up a negative list. It would therefore be necessary to stipulate that Parties might inform the other Parties that they permitted the import of certain specified substances and preparations. The difficulties that would arise if the same system of control was not applied to substances and to preparations were obvious.

The CHAIRMAN said he was not convinced that the difficulties were insuperable, since it had been found possible to provide for exceptions in the 1961 Convention. Under article 19 of the Protocol, Parties were in any event free at all times to apply stricter national measures of control.

Mr. SHIMOMURA (Japan) said he was opposed to the application of the import and export control system to the preparations and substances in schedule III.

Dr. ALAN (Turkey) said that he could not understand why such a precautionary measure should be abandoned. The Commission had already agreed, in article 14, that the Parties should furnish to the Board annual statistical reports in regard to the substances in schedule III; it would therefore be logical for imports and exports of those substances to be controlled as well.

Dr. BABAIAN (Union of Soviet Socialist Republics) said he supported the French representative's view that agreement should be reached on the definition of the word "preparations", because the danger from preparations varied considerably according to whether the psychotropic substances they contained were compounded with neutral or active ingredients and whether the latter increased or reduced their toxic effects. Since it was obviously impossible to control every single preparation of substances in schedule III, those to which control measures should apply had to be clearly defined.

Dr. FAZELI (Iran) said he shared the views of the French and Soviet Union representatives.

Mr. BEEDLE (United Kingdom) said that he favoured the deletion of the reference to schedule III. Those speakers who favoured applying the system of authorizations to schedule III substances tended to look at import-export control as though it were the only control measure available against misuse or likely to repress it. Misuse of drugs should be regarded as a test for the entire system as a whole. Few if any countries had yet evolved a comprehensive system of controls for schedule III substances, and it was unrealistic to extend import-export authorization beyond schedule III unless there were good grounds for concluding that the notification system would be unworkable or of insufficient value. His delegation had heard nothing in the discussion to justify the Commission coming to that conclusion. He hoped that WHO would explain how its experts had viewed that question.

Mr. KEMENY (Switzerland) said he agreed with the United Kingdom representative. The experience of the national control authorities in Switzerland showed that the system for exchanging information on the export and import of a substance, as proposed in paragraph 2, could give complete satisfaction.

Dr. BOLCS (Hungary), Dr. STREET (Jamaica), Mr. SOLLERO (Brazil) and Mr. CUSTANCE (Observer for Australia), speaking at the invitation of the Chairman, said they did not think that schedule III should be mentioned in paragraph 1(a).

Mr. CHAPMAN (Canada) and Mr. SAMSOM (Observer for the Netherlands), speaking at the invitation of the Chairman, said they shared that view and agreed with the United States representative that an import and export declaration system for substances in schedule III would constitute an adequate measure, particularly since countries could strengthen national measures by applying articles 12 and 19 of the Protocol.

Mr. MOUJAES (Lebanon) said that, although he recognized the need to protect public health, he did not think it was right to hamper the operation of the Protocol by unnecessarily complicating the administrative work, which was bound to be the case if the reference to schedule III was retained in article 11, paragraph 2.

Dr. BABAIAN (Union of Soviet Socialist Republics) said that the opponents of the reference to schedule III in paragraph 2 were rather exaggerating the possible administrative difficulties and the loss of efficiency which that would entail so far as control was concerned. He was surprised that the representatives of countries in which there was considerable scientific evidence to show that barbiturates produced drug addiction should oppose the retention of the mention of schedule III in paragraph 2. In the USSR, where the problem of barbiturate abuse was not particularly serious, the Ministry of Public Health controlled the import and export of barbiturates through measures appropriate to the actual situation in the country. However, if the Commission was to fulfil the task entrusted to it by the General Assembly, it would have to insert in the Protocol appropriate provisions for the application of an effective international control system. That meant that the import and export authorization system must apply to substances in schedule III as well. The Commission could ask the Technical Committee to draft a precise and unambiguous definition of the term "preparations".

The CHAIRMAN said it was clear that the majority of the Commission was opposed to the mention of schedule III in article 11, paragraph 1(a). However, to accommodate the minority opinion, the Commission could choose between two alternatives: it could either add a foot-note stating which countries were in favour of retaining the

reference to schedule III, or it could include a passage in the body of the article indicating that any Parties so wishing could apply the import and export control system to the substances in schedule III.

Dr. ALAN (Turkey) said he would favour the second alternative if the Commission approved it, since the Technical Committee would have great difficulty in finding an acceptable definition of the term "preparation".

Mr. NIKOLIĆ (Yugoslavia) said he thought it would be fairer, in order to allow for the views of all delegations, to ask the Technical Committee whether it could define the meaning of the word "preparation". The issue was not the danger represented by barbiturates, but the practical measures to be taken.

Mr. ANAND (India) said that although only a minority favoured the retention of the mention of schedule III in paragraph 2, an even smaller minority thought that barbiturates presented no danger. Most delegations recognized that barbiturates were highly dangerous substances and should therefore be strictly controlled, but they feared that the placing of preparations of those substances under control would entail an excessive administrative burden. In his opinion, barbiturates should be subject to the same control as amphetamines, which were listed in schedule II. The strengthening of national control measures under article 19 of the Protocol was insufficient. Consequently, the reference to schedule III should be retained in paragraph 2 and, as suggested by the Yugoslav, Soviet Union and French representatives, an attempt should be made to exempt barbiturate-base preparations.

He could not support the proposal of the United States representative that a substance which had become too dangerous should, where necessary, be transferred from schedule III to schedule II. A distinction had to be drawn between substances in schedule II and substances in schedule III, since the former represented a serious risk to public health and had a low to average therapeutic value, while the latter, although representing a serious risk to public health, had an average to high therapeutic value. If those definitions were valid, it would not be possible to transfer a substance from schedule III to schedule II.

He therefore suggested that the Commission should ask the Technical Committee to draft a precise definition of the term "preparation". Article 31, paragraph 16, of the 1961 Convention might possibly provide a basis for article 11 of the Protocol.

Dr. REXED (Sweden) said that, however clear and logical the statement just made by the Indian representative, the fact remained that the Commission had not yet decided on the list of substances to be included in each schedule. Until that was

done, his delegation could not take up any position and, since it did not entirely agree with the definitions proposed by WHO, it reserved the right to propose amendments when the Technical Committee began its consideration of the question.

Dr. MABILEAU (France) said he must repeat that what was of paramount importance in the Protocol was to find a formula which would gain general acceptance and would allow the Parties to permit the import into their territory only of those quantities of substances which were necessary for their medical and scientific needs, and thus to protect themselves against excessive imports.

Mr. SAGOE (Ghana) said he unreservedly supported the views of the Indian representative. If, as the Indian representative had proposed, the Commission should decide to make a distinction between substances proper and preparations, then a number of representatives would reconsider their positions and it might then be possible to reach a unanimous decision on the most effective means of placing barbiturates under international control.

Mr. WATTLES (Office of Legal Affairs) said that to apply a different régime to substances and preparations according to country would create almost insurmountable problems for international trade. In every transaction, the importing country and the exporting country must apply the same régime. The most practical solution, and one which would have the advantage of not affecting the sovereign right of a country to insist on import licences, would be to adopt the system of export declarations provided for in paragraph 2.

The CHAIRMAN said that the Commission now had a choice between two solutions: it could either ask the Technical Committee to establish an exact definition of the term "preparation", or it could accept the majority view and delete the reference to schedule III in paragraph 2 but add a foot-note which would allow advocates of the retention of schedule III in paragraph 2 to make their view known.

Mr. MILLER (United States of America) said that the text before the Commission was the culmination of a long process of reciprocal concessions, which had been obtained as the discussion progressed. Delegations which felt it was impossible to make a distinction between substances, on the one hand, and preparations containing one or more of those substances, on the other, might find an adequate safeguard in the provisions of article 12, whereby a Party could inform the other Parties, through the Secretary-General, that it prohibited the import into its territory of one or more substances in schedules II, III or IV, or that exceptionally it authorized the import of limited quantities of such substances.

Dr. MABILEAU (France), Chairman of the Technical Committee, said he did not think it would help, at the present stage of the discussion, to refer anything to the Technical Committee except, perhaps, that it might allow it to examine the desirability of revising definitions (e) and (f) in article 1. Neither, the majority nor the minority positions in the Commission in any way prejudged the positions which might be adopted later by a conference of plenipotentiaries. The Chairman's suggestion appeared to be a very sensible one.

Mr. NIKOLIČ (Yugoslavia) said it was not clear to him what concessions the United States representative had been referring to, nor to whom they had been made. All delegations except two had recognized the harmfulness of barbiturates, even if some of them had thought that schedule III should not be retained. In view of the large number of preparations containing barbiturates, if the draft Protocol did not provide for a strict control of imports and exports of those substances, the Commission would have to explain to the General Assembly why it had not submitted a text providing for a régime of that kind and why the Technical Committee, to which the question had twice been referred, had come to the conclusion that it was impossible to establish controls of that kind for the preparations in question.

Dr. BABAIAN (Union of Soviet Socialist Republics) said he supported the view of the Yugoslav representative. With regard to the concessions of which the United States representative had spoken, it might in fact be possible to accept less strict measures for the barbiturates, despite the notorious danger they represented, because of the difficulties which very strict control measures would cause in some countries in which they were used in large quantities and for a variety of purposes. The Commission would again come up against the definitions obstacle when it came to deal with the conditions in which substances need not automatically be made subject to certain provisions of the Protocol, where preparations contained only limited quantities of psychotropic substances. With regard to definition (f) in article 1, it should be remembered that some preparations might contain amphetamines associated with other active substances, and it was a great pity that the Technical Committee had not managed to produce a more precise definition. The Committee would have to study the problem if the Commission was not to spend too much time on the question of definitions.

Mr. ANAND (India) said that the Commission had been instructed to examine a draft Protocol on psychotropic substances, and not one on hallucinogens and amphetamines only. The control measures to be established should cover the psychotropic substances in general, and their efficacy should be proportionate to the

seriousness of the dangers which each substance presented. The words in square brackets should be retained, since the Technical Committee had not completed its work; perhaps it would succeed in producing some definitions which all countries could accept. As the French representative had remarked, progress in medicine was so rapid that considerable therapeutic value might one day be discovered in certain substances or, on the other hand, it might be realized that they had no such value or that they could be replaced by other substances. It was for that reason that the amphetamines had been classified in schedule II, in view of the fears to which they gave rise and of their rather modest therapeutic value, but nobody could say at the moment that they would not one day prove to be of much greater utility. Did that mean that they should be exempted from import or export licence requirements? If the reply was in the negative, that would mean that a new definition of the substances or preparations in schedules II and III was needed. It might be wise to look for a definition which took into account the present danger of barbiturates and amphetamines and was based on current knowledge. It would be better, therefore, to keep the words in brackets and wait for the conclusions of the Technical Committee.

Dr. ALAN (Turkey) said it was essential to ensure that if, in the case of a transaction involving schedule III substances, a country saw fit to require import or export authorizations, the other Parties would also be bound by that decision.

Mr. WATTLES (Office of Legal Affairs) said that the Turkish proposal would introduce considerable administrative complications if a country had to apply different regulations according to the trade partner concerned; from the legal point of view, however, there was no basic objection to the proposal.

Mr. BEEDLE (United Kingdom) said that, through embarking on the question of definitions, the Commission had reached a dead end. It should not be forgotten that the Commission had to get its draft Protocol accepted by the Economic and Social Council, then by the conference of plenipotentiaries and, lastly, by the various countries. It must therefore be able to justify the procedures it recommended in terms of their cost-effectiveness. It would be interesting to have the views of the WHO Expert Committee on Drug Dependence and of the Board on the declaration system.

Dr. CAMERON (World Health Organization) said that the Expert Committee had not regarded itself as competent to judge the relative usefulness of various systems of prior agreement between Governments, but it had considered that some such international machinery would be desirable.

In reply to a question by the French representative, he said that, according to Expert Committee's report, all the preparations in schedule III could be placed under control, but the Committee had proposed that a period of grace might be granted during which Governments would continue to apply existing exemptions to such preparations. If, at the end of the period, a Government wished to continue such an exemption it would be required to submit a notification to that effect accompanied by balanced data bearing on the notification. The Expert Committee would consider the notification and make recommendations to the Commission which would decide, in accordance with a recommendation of WHO, if the preparation in question could continue to be exempted or whether it should be subject to some degree of control.

Mr. DITTERT (International Narcotics Control Board) said that the provisions of article 12 should also be taken into account in considering the respective merits of the import and export licence system and the import and export declaration system. In either case, a country to which a certain quantity of psychotropic substances was exported could check what use was made of them, since it had full information about the consignee. In the second case, however, the control would be a posteriori, since the substance had already been delivered. Some importing countries might think, therefore, that such a control was inadequate, but article 12 safeguarded the importing country which, through the Secretary-General, could inform the other Parties that it was prohibiting imports of one or more substances. Despite such notification, the importing country might wish to import one or more of those substances; the import and export licensing system would then be applied automatically. The declaration system, supplemented by the provisions of article 12, might therefore be thought adequate in the case of imports of substances used in large quantities.

Certain countries might wish to apply a stricter régime than that provided by the Protocol. That had happened with regard to narcotic drugs, where one country had insisted on an import licence despite the fact that no such formality was provided for in the 1961 Convention. In such cases a special agreement was always concluded between the parties, but it would obviously be better to adopt a universal system.

Mr. NIKOLIČ (Yugoslavia) said he would like to know what the Board regarded as the best system to apply.

Mr. DITTERT (International Narcotics Control Board) said it was difficult to give an answer which would be valid for all countries, since the abuse of psychotropic substances varied considerably from country to country. But countries where, for instance, there was a serious problem of abuse, could protect themselves by invoking the provisions of article 12.

Mr. CUSTANCE (Observer for Australia), speaking at the invitation of the Chairman, said that, as an administrator of medical services, he would like to help those members of the Commission who had no medical knowledge to find the via media between what was medically desirable and what was administratively possible. The risks of abuse and the dangers which could arise from barbiturates and amphetamines were well known to everyone, but those substances had neither the same therapeutic value nor the same effects; moreover, whatever control measures were adopted must be acceptable. Although, by reason of their stimulant properties, amphetamines were more liable to abuse than barbiturates, they were less widely used, whereas thousands of barbiturate-based preparations were developed every year. Due regard should therefore be given to the difficulties facing some countries, and every attempt made to ensure that over-strict provisions did not prevent them from acceding to the Protocol.

Mr. ANAND (India) said that, after listening to the explanations of the INCB representative, he would like to know why, if it was true that the declaration system, in conjunction with the provisions of article 12, would give adequate protection against excessive imports of certain substances, the declaration system had not been adopted for the control of narcotic drugs, and why it should be thought that it was appropriate for the control of psychotropic substances. If, for example, a country prohibited the importation of barbiturates into its territory, would it really be sufficient for it to inform the other parties accordingly and invoke the provisions of article 12 in order to protect itself against smuggling from a country which did not apply effective control measures? If so, article 11 would be superfluous.

Mr. DITTERT (International Narcotics Control Board) said it was quite obvious that neither a licensing system nor an import and export declaration system would in themselves be capable of preventing illicit traffic if they were not supplemented by other measures. In comparing the control system applied to narcotic drugs and the system envisaged in the draft Protocol, it was necessary to consider the provisions as a whole and not simply a part of them. Commercial transactions in narcotic drugs were much more limited, and in the Protocol an attempt had been made to simplify control measures so as to make it possible for administrations to apply them while at the same time giving adequate guarantees.

Dr. BABAIAN (Union of Soviet Socialist Republics) said that, since there was a danger of the discussion on barbiturates continuing indefinitely, it would be better to concentrate on new definitions and a new formulation for article 11 on which members could agree.

The CHAIRMAN said he wished to repeat his proposal that the reference to schedule III in square brackets should be deleted, on the understanding that the article would be revised if anyone offered a better solution.

ADMISSION OF OBSERVERS

The CHAIRMAN said that, if there were no objections, he would take it that the Commission agreed that the observer for Portugal should be invited to attend the Commission.

It was so decided.

The meeting rose at 1 p.m.

SUMMARY RECORD OF THE SIX HUNDRED AND FIFTY-SIXTH MEETING

held on Monday, 19 January 1970, at 3.10 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/L.311 and E/CN.7/L.313; E/CN.7/AC.7/R.1 and R.2/Rev.1) (continued):

Article 12 (E/CN.7/L.313) (continued)

Dr. ALAN (Turkey) said that the Commission would have difficulty in reaching any conclusions on article 12 before it had taken a decision on article 11, and in particular on the export authorization system. With a few changes, article 12 could possibly regulate the matter of export authorization.

Dr. MABILEAU (France) said that the words in square brackets in paragraph 1 were unnecessary, because any country wishing to import a limited quantity of the substances referred to should be free to do so without stating the reason. He suggested that those words should be deleted.

Mr. ANAND (India) said that he could not understand why paragraph 2 mentioned schedule I whereas paragraph 1 did not. It was illogical to refer to three schedules in one paragraph and four in another. Schedule I should therefore be mentioned in both paragraphs or not at all. With regard to the words in square brackets, if Governments could be trusted with regard to the import of small quantities of substances for research, they could equally well be trusted when it was a question of importing limited quantities for other purposes, for example, for medical use. He therefore supported the suggestion that those words should be deleted.

Mr. KUSEVIC (Director, Division of Narcotic Drugs) said that the export and import of substances in schedule I was regulated in article 6, paragraph 6, and consequently had not been covered in article 12, paragraph 1.

The CHAIRMAN observed that the reference to schedule I in paragraph 2 seemed superfluous and could therefore be deleted.

Mr. MILLER (United States of America) said that any country could institute a licensing system for exports and imports. He therefore supported the French representative's suggestion that the words in square brackets should be deleted. He suggested that the word "shall" in the eighth line of paragraph 1 should be altered to "may", because a country should not be required to authorize an export unless it wished to do so.

Sir Harry GREENFIELD (President, International Narcotics Control Board) drew attention to his suggestion that the article should require a copy of the import licence to be physically present at the frontier when a substance was imported. However, in the revised text of the article, the last sentence of paragraph 1 merely stated that the licence should accompany the invoice. He would prefer a formulation which ensured that the controlling officer had the licence before him when the goods arrived.

Mr. WATTLES (Office of Legal Affairs) suggested that the point could be covered by replacing the words "shall accompany the invoice" by the words "shall accompany the shipment".

Sir Harry GREENFIELD (President, International Narcotics Control Board) said he would be satisfied with that change.

Mr. MOUJAES (Lebanon) pointed out that whereas paragraph 1 used words "prohibits the import", paragraph 2 contained the expression "does not permit". He thought the same wording should be used in both places.

Dr. ALAN (Turkey) said that there was a substantive difference between the two paragraphs, since paragraph 1 was concerned with substances whereas paragraph 2 dealt with recipients. Consequently, the difference in terminology might not be inappropriate.

Mr. ANAND (India) said the Secretariat had suggested that the provision by the exporting country of an export declaration would reduce delays at frontiers by relieving the importing country of the need to take certain control measures. But pilferage could take place in transit, and the importing country might therefore receive less of a substance than it was expecting. Consequently, whether an export declaration was available or not, the importing country would have to check the shipment and inform the exporting country of the amount it had received. An export declaration was insufficient to enable those steps to be dispensed with, and would not reduce the work of the importing country.

Mr. KUSEVIC (Director, Division of Narcotic Drugs) said that if the objection to an export declaration was that it would arrive too late for the importing country to take certain control measures, the latter could always introduce an import licence requirement into its domestic legislation. As far as diversion into the illicit traffic in the importing country was concerned, it would be difficult for a dishonest importer to make any such diversion if he knew that the exporting country was notifying his own Government of the amount exported. There were many ways of ensuring almost total control through internal legislation.

Dr. SAMSOM (Observer for the Netherlands), speaking at the invitation of the Chairman, said he had understood from the discussion that the export authorization system, as contemplated in article 11, would cover substances in schedule II. If so, the application of article 12 should be restricted to substances in schedules III and IV.

Mr. KUSEVIC (Director, Division of Narcotic Drugs) said that the references to schedule II had been included in the redraft of article 12 because, at the time document E/CN.7/L.313 had been prepared, the Commission had taken no decision with regard to the export-import licensing system for substances in schedule II. If such a system were adopted for those substances, the mention of schedule II in article 12 would become superfluous.

The CHAIRMAN said that the Secretariat would redraft the article in the light of the suggestions made during the discussion.

Article 2 (resumed from the 651st meeting)

Paragraphs 5 and 6 (E/CN.7/AC.7/R.1)

The CHAIRMAN said that article 2, paragraphs 1 to 4, had already been discussed (651st meeting). He therefore invited the Commission to consider paragraphs 5 and 6.

Mr. ANAND (India) said that article 6, paragraph 1, implied that substances in schedule I could not be used therapeutically. The Commission should decide whether that was so. If it was, article 2, paragraph 5, would need amendment to eliminate any suggestion that those substances could be used therapeutically; if not, article 6, paragraph 1, would have to be amended to cover the possibility of their use in that way.

Mr. NIKOLIĆ (Yugoslavia) pointed out that paragraph 5 enumerated three important considerations: the existence of a public health problem, the existence of a social problem, and the lack of necessity for therapeutic use. That being so, he did not think the Commission should be able only to accept or reject a WHO recommendation.

Dr. BABAIAN (Union of Soviet Socialist Republics) agreed. If the Commission could accept or reject a WHO recommendation, it should also be able to take the intermediate course of deciding to place a substance in a schedule different from that recommended by WHO.

Mr. MILLER (United States of America) said he supported the idea that the Commission should have the right to modify a WHO recommendation so far as substances recommended for control in the future were concerned. There was no question of the

Commission disputing WHO's medical judgement concerning a particular substance.. There were also social, economic, administrative and enforcement questions involved which should be decided by the Commission. There was also the problem of implementation, since the introduction of new controls could interfere with national medical practice. Again, a Party's constitution might guarantee protection of religious freedom, in which case the Party in question might be unable to prohibit the use of certain substances in religious rites. Also, from the economic point of view, the introduction of a high level of control for a particular substance could have the effect of artificially benefiting the commercial position of a similar substance subject to a lower level of control. The Commission should therefore have power to decide what level of control was appropriate for a substance recommended for control by WHO, and paragraphs 5 and 6 should be worded accordingly.

Dr. REXED (Sweden) said that close co-operation between the Council, the Commission and WHO was essential if the control system was to function properly. Medical, scientific, social, legal and practical considerations all had to be taken into account in deciding on the level of control to which a substance should be subject. WHO represented the highest body of medical and scientific opinion, but the Commission was the proper entity to ensure that other interests received consideration. He therefore thought it should be free to reject a WHO recommendation, but only on grounds other than medical or scientific ones. He did not think it should have power to modify such a recommendation. He did not understand why the United States representative was advocating a different formulation from that contained in article 3 of the 1961 Convention, particularly as the United States of America had ratified that instrument. There was no evidence that countries had experienced difficulties as a result of the acceptance of any WHO recommendation which the Commission had considered under the provisions of the 1961 Convention.

Mr. SAFWAT (Permanent Anti-Narcotics Bureau of the League of Arab States), speaking at the invitation of the Chairman, said that the problem of substances not under international control, such as barbiturates, amphetamines and tranquillizers, was not yet a serious one in the Arab world, although their use was slowly spreading in countries in which the use of natural drugs was frequent. The Bureau had considered the problem at its fifth regional conference at Cairo in December 1969, and had reached the conclusion that amphetamines and tranquillizers should be regarded as narcotic drugs There was also the question of the use of khat in Yemen and elsewhere in the Arab world. Because the Yemeni production of that plant was insufficient to meet local demand, large quantities had to be imported from Ethiopia and Somaliland. The Yemeni Government was

prepared to prohibit the cultivation, import and consumption of khat, a substance which the United Arab Republic, Saudi Arabia and Kuwait had decided was a narcotic drug. He therefore thought that WHO and the Technical Committee of the Commission should consider the appropriateness of including khat in the draft Protocol on Psychotropic Substances. WHO had already reported on the affinity of the active principle of khat with certain amphetamine-like substances, and on the social problem created by the abuse of khat.

Mr. ANAND (India) said that the Commission, as a functional organ of the United Nations, had to exercise its own independent judgement in considering recommendations made to it from any quarter. In his opinion, there could be no doubt that the Commission had the right to accept, alter or reject the recommendations made to it by WHO. Article 3, paragraph 8 (c), of the 1961 Convention gave the Council the right to confirm, alter or reverse the decisions of the Commission. But just as the Council could not put the seal of its approval on everything done by the Commission, so the Commission could not be expected to do so on the recomendations of WHO. Of course, the power to alter a recommendation of WHO was one thing and the indiscriminate use of that power was another. While asserting its proper rights, the Commission should avoid any confrontation with WHO and should strive for co-operation. When for any reason, whether social, political or economic, it wished to depart from a WHO recommendation, the proper procedure would be for it to refer the recommendation back to WHO with a request for its reconsideration.

Dr. ALAN (Turkey) fully agreed with the Swedish representative that the recommendations of WHO were made on a strictly scientific basis by the most highly qualified personnel in the field. The Commission itself was composed of highly qualified personnel, but it was hardly comparable in that respect with the WHO Expert Committee. Like the Indian representative, he thought the Commission should strive for the best possible co-operation with WHO and, in the event of disagreement, ask the latter to reconsider its decisions.

Mr. BARONA LOBATO (Mexico) said he fully associated himself with the cogent argument advanced by the representative of India. The various bodies of the United Nations should co-operate with each other, but had the right to act independently. The WHO Expert Committee was a valuable auxiliary, but its decisions did not automatically bind the Commission, any more than the judge in a criminal trial was bound by the testimony of experts. As a functional commission of the Council, the Commission could revise or reject the recommendations of WHO; it should not do so arbitrarily, however, and should endeavour to co-operate with WHO as with other international bodies.

Mr. NIKOLIC (Yugoslavia) said that no-one denied the unique competence of WHO in the medical and public health field but that other factors, such as those of a

political, economic and social nature, also had to be considered by the Commission. Yet while considering those factors, the Commission should avoid rejecting the recommendations of WHO outright and try to reach an acceptable compromise.

Mr. CHAPMAN (Canada) wished to stress that, in its comments on paragraph 5 and 6, his delegation was referring only to substances which might be recommended for addition to the schedules after the Protocol had come into force. He was sure that WHO was fully qualified to make recommendations concerning the medical and scientific aspects of such substances, but there were other practical considerations which the members of the Commission, as representatives of Governments, had to take into account. The situation under the 1961 Convention was not an exact parallel, since in dealing with psychotropic substances the Commission was moving into a new field beset with new and different problems. But if the Commission had the right to reject a recommendation of WHO, its right to alter such a recommendation was even stronger. Obviously, it was better to reach a compromise than to permit a serious situation of drug abuse to develop. He personally thought that the cases in which the Commission would disagree with the recommendations of WHO would be few but, if it considered it necessary to have the authority to do so, the wording of article 2 should clearly reflect that position.

Dr. REXED (Sweden) said he was aware of the role of the Council as defined in article 3, paragraph 8 (c), of the 1961 Convention; that provision, however, did not make the Council judge but rather a high court of appeal in the event of disagreement between the Parties. In his opinion, the 1961 Convention envisaged the Council and WHO as two kinds of reviewing authorities which would serve to balance each other. As a principal organ of the United Nations, however, the Council also represented the political will of its members. The question for the Commission to decide would seem to be whether it considered it necessary to re-evaluate the role of WHO; if that was so, article 2 would clearly have to be reworded.

Mr. BEEDLE (United Kingdom) said that he differed from the Swedish representative in his interpretation of article 3 of the 1961 Convention. That article clearly gave the Commission authority to take decisions, while permitting those who objected to its decisions to appeal to the Council. If, however, the draft Protocol were to provide that, in the event of a disagreement between WHO and the Commission, both should appeal to the Council, that would tend to undermine the Commission's authority. Perhaps the solution would be to provide for provisional recommendations or findings by WHO, which would not have the same force as those envisaged under the 1961 Convention, and which the Commission could modify without in any way undermining the technical status and competence of WHO.

Another problem lay in the criteria proposed at present in the draft text for the addition of a substance to a schedule in the Protocol. At present the criteria suggested by the Expert Committee contained two elements: the risk to public health presented by a substance, and its potential medical usefulness; but the categories were arranged in such a way that they overlapped at several points. This could only make for confusion and controversy. It would be simpler if WHO agreed to omit the criterion of medical usefulness and confine recommendations to the criteria of drug effects, liability to abuse, and the degree of risk to public health. The risks to public health would be clearer if the categories were redefined as (1) especially serious, (2) serious, (3) substantial, and (4) significant.

The Commission should bear in mind that decisions would not be based on laboratory studies as for all practical purposes they were under the 1961 Convention, but would depend upon a proper evaluation of the existence of public health problems in individual countries. There were bound to be difficult judgements to make of the factors affecting those problems and their seriousness, and it was important for the Commission to know how far WHO would approach those judgements. For example, was the Expert Committee likely to report its recommendations to the World Health Assembly? Would some broad considerations such as social, economic or cultural factors be injected into the Assembly reviews? Would the Expert Committee have a permanent element which would ensure that the same standards of judgement were maintained from year to year?

Dr. MABILEAU (France) said that for years his delegation had consistently given its full support to the recommendations of WHO. The WHO Expert Committee on Drug Dependence was of such outstanding calibre that its opinions on that subject could be regarded as the best in the world. Yet a text which required the Commission either to accept or to reject a WHO recommendation would be unsatisfactory. Routine acceptance would reduce the Commission to the status of a mere registry office, while outright rejection would be too harsh an alternative. Like the Yugoslav representative, therefore, he felt that the Commission should, in the event of disagreement with WHO, try to reach an acceptable compromise.

Dr. BABAIAN (Union of Soviet Socialist Republics) agreed with the French representative that it was unnecessary for the Commission to take one of two extreme positions. A better understanding with WHO could be achieved by resorting to compromise. But the Agreement between the United Nations and WHO nowhere specified that the recommendations of WHO were binding on any of the functional commissions of the

Economic and Social Council. Members of the functional commissions were representatives of their Governments; each of them could draw upon the experience of his own country in economic, social and scientific matters, and had to take all those matters into account in considering any recommendation. He did not think that the Commission would often disagree with WHO's recommendations; but its right to do so must be explicitly recognized.

Mr. WATTLES (Office of Legal Affairs) said that, on the basis of the information at present available to him, he could see no purely legal reasons why the Commissi n should not have the power to alter recommendations made by WHO. Under article 1 of the Agreement of 12 November 1948[1/] between the United Nations and WHO the latter was recognized as the organization responsible for international work in health matters. The WHO Constitution contained no specific provisions relating to narcotics, but it did call on that organization to direct and co-ordinate international health work.

Dr. REXED (Sweden) said it should be possible to analyse the causes of any friction that might have arisen between the Commission and WHO in connexion with the implementation of the 1961 Convention, and to find remedies. He, for one, would like to hear the views of WHO on the matter before agreeing to any change in the relationship between the two bodies under the Protocol.

Dr. CAMERON (World Health Organization) said that before commenting on the arguments used by those who believed the Commission should be entitled not only to fail to act on WHO recommendations, but also to take action that had not been recommended, he would like to draw attention once again to the nature of the decisions WHO would be called upon to make under article 2 of the Protocol. As he had pointed out at the 650th meeting, the evidence upon which WHO's recommendations would be based would be almost entirely medical in character. WHO was the organization primarily responsible for international work in the health field, and it would be unfortunate if another international body could decide to take actions in relation to health measures other than those recommended by the primary organization involved.

While it might be an attractive theory that if the Commission had the right to fail to act on WHO recommendations, it should also have the right to take actions other than those recommended, he wondered if that followed as a matter of logic. Nevertheless, it was worth considering the type of practical situation that might be involved. The United States representative had mentioned that a psychotropic substance might, for example, approxpriately be used for some ritual religious purposes, but, aside from such

1/ United Nations, Treaty Series, vol. 19, p.193

cultural use, it might be thought desirable to subject it to a recommended system of control. That problem could be met by making the draft sufficiently flexible to enable Governments to deal with such matters within their own territory without making it a procedural matter within the Commission. With regard to social problems, those which resulted from the availability of the psychotropic susbstances were first public health problems. It was doubtful whether social problems would be caused by the use of psychotropic substances without causing a public health problem. Finally, with regard to the economic arguments, if he had understood the United States representative correctly, that representative believed WHO might take action on a product manufactured by one firm and fail to consider its relative risk and usefulness as compared with a similar product manufactured by another. In that connexion, WHO was much more competent technically than the Commission to decide on the relative dangers and usefulness of different products. In making such technical decisions involving the lives of millions of persons, WHO endeavoured to exclude consideration of the economic impact on the manufacturer concerned. It did, of course, endeavour to treat all products of comparable risk and usefulness in the same way. It would be regrettable for such an issue to be debated in the Commission, which was not primarily a technical body.

The CHAIRMAN said that if the Commission decided that it should have the power to alter WHO's recommendations, some such wording as the following might be appropriate: "the Commission may decide that the substance shall be added to one of the schedules".

Dr. BABAIAN (Union of Soviet Socialist Republics) said he had no particular objection to that suggestion, but it would be simpler, at least so far as the Russian text was concerned, if the words "or take some other decision" were added at the end of paragraphs 5 and 6.

Dr. REXED (Sweden) thought that if the Commission did not wish the decisive vote to be exercised by WHO, it would be preferable to be specific and to amend the end of paragraphs 5 and 6 to say "may decide in what schedule to place the substance".

Dr. BABAIAN (Union of Soviet Socialist Republics) said he could not accept the Swedish representative's suggestion. All members of the Commission wished WHO to play an important role; it was simply a matter of ensuring that the Commission, in accepting the WHO recommendation, should be able to decide whether to add the substance to the schedule recommended or to another one.

Mr. BEEDLE (United Kingdom) said he did not agree that the social problem created by drug abuse could invariably be considered as a public health problem or be interpreted in terms of medical effects. Other factors such as the attitudes of the

public to the social value or acceptability of drugs might have to be taken into account, as they were in the case of alcohol and tobacco.

What the USSR representative seemed to be suggesting was that WHO should evaluate a drug and recommend the schedule in which it should be placed, but that the responsibility for the decision should rest with the Commission. The resultant overlapping of responsibility in decision making could only lead to friction. The Swedish amendment, on the other hand, had the advantage of clearly delineating the respective responsibility of the two bodies. The WHO Expert Committee might not have an adequate basis for recommending what forms of control should be applied to a substance, since many of the control measures were not medical in character. For that reason, he thought that the decision on the appropriate schedule was more a matter for the Commission. A text might be drafted along the lines suggested by the Swedish representative, but giving the Commission greater responsibility for deciding in which schedule substances should be placed.

Mr. JOHNSON ROMUALD (Togo) said he thought there was general agreement that the WHO recommendation should be taken into account, but that the Commission should have some discretion regarding the schedule in which a substance was to be placed. It might be left to the representative of the Office of Legal Affairs to redraft the text in consultation with those who had suggested amendments and other interested speakers and with the representative of WHO.

It was so decided.

Paragraph 9 (E/CN.7/AC.7/R.2/Rev.1)

Dr. MABILEAU (France), Chairman of the Technical Committee, said that although the divergencies of opinion which had emerged in plenary had not yet been entirely dissipated in the Technical Committee, agreement had been reached on one point, namely, that preparations containing substances listed in schedule II could be placed in schedule V. The procedure envisaged for taking decisions in the matter was the same as the procedure governing exemptions under the 1961 Convention.

The situation with regard to preparations containing substances in schedules III and IV was more difficult. Proposals on the subject had been submitted by the Director of the Division of Narcotic Drugs and by the United States Delegation, which had been similar in many respects. In a spirit of co-operation, the United States Delegation had not requested the separate circulation of its proposal; the text before the Commission represented a compromise.

The Technical Committee had concluded that it would be impossible to draw up a list of exempted preparations, but that general criteria for exemption could be defined. It had not taken a formal decision on the matter, but the results of its discussion were reflected in subparagraphs (a) and (b).

Mr. CHAPMAN (Canada) informed the Commission that the Delegations of Canada, the United Kingdom and the United States of America had prepared a proposal (MNAR/Psycho/70/Tech/3) concerning special provisions regarding control of preparations, the text of which he read out, together with an additional paragraph proposed by his own delegation (MNAR/Psycho/70/Tech/3/Add.1).

In reply to a question by the CHAIRMAN, Mr. CHAPMAN (Canada) said that the texts he had just read out were intended to replace the text submitted by the Technical Committee.

The CHAIRMAN suggested that it might be advisable for the Technical Committee to study the proposal before it was discussed in plenary.

It was so decided.

Dr. BABAIAN (Union of Soviet Socialist Republics) asked if WHO could give any indication of the dosage limits and methods of compounding which would render preparations harmless and thus appropriate for inclusion in schedule V.

Dr. CAMERON (World Health Organization) said that the Expert Committee had considered the matter at its last meeting and had been unable even to provide guidelines, because of the complexity of the subject. At the present time, preparations could be dealt with only on an individual basis, although, after further experience, it might eventually be possible to provide guidelines on preparations which could be exempted.

In view of that possibility, he would like to suggest that, in revising the text of article 2, paragraph 9, consideration might be given to making notification applicable not only to preparations, but also to groups of preparations, which might be abused.

It was so decided.

The meeting rose at 6.25 p.m.

SUMMARY RECORD OF THE SIX HUNDRED AND FIFTY-SEVENTH MEETING

held on Tuesday, 20 January 1970, at 9.10 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/AC.8/R.1; E/CN.7/L.311) (continued)

Article 2 (continued)

Paragraph 11 (E/CN.7/AC.8/R.1)

The CHAIRMAN invited the Commission to decide whether to retain or to delete the words placed between square brackets in the Working Party's redraft of article 2, paragraph 11 (E/CN.7/AC.8/R.1). Pursuant to rule 46 of the rules of procedure relating to the time-limit on speeches, he would ask each delegation to confine itself to stating its choice briefly, so as not to prolong the discussion unduly, since the meeting had a very heavy agenda. If any further proposals were put forward, the Commission would have to ask the Working Party to review the text and submit a redraft. At the end of the discussion he intended to sum up delegations' positions.

Dr. REXED (Sweden), Chairman of the Working Party, introducing the redraft of paragraph 11, said that the Working Party had not been able to solve all the problems referred to it and so had left a number of words in square brackets. As the two phrases in square brackets at the beginning of the paragraph raised serious difficulties, it would certainly save time to defer the discussion of that very complex question for the time being, as it was bound to arise again in connexion with other articles.

The CHAIRMAN said that the Commission might in fact consider the matter in connexion with article 21.

Dr. REXED (Sweden) said that he was in favour of a time-limit of 180 days for decisions taken by the Commission under article 11 to become effective. As to the right of rejection, the Swedish delegation was prepared to agree, as a compromise, that it should be recognized for substances in schedule III, but not for those in schedule II. The penultimate phrase in the first paragraph, placed between square brackets, should be retained; it would also be preferable if subparagraph (a) were retained but, if it was likely to cause other countries any very serious difficulties, Sweden was prepared to accept a compromise. Lastly, the reference to schedules I and II in the last sentence of the paragraph should be retained.

Dr. WALSHE (Observer for Australia), speaking at the invitation of the Chairman, and Mr. BEEDLE (United Kingdom) said they supported the Swedish delegation's views.

Dr. DANNER (Federal Republic of Germany) said he too felt that the question of the States to which the Secretary-General should communicate decisions taken by the Commission under article 11 should be left aside for the time being. He was in favour of a 180-day time-limit, of retaining schedule III where the reference had been placed in square brackets, and of retaining the sentence in square brackets at the end of the main paragraph and of subparagraph (a).

Mr. KEMENY (Switzerland) said he had no preference as between a 90- and a 180-day time-limit. Like the previous speaker, he was in favour of retaining schedule III and subparagraph (a); in the last sentence, the reference should be only to schedule I and possibly schedule II.

Mr. ANAND (India) said that he would accept the majority view with regard to the time-limit within which any decision of the Commission should become effective with respect to each Party. The right of rejection should be granted only for listings in schedule IV. The brackets round the penultimate sentence of the first paragraph and subparagraph (a) should be deleted. Furthermore, another subparagraph should be added after subparagraph (b), stating that the Parties might invoke the provisions of articles 10 and 14 of the draft Protocol. Lastly, all the brackets in the last sentence of paragraph 11 should be deleted.

Dr. AZARAKHCH (Iran) said that it would be better not to take any decision for the time being on the two phrases placed in square brackets in the opening sentence of paragraph 11. He was in favour of a 90-day time-limit, of retaining schedule II and deleting schedule III, of retaining the penultimate sentence in square brackets in the opening paragraph as well as subparagraph (a) and, in the last sentence of the paragraph, of retaining schedules I and II and deleting schedule III.

Mr. CHAPMAN (Canada) said that he was in favour of a 180-day time-limit, and of retaining schedules III and IV, the sentence in square brackets and, in the final sentence of the paragraph, schedules I and II. He would delete subparagraph (a). He regretted that he could not accept the Indian representative's suggestion for the addition of another subparagraph referring to articles 10 and 14.

Dr. BÖLCS (Hungary) said that the second phrase between square brackets in the opening paragraph should be retained, and he was in favour of a 180-day time-limit. His delegation was not in principle in favour of the right of rejection,

but would be prepared, if absolutely necessary, to accept it for the substances in schedule IV. It had no particular preference as regards retaining or deleting the sentence in square brackets and subparagraph (a), but was in favour of deleting the square brackets in the last sentence of the paragraph, and also of retaining schedules I, II and III.

Mrs. NOWICKA (Observer for Poland), speaking at the invitation of the Chairman, said she supported the Hungarian representative's views.

Mr. MILLER (United States of America) said that a 180-day time-limit should be adopted and that schedule III, the penultimate sentence in square brackets at the end of the opening paragraph, subparagraph (a), and schedules I and II in the final sentence should be retained.

Dr. EL-HAKIM (United Arab Republic) said he was in favour of retaining the first phrase in square brackets, the 180-day time-limit, schedule II only, the sentence in square brackets and subparagraph (a), and of deleting schedule III in the last sentence of paragraph 11.

Dr. ALAN (Turkey) said that paragraph 11 could not be considered except in conjunction with paragraph 12, which allowed the Parties to request the review of decisions taken by the Commission. Consequently, the length of the time-limit was immaterial. The Turkish delegation would prefer the retention of schedule IV and the deletion of the words between square brackets, since paragraph 12 entitled the Parties to request a review in connexion with substances listed in schedules II and III. It had no very strong views about the sentence in square brackets if the Protocol was to provide for listing in schedule IV only; on the other hand, if the Commission decided to retain that provision for the substances in schedule III, the sentence should also be retained, together with subparagraph (a). Schedules I, II and III would also have to be retained at the end of the paragraph in consequence. His delegation would be prepared to accept the Indian proposal to add a reference to the provisions of articles 10 and 14 if the Commission decided to retain the reference to schedule III at the beginning of the paragraph.

Dr. BABAIAN (Union of Soviet Socialist Republics) said that with regard to the choice between the two phrases in square brackets at the beginning of the paragraph his delegation's position was precisely the same as that of the Hungarian delegation. He would like to point out that, in contrast with the first alternative, the words "all States" had no political implications.

Mr. SHIMOMURA (Japan) said that he would prefer a 180-day time-limit, the deletion of schedule II and the retention of schedule III, the deletion of subparagraph (a) and the deletion of schedules II and III in the last sentence.

Mr. SAGOE (Ghana) said that he would reserve his position on the two alternatives in square brackets at the beginning of the paragraph until the Commission came to consider article 21. The right of rejection should apply only to the substances listed in schedule IV and the penultimate sentence in the opening paragraph of subparagraph (a) should be retained. He agreed with the Indian representative that, if the Parties complied with the provisions of articles 7 and 8, a new subparagraph should be added referring to the provisions of article 10. All the schedules should be retained in the last sentence of paragraph 11.

Mr. SAMSON (Observer for Netherlands), speaking at the invitation of the Chairman, said that his delegation was reserving its position on the first two phrases in square brackets. It was in favour of retaining the 180-day time-limit, and could not accept the notion that substances might be added to schedule II. In the last sentence, the reference to schedule III should be deleted. Since the sentence in square brackets towards the end of the opening paragraph was closely linked to the decision to be taken on subparagraph (a), the sentence should be deleted and subparagraph (a) should be retained. His delegation did not agree with the Indian representative concerning the application of articles 10 and 14 if the right of rejection was exercised in connexion with the listing of substances in schedules III and IV.

Dr. MABILEAU (France) said that he agreed with the Chairman of the Working Party that any discussion of the two alternatives proposed early in the paragraph should be avoided for the time being; his delegation, however, would be in favour of the first alternative. It was also in favour of the 180-day time-limit, of retaining schedule III and perhaps also schedule IV, of retaining the sentence and subparagraph (a) in square brackets, and of the idea that the notification procedure should apply only to the substances in schedules I and II. His delegation could not give its views on the Indian representative's proposal until it had a written text before it.

Mr. SOLLERO (Brazil), Mr. BARONA LOBATO (Mexico) and Mr. HUYGHE (Observer for Belgium), speaking at the invitation of the Chairman, said they agreed with what the French representative had said.

Mr. NIKOLIC (Yugoslavia) said that a time-limit of 90 days would be sufficient, and that additions and transfers should be permitted only with respect to schedule IV. The sentence between square brackets should be deleted; while subparagraph (a) should be deleted if schedule IV alone was retained, but should be retained if schedule III was also retained. The reference in the penultimate sentence of the paragraph to all the schedules should be retained. With regard to the Indian proposal, his position was the same as that of the French delegation.

Mr. MOUJAES (Lebanon) said he agreed that the question of the first two phrases between brackets should preferably be considered in connexion with article 21. He was in favour of a 180-day time-limit, the deletion of schedule II and the retention of schedules III and IV, the retention of the sentence referring to statements and of subparagraph (a), the retention in the last sentence, of schedules I and II and the deletion of schedule III. He regretted that he could not give any opinion on the Indian proposal.

The CHAIRMAN said it was clear from the discussion that there was a majority in favour of deferring the question to what States the Secretary-General's communications should be addressed and of considering the matter in connexion with article 21. Those phrases would therefore be retained in square brackets for the time being. Since there was a majority in favour of a 180-day time-limit, the figure 90 could be deleted. A majority had also approved the retention of schedules III and IV, the sentence relating to statements, subparagraph (a) and schedules I and II at the end of paragraph 11. Lastly, several delegations had asked that the Indian representative's proposal should be submitted in writing.

In reply to a question by Mr. NIKOLIC (Yugoslavia), Mr. KUSEVIC (Director, Division of Narcotic Drugs) explained that subparagraphs (a) to (e) inclusive dealt with the measures which every country was bound to accept, whereas the sentence in square brackets preceding them dealt with national measures of control which the Parties might apply to the substance in question. There was not, therefore, a choice between two alternatives.

Mr. HUYGHE (Observer for Belgium), speaking at the invitation of the Chairman, said he agreed that the provision in subparagraph (a) in no way duplicated that set out in the sentence between square brackets, which was not mandatory.

Article 15 (E/CN.7/523/Rev.1, annex IV)

The CHAIRMAN invited the Commission to decide which to adopt of the two alternatives proposed for article 15 in the draft Protocol.

Mr. WATTLES (Office of Legal Affairs) said that, at its twenty-third session, the Commission had asked that the second alternative should reproduce the text of the corresponding article of the 1961 Convention. Through an oversight, that had not been done in the case of the French and Russian texts. The Secretariat would put matters right and would take care in future that such errors did not occur again.

Dr. MABILEAU (France) and Mr. NIKOLIC (Yugoslavia) said they were surprised that wrong texts should have been sent to governments whereby the positions that some of them had already adopted might have been called into question.

Dr. AZARAKHCH (Iran), Mr. ANAND (India), Mr. SAGOE (Ghana), Dr. EL-HAKIM (United Arab Republic), Mr. MILLER (United States of America), Mr. SHIMOMURA (Japan), Dr. MÅRTENS (Sweden), Mr. ZEGARRA ARAUJO (Peru), and Mr. BOLLERO (Brazil) said they were in favour of the second alternative.

Dr. ALAN (Turkey) said that, in its comments (E/CN.7/525/Add.1), the Turkish Government had expressed its preference for the first alternative, but since the majority of delegates appeared to favour the second alternative and since that followed closely the wording of the corresponding article of the 1961 Convention, it was prepared to accept the majority view.

Mr. KEMENY (Switzerland) and Dr. DANNER (Federal Republic of Germany) said they were in favour of the first alternative, which was more flexible.

Mr. NIKOLIC (Yugoslavia) said he preferred the second alternative, but did not see how the Commission would be able to transmit annual reports to the Council if it only met biennially.

Mr. KUSEVIC (Director, Division of Narcotic Drugs) said that the report could be sent direct to the Council in the years when the Commission did not meet.

Mr. NIKOLIC (Yugoslavia) said he agreed that that was a practical solution; but it was not in conformity with the text of the article, which should therefore be amended accordingly.

Mr. KUSEVIC (Director, Division of Narcotic Drugs) said it would be better to leave that point to be decided by the conference of plenipotentiaries, since the question of the frequency of the Commission's sessions had not yet been definitely settled.

Dr. MABILEAU (France) said that, while he recognized the logic of the Yugoslav representative's comment, he also thought that it could be left to the conference of plenipotentiaries to decide whether the increase in drug abuse justified the Commission meeting annually.

His delegation was in favour of the second alternative proposed for article 15.

Mr. JOHNSON-ROMUALD (Togo) said that the Commission should take the opportunity to express officially its wish that the frequency of the Commission's sessions should be in keeping with the development of the situation.

The CHAIRMAN suggested that the Commission might devote one or two paragraphs to the question in its report.

Dr. BABAIAN (Union of Soviet Socialist Republics) said he was in favour of the second alternative, but would like the second sentence of paragraph 2 to be worded differently in the Russian version, since its present wording could be interpreted as meaning that the Parties had to print and distribute the reports themselves. His delegation's preference for the second alternative should not be interpreted as interference, either direct or indirect, with the Economic and Social Council's decision that the Commission should meet biennially. There was no reason why the reports should not be transmitted to the Council through the post in the years when the Commission did not meet.

Mr. BEEDLE (United Kingdom) said his delegation had expressed reservations about elaborating the "interpretative" role of the Board until it was clear what responsibility for monitoring and assessment would be given to WHO. His delegation would accept the majority view if the Commission decided in favour of the second alternative. The wording should, however, be amended so as to transfer the emphasis from the Board's annual report to its functions in the matter of statistical returns.

Mr. CHAPMAN (Canada) and Dr. ALAN (Turkey) said they supported that view.

Mr. BARONA LOBATO (Mexico) said he also agreed. His delegation was in favour of the second proposed alternative, and thought that the Commission should meet annually so as to be in a position to examine the statistical reports regularly. It was going too far to say, at the end of the second sentence of paragraph 2, that the reports could be given "unrestricted" distribution; some more appropriate wording should be found.

The CHAIRMAN said that the great majority of the Commission were in favour of the second alternative, but several amendments had been proposed. He suggested that the Secretariat prepare a new text with the help of the representative of the Office of Legal Affairs and of the representatives of Turkey, the Soviet Union and the United Kingdom.

It was so decided.

Article 3 (E/CN.7/523, Rev.1, annex IV)

Mr. ANSAR KHAN (Secretary to the Commission) suggested that, before considering paragraph 1, the Commission should wait until it had received the Technical Committee's report on article 2, paragraph 9, together with the proposal regarding that paragraph which the delegations of Canada, the United States and the United Kingdom were to submit.

Mr. NIKOLIĆ (Yugoslavia) said he could see no reason why the Commission should not examine paragraph 1 straight away since, whatever formulation was adopted for article 2, paragraph 9, there would be provision for exemptions.

Dr. MABILEAU (France), Chairman of the Technical Committee, said that it would make it easier for the Technical Committee if the Commission took a decision of principle as to whether preparations should be subject to the same measures of control as the psychotropic substances they contained.

The CHAIRMAN asked the Commission to give their views on the article as a whole.

Dr. BÖLCS (Hungary) said that the provisions of paragraph 3 should also apply to preparations; if the definition of the word "preparation" given in article 1, subparagraph (f), was accepted, it could be anticipated that mixtures or solutions of psychotropic substances would be used for industrial purposes.

His delegation was of the opinion that paragraph 3 (b) should be deleted, since the obligation specified in paragraph 3 (a) deprived it of any practical utility.

Dr. DANNER (Federal Republic of Germany) said that he supported the Hungarian representative's second proposal.

Mr. ANAND (India), referring to the measures provided for in paragraph 3 (a), said that the Parties should not use means other than denaturing except where that process was not practicable. He therefore proposed that, after the words "denaturing or" the words "where that is not feasible" should be added. He also proposed that the last part of the same sentence, from the word in square brackets, should be deleted.

It would be a mistake to delete paragraph 3 (b). To ensure that international statistics were complete, it was essential that the total quantity of psychotropic substances used in industry should be recorded and reported to the Board.

Mr. KEMENY (Switzerland) proposed that in paragraph 3 (a) the second part of the sentence beginning with the word "misused" be deleted and replaced by the word "abused".

He agreed with the Hungarian representative that paragraph 3 (b) should be deleted, but if the majority of the Commission was in favour of retaining it, it should be made clear that it applied only to substances in schedule I.

Dr. EL-HAKIM (United Arab Republic) said he also was of the opinion that the word "misused" should be replaced by the word "abused" in paragraph 3 (a). He was in favour of retaining paragraph 3 (b).

Dr. AZARAKHSH (Iran) said that the provisions of paragraph 2 should also apply to substances in schedule II. Paragraph 3 was acceptable to him as it stood.

Mr. MILLER (United States of America) proposed that, in order to bring out the precise meaning of the words "misused" or "abused" in paragraph 3 (a), they should be followed by the words "in a manner which would constitute a public health and social problem".

He was in favour of deleting paragraph 3 (b).

Dr. CAMERON (World Health Organization) said he wished to draw attention to a technical possibility that would result from the provision in paragraph 3 which provided that the Parties were not required to apply the provisions of the Protocol to psychotropic substances commonly used in industry for other than medical or scientific purposes if they denatured the precursors. The problem of precursors, like that of preparations, was a very complex one, and it was interesting to note that the basic idea of paragraph 3 was close to what had formerly been provided in the case of "exempt preparations", namely, that they should be exempted from all the provisions of the Protocol. As a consequence, a dishonest manufacturer could claim that the quantities of precursors which he had denatured were necessarily those which were not accounted for in any other way in his books and that he was not required to justify his disposal of them since record-keeping on denatured substances was not required. Perhaps the Commission might consider the possibility of requiring records of the first distribution of denatured substances or of manufactured products derived from them. The WHO Expert Committee on Drug Dependence had concluded that no blanket rule could be applied to all possible precursors, that each substance should be appraised individually and that, since some precursors were very widely used, the greatest caution should be used in deciding which of them should be placed under control. He noted that the Expert Committee had suggested present consideration of only the three precursors listed in paragraph 4.7 of its report (E/CN.7/L.311). One of them, lysergic acid, was currently used by the pharmaceutical industry and as such would be subject to the recording called for by paragraph 3. If lysergic acid should later

become useful to some other industry which was not obliged to keep records of the quantities used, provided it denatured them, that new use would in no way diminish its dangerous character as a readily convertible precursor.

In response to a question with regard to paragraph 2 of article 3, he said that WHO thought that permission to carry a limited quantity of psychotropic substances for personal therapeutic use would not create a serious gap in international control, provided the words "limited quantity" were not too loosely interpreted. There was every reason to think that the Commission would be able to find an appropriate wording.

Dr. MABILEAU (France) said that, in his opinion, the very serious problem of precursors outlined by the WHO representative should be studied by the Technical Committee.

Mr. SAGOE (Ghana) said he was afraid that, if the Commission were to adopt paragraph 2 in its present form, it might be possible for unethical international travellers to engage in illicit traffic in psychotropic substances, by wrongfully claiming that they were intended for their personal therapeutic use. In order to protect travellers with legitimate needs, the Commission should amend the provision by adding the words "in accordance with article 8, paragraph 1". Paragraph 3 (b) should be retained in the Protocol.

Dr. ALAN (Turkey) said he would prefer to keep the text of article 3 as it stood, but he still welcomed the proposal by the United States representative which would make subparagraph 3 (a) more explicit. He doubted the usefulness of the statistical reports provided for in subparagraph 3 (b). The Commission should keep to the purpose of the Protocol, which was to prevent the abuse of substances presenting a danger to public health, and leave the competent authorities to adopt whatever measures might be necessary for the use of those substances in industry.

Dr. REXED (Sweden) said that the introduction of excessive quantities of stimulants into Sweden must be prevented at all costs, and he therefore supported the Ghanaian representative's proposal that international travellers should be able to produce a medical prescription or some other supporting document when carrying psychotropic substances. He also supported the Indian representative's proposal with regard to paragraph 3, that other methods should be resorted to only when denaturing was not feasible. In the second line of subparagraph (a), he would prefer the word "abused" to the word "misused".

Mr. HUYGHE (Observer for Belgium) speaking at the invitation of the Chairman, said that he, too, supported the United States proposal, since it agreed with the definition which his country proposed to adopt for the expression "psychotropic substance", namely, the definition contained in draft B (E/CN.7/519, annex B) for "drug", as "a dependence-producing substance outside the scope of the Single Convention on Narcotic Drugs, 1961, which, because of its capacity to produce stimulation, depression, hallucinations or disturbance of perception or thinking, is found by the Director-General to be liable to abuse constituting a public health and social problem".

Mr. NIKOLIĆ (Yugoslavia), referring to paragraph 2, said he shared the Ghanian representative's view regarding the necessity for international travellers to be in possession of a prescription or some other supporting document for any psychotropic substances they might be carrying. He supported the United States representative's proposal regarding paragraph 3 (a), but did not understand why certain delegations wished to delete paragraph 3 (b). He agreed with the Indian representative that statistical reports should be as complete as possible.

Mr. CHAPMAN (Canada) said he agreed in principle with paragraph 1 and approved paragraph 2 as it stood but, like the Indian representative, he thought it would be preferable to delete the end of paragraph 3 (a). He also supported the United States proposal. If paragraph 3 (a) were thus worded, paragraph 3 (b) would become pointless and could therefore be deleted.

Mr. SHIMAMURA (Japan) said that if psychotropic substances used in industry for other than medical or scientific purposes were not, as a result of denaturing, liable to be misused and could not, in practice, be recovered, there was no need to furnish statistical reports on them. Consequently, paragraph 3 (b) served no useful purpose.

Mr. ZEGARRA ARAUJO (Peru) said he approved paragraph 1. He also agreed with those representatives who considered that international travellers carrying psychotropic substances should be able to produce a medical prescription or some other supporting document. With regard to paragraph 3, he endorsed the United States proposal that express mention should be made in subparagraph (a) of the danger which those substances presented to public health and social life. Moreover, such an addition would be entirely in keeping with the spirit of the Protocol. Statistical reports met a real need, and paragraph 3 (b) should therefore be retained.

The CHAIRMAN said that the Secretariat would prepare a new text for paragraph 3 (a) in the light of the United States' representative's proposal which had attracted wide support.

The Ghanaian proposal regarding paragraph 2 was liable to create enormous difficulties in practice, since pharmacists often kept the prescription against which they had supplied psychotropic substances. The patient would then have to ask his doctor for a copy of the prescription, which was not a very simple matter. He asked whether the Ghanaian representative had any practical solution to offer.

Mr. SAGOE (Ghana) said it was self-evident that, before undertaking a long journey, anyone following a prolonged course of treatment based on psychotropic substances would visit his doctor before leaving and would then be given the necessary prescription.

Mr. KUSEVIC (Director, Division of Narcotic Drugs) said that in several countries the vast majority of the population were covered by a national social insurance scheme, which required that the prescription presented by the insured should be retained by the pharmacist when supplying a medicament.

Moreover, the necessity for each international traveller carrying psychotropic substances to be able to produce a medical prescription would constitute such an obstacle to tourism that a number of countries would be deterred from acceding to the Protocol. It was therefore important to adopt a decision which would meet the requirements of the modern world, and trust to the good sense of customs officials.

Dr. BABAIAN (Union of Soviet Socialist Republics) said he supported the Ghanaian representative's proposal. Everyone was supposed to be familiar with the customs regulations of the country he was intending to visit, and there was nothing to prevent countries from prohibiting the import of psychotropic substances into their territory and providing for the seizure of quantities which were not being carried for legitimate purposes. Whatever happened, the illicit traffic must not be encouraged. In the USSR, it was prohibited to possess such substances without a medical prescription. That requirement should be included in paragraph 2. He saw no reason why that principle, which had been accepted for certain inoculations and for much more dangerous substances, including those in schedule I, should not also be accepted for psychotropic substances.

Dr. ALAN (Turkey) said he shared the Ghanaian representative's views, but recognized that his proposal was liable to create serious practical problems. For instance, there was the problem of the validity of prescriptions, which was not always recognized from one country to another. Would it not be preferable to retain paragraph 2 as it stood, since it referred only to limited quantities of psychotropic substances other than those in schedule I?

The CHAIRMAN said that if a prescription was for a hospital size package in anticipation of a prolonged absence of the patient, the quantity would no longer be "limited". That offered food for thought.

Mr. NIKOLIĆ (Yugoslavia) said he agreed with the Soviet Union representative concerning the need for international travellers to be able to produce a medical prescription when carrying psychotropic substances. In his opinion, the real problem lay in the use of the expression "limited quantities". Even if international travellers could be authorized to carry limited quantities of psychotropic substances, if there were many such travellers, the quantities thus introduced into a country could, none the less, become considerable. A medical prescription was all the more important because it must not be left to customs officials to decide whether the quantities introduced by each traveller were limited or not. Presenting a prescription would put an end to all argument.

Dr. MARILEAU (France) said that since several representatives appeared to have reservations concerning the expression "limited quantities", he would propose using the words "small quantities". The Protocol should not aim at perfection, but at securing the maximum number of accessions. By adopting the expression "small quantities", countries would demonstrate their confidence in each other.

On the subject of prescriptions, he felt that such a regulation would inevitably create numerous difficulties, if only because of the many languages and characters in which prescriptions were written.

Mr. TOFFOLI (Observer for Italy), speaking at the invitation of the Chairman, proposed that in paragraph 2 the word "substances" be replaced by the word "preparations".

Mr. SAGOE (Ghana) said that in his view members were exaggerating the difficulties which would arise from the obligation to produce a medical prescription or some other document to prove that a carrier of psychotropic substances had obtained them

legitimately and that they were intended for his personal therapeutic use. For example, it might be required that every package should bear a label giving the name and address of the pharmacist who had supplied the medicament. As far as Ghana was concerned, that would be considered sufficient proof.

Mr. CHAPMAN (Canada) said he did not believe that international travellers carrying psychotropic substances should be required to be in possession of a prescription. The difficulties caused by such a requirement would definitely outweigh any benefits that might be expected from the application of a measure of control of that sort. It was not justified, in any event, by the information so far available about the abuses to which the carriage of drugs was likely to lead.

Mr. BEDDLE (United Kingdom) said that international travellers were forbidden to bring amphetamines into the United Kingdom, even if they held a prescription. The subject was a matter which fell within the exclusive competence of each country. To express that position, the words "under its national (or domestic) law" might be inserted after the words "may permit".

Mr. ANAND (India) said he agreed with the representative of Ghana that a medical prescription or some other supporting document was necessary if the illicit traffic in which dishonest international travellers were likely to engage was to be prevented. Furthermore, a properly written prescription would remove any doubts about the quantities which international travellers carrying psychotropic substances needed for their personal therapeutic use.

The United Kingdom proposal that the measures to be taken should be left to the discretion of each Government would confront an international traveller going to several different countries with endless difficulties. It was therefore essential to devise a uniform system of international regulation.

Mr. KUSEVIĆ (Director, Division of Narcotic Drugs) said that tourists would encounter great difficulties if they were obliged to produce a prescription for all the medicaments containing psychotropic substances which they might have in their possession. Such a requirement would be a great hindrance to tourism. With regard to the Ghanaian representative's suggestion that packages of medicaments should bear the name and address of the pharmacist, it was a well-known fact that the first thing a patient did was to throw away the outer packing of a medicament. It was true that there was a vaccination control, but psychotropic substances were an entirely different matter, since each substance had a great many names and the customs officers responsible for the control would have to consult a list of some 20,000.

The text as it stood read "may permit to be carried"; countries were therefore free to impose a stricter control if they were prepared to risk keeping tourists out of their territory. As to the proviso "for their personal therapeutic use", it was for customs officers to decide whether the quantity of psychotropic substances carried by a traveller was for his personal use or not, just as they did with other articles. If the Commission adopted a text providing for strict control, many countries might be deterred from becoming Parties to the Protocol. Though it was true that illicit traffic in the substances should be prevented by every means, the quantities of psychotropic substances carried for personal use were unlikely to lead to a dangerous traffic.

Dr. REKED (Sweden) said that the difficulties liable to arise in applying control regulations should not be exaggerated. Most tourists who went to a country for a short stay obviously did not need to carry any large quantities of drugs, so that there would not be a great many cases in which the control would have to be applied. In Sweden it had been decided that tourists might not carry amphetamines without some supporting document. No great difficulties had been found in applying the decision, though the Swedish customs officers were neither linguists nor qualified pharmacists.

The United Kingdom representative's proposal was a good one, and deserved careful consideration; it should be submitted in writing, as too should the proposal by the Ghanaian representative. The debate might perhaps be suspended until the two amendments had been distributed.

Mr. SAGOE (Ghana) said that he too thought that the practical difficulties likely to be caused by the requirement to produce a medical prescription to justify the possession of psychotropic substances had been somewhat exaggerated. There was no question, of course, of customs officials inspecting every traveller; they would take only a few travellers at random, as they did for other articles. He was glad to hear that the United Kingdom, though a liberal country, had enacted a law prohibiting tourists from carrying amphetamines, regardless of whether they had been obtained on prescription or not.

There was a serious omission in paragraph 2 as it stood; it gave the erroneous impression that travellers could import psychotropic substances into any country they entered. His delegation therefore supported the United Kingdom representative's suggestion. It would submit its proposal in writing, and would be glad to have the drafting assistance of any delegations in favour of it.

Dr. ALAN (Turkey) said he wished to draw the Commission's attention, as the Director of the Division of Narcotic Drugs had already done, to the fact that paragraph 2 as it stood was not mandatory, but optional; any country which did not wish to permit the substances to be carried simply prohibited them. In any case, under article 19 any country was free to adopt measures of control more strict or severe than those provided by the Protocol. The expression "small quantities" might be preferable to "limited quantities", as the French representative had suggested.

Mr. JOHNSON-ROMUALD (Togo) said that though the principles should be strictly established, practice should be flexible. A wording was needed for paragraph 2 which would attract the support of as many countries as possible, since if too many countries abstained from signing or acceding to the Protocol, it would no longer be an instrument of international control, but a sort of agreement between a few countries only. Consequently, though he was in principle in favour of the Ghanaian representative's proposal, he must recognize that it would in fact cause practical difficulties, if only because the designation of preparations varied from country to country and because a customs officer would find it hard to distinguish between an ordinary medicament and a psychotropic substance. In any event, as had already been pointed out, the provisions in paragraph 2 were not mandatory.

Mr. HUYGHE (Observer for Belgium), speaking at the invitation of the Chairman, said that he supported the views expressed by the Director of the Division of Narcotic Drugs and by the representative of Togo.

Mr. SOLLERO (Brazil) said he was in favour of the text as it stood.

Dr. FAZELI (Iran) said he supported the United Kingdom representative's proposal and also the proposal by the Swedish representative, which was a combination of the United Kingdom and Ghanaian proposals.

Mr. MOUJAES (Lebanon) said that the requirement that tourists should produce a medical prescription at every control post, whether at the frontier or within the territory, would be an effective way of preventing all abuse, but it was a system that would be hard to put into practice. Pharmacists usually retained prescriptions and, furthermore, a patient did not always know whether a product contained a psychotropic substance or not. Besides, any such measure would be extremely detrimental to tourism. The Lebanese delegation therefore preferred the text of paragraph 2 as it stood.

Mr. MILLER (United States of America) said that in his country it was provided both in existing laws and in bills submitted to Congress that a person could possess psychotropic substances only if he had obtained them from a doctor on a valid medical prescription. A proviso should therefore be added to paragraph 2, to read more or less: "providing the substance is carried in the original labelled container or other proof is submitted that the substances were obtained for legal medical use". It would certainly be possible to find some way to enable customs officers to make certain that the substances had been obtained for those purposes.

The CHAIRMAN said that the Secretariat would be asked to draft a new text in consultation with the delegations which had proposed amendments, in particular those of France, Turkey, the United Kingdom and the United States. The redraft might be considered by the Technical Committee before it was submitted to the Commission.

Article 4 (E/CN.7/523/Rev.1, annex IV)

The CHAIRMAN drew the Commission's attention to the amendment to add at the end of subparagraph (b) the words "for distribution" (E/CN.7/525, paragraph 44).

Mr. NIKOLIĆ (Yugoslavia) said that he was in favour of the article, but could see very little difference between subparagraphs (a) and (c); one of them would suffice.

Mr. WATTLES (Office of Legal Affairs) said that subparagraph (c) carried further the basic obligations set out in subparagraph (a), but the two subparagraphs could well be combined into one.

Mr. ANAND (India) said that the amendment amounted to saying that the unauthorized possession of psychotropic substances was not an offence if the substances were not intended for distribution. Its effect would be to encourage smuggling of the substances, since anyone found in illegal possession of them could always claim that they were intended for his personal use, not for distribution. The important point was that unauthorized possession of the substance should be regarded as an offence; how those offences were to be dealt with would depend on how serious the offence was. The Indian delegation was therefore in favour of retaining subparagraph (b) as it stood.

Mr. KEMENY (Switzerland) proposed that subparagraphs (a) and (b) should be redrafted to read:

"(a) shall limit manufacture, production, export, import and trade in substances in schedules I, II, III and IV exclusively to medical and scientific purposes;

(b) shall not permit the unauthorized possession of such substances for trade or distribution".

Subparagraph (c) could be deleted.

Mr. MILLER (United States of America) said he agreed that subparagraphs (a) and (c) might be recast.

So far as subparagraph (b) was concerned, it was essential to prohibit the unauthorized possession of psychotropic substances, since the threat of legal penalties was an effective means of dissuasion. Not to control the unauthorized possession of the substances was tantamount to endorsing a convenient means for drug addicts to propagate their vice. The prohibition of the unauthorized possession of psychotropic substances alone had a great many advantages, in particular that it was often the only means of compelling a drug addict by law to take treatment. Furthermore, it was often hard to prove that a person found in possession of the substances intended them for distribution. The United States delegation therefore strongly supported subparagraph (b) as it stood. If, however, the Commission was not able to agree on that text, the United States delegation would be prepared to accept a wording along the lines of article 2, paragraph 5 (b) of the 1961 Convention.

The meeting rose at 1.5 p.m.

SUMMARY RECORD OF THE SIX HUNDRED AND FIFTY-EIGHTH MEETING

held on Wednesday, 21 January 1970, at 9.5 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) (continued)

Article 5 (E/CN.7/523/Rev.1, annex IV)

The CHAIRMAN said that several Governments had commented that the article was unnecessary and had proposed that it be deleted (E/CN.7/525).

Dr. DANNER (Federal Republic of Germany) said that the article should be deleted; it was for Governments to decide whether to establish a special administration. If, however, the Commission as a whole thought some such provision was required, it should be placed not in the Protocol itself, but in the Final Act.

Mr. JOHNSON-ROMUAID (Togo) said he agreed with the representative of the Federal Republic of Germany. In developing countries it might be hard, especially for budgetary reasons, to set up a special administration. It should therefore be left to States to decide.

Dr. MABILEAU (France) said that a special administration did not necessarily have to be large; it might, indeed, quite well consist of only one person. Somebody would have to deal with all the matters involved; where a special administration already existed under the 1961 Convention it could very well also deal with the application of the provisions of the Protocol.

Dr. AZARAKHCH (Iran), Dr. BABAIAN (Union of Soviet Socialist Republics), Mr. NIKOLIČ (Yugoslavia), Mr. MILLER (United States of America) and Mr. MOUJAES (Lebanon) said that they agreed with the French representative and were in favour of the retention of article 5.

Dr. ALAN (Turkey) said that the Parties themselves should be left to decide whether they wished to set up a special administration. In addition, if a Party thought fit to do so, it might also decide whether it would make use of an existing special administration or set up a new one. It would take that decision in the light of its own administrative, legislative, economic and other criteria.

Mr. BARONA LOBATO (Mexico) suggested as a compromise solution that the article should be retained but amended to read in part: "The Parties shall use their best endeavours to maintain a special administration for the purpose of applying the provisions of this Protocol. It would be desirable that Parties which have already established special administrations ...", the rest of the article to remain unchanged.

Mr. NIKOLIČ (Yugoslavia) suggested as a different compromise solution the wording "Parties may maintain ...", etc.

Dr. BÖLCS (Hungary) said he agreed with the French representative; the word "special" should be deleted.

Mr. KEMENY (Switzerland) said he agreed with the Turkish representative.

Mr. SAGOE (Ghana), Mr. CHAPMAN (Canada) and Dr. MABILEAU (France) said that they would prefer the article to be retained; they supported the Yugoslav representative's proposal.

Mr. MOUJAES (Lebanon) suggested that the Yugoslav representative's amendment might be superfluous, since it was clear enough from the text as it stood that all that was involved was a wish or possibility.

The CHAIRMAN said that the Yugoslav amendment had been widely supported. He would ask the Secretariat to redraft the article, taking the various amendments into account.

Article 6 (E/CN.7/523/Rev.1, annex IV)

The CHAIRMAN said the article was largely based on Council resolution 1294 (XLIV) dated 23 May 1968, adopted unanimously by the Commission at its twenty-second session.[1/]

Dr. BABAIAN (Union of Soviet Socialist Republics), referring to paragraph 1, said that the text of the resolution was clearer, in that it specified that the use of the substances should be restricted to medical or scientific purposes. Paragraph 1 should be amended by inserting the words "for medical or scientific purposes" after the word "except".

Dr. MABILEAU (France), Mr. NIKOLIČ (Yugoslavia), Dr. AZARAKHCH (Iran), Dr. REXED (Sweden), Mr. SAGOE (Ghana), Mr. ANAND (India) and Dr. DANNER (Federal Republic of Germany) supported the USSR representative's proposal.

Dr. DANNER (Federal Republic of Germany) proposed that in paragraph 3 the words "each case of research" be replaced by the words "each research project".

Mr. MILLER (United States of America) drew attention to the amendments to paragraphs 3, 4 and 5 submitted by his Government (E/CN.7/525/Add.1).

Mr. BEEDIE (United Kingdom), Dr. MABILEAU (France), Mr. CHAPMAN (Canada), Mr. NIKOLIČ (Yugoslavia) and Dr. MÅRTENS (Sweden) said that they supported the United States amendment.

1/ Official Records of the Economic and Social Council, Forty-fourth Session, Supplement No. 2 (E/4455), para. 335 and chap.X, Draft resolution F.

Mr. CHAPMAN (Canada) proposed that at the end of paragraph 5, the words "the date and mode of each use" be replaced by the words "the details of their use".

Mr. NIKOLIČ (Yugoslavia) and Dr. REXED (Sweden) supported the Canadian representative's proposal.

Dr. CAMERON (World Health Organization) proposed that paragraph 7 be redrafted to read: "The Parties shall not authorize the possession of such substances for personal consumption".

Dr. MABILEAU (France) supported that proposal.

Mr. KEMENY (Switzerland) drew attention to the amendments to paragraphs 2 and 6 submitted by his Government (E/CN.7/525). He was in favour of deleting the square brackets.

Mr. BEEDIE (United Kingdom) proposed that the word "Government" in square brackets in paragraph 6 should be deleted.

The text for paragraph 7 proposed by the WHO representative should be completed by specifying that the possession of substances for personal consumption must be for approved medical or scientific purposes; otherwise it would be hard to reconcile with paragraph 3 (b) in the form proposed by the United States.

Dr. BABAIAN (Union of Soviet Socialist Republics) said he supported the proposal by the WHO representative concerning paragraph 7. In paragraph 6, the words "or other /Government/ agencies or scientific institutions" should be deleted.

Dr. ZEGARRA ARAUJO (Peru) said he was in favour of deleting the square brackets in paragraphs 6 and 7.

Mr. MILLER (United States of America) said that the wording for paragraph 7 proposed by the WHO representative gave the impression that the possession of substances, for sale, for instance, was not precluded by the provisions of the paragraph. He therefore preferred the wording as it stood, with the deletion of the square brackets.

Dr. CAMERON (World Health Organization) said his amendment was based on the idea that other purposes were already prohibited under the preceding paragraphs of the article. The purpose of the amendment had simply been to make the wording of the article consistent, not to amend the substance.

Mr. KEMENY (Switzerland) said that it would be better to use the expression "substances and preparations" rather than "substances" in paragraph 7.

The CHAIRMAN said that the text would be redrafted in the light of the various amendments put forward.

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

The CHAIRMAN invited the Commission to consider article 7, paragraph by paragraph.

Paragraph 1

Mr. KEMENY (Switzerland) and Dr. REXED (Sweden) said they were in favour of deleting the square brackets and the end of the sentence, beginning with the words "except where such manufacture, ..."; State enterprises should comply with the same requirements as everyone else.

Mr. ANAND (India), Dr. EL-HAKIM (United Arab Republic), Dr. AZARAKHCH (Iran), Mr. SAGOE (Ghana) and Mr. CHAPMAN (Canada) said they also were in favour of deleting the square brackets.

Mr. MILLER (United States of America), supported by Dr. MABILEAU (France), Dr. BABAIAN (Union of Soviet Socialist Republics) and Mr. ZEGARRA ARAUJO (Peru), said they were in favour of the deletion of the square brackets and the addition of the words "or other similar control" after the word "licence" in the third line.

Dr. BÖLCS (Hungary) said he agreed that it would be better to delete the square brackets. In the first line of the French version, the word "distribution" was presumably a mistake for the word "production".

The CHAIRMAN confirmed that that was the case.

Mr. NIKOLIČ (Yugoslavia) said he approved the deletion of the square brackets and the amendment proposed by the United States representative. He would also like to see the words "export and import trade" replaced by the words "foreign trade".

Mr. SOLLERO (Brazil) said he supported the amendments by the United States and Swiss representatives.

The CHAIRMAN said that delegations had all been unanimous in requesting the deletion of the square brackets, and seemed prepared to accept the amendments proposed to paragraph 1.

Paragraph 2

Mr. NIKOLIČ (Yugoslavia) asked that in subparagraph (a) the words "including foreign trade" be added after the word "trade," for the sake of greater clarity. Subparagraphs (b) and (c) should be deleted.

Dr. BÖLCS (Hungary) said he supported the Yugoslav representative. Subparagraphs (a), (b) and (c) were superfluous because paragraph 1 already laid down that the Parties should require a licence or other similar control.

Dr. BABAIAN (Union of Soviet Socialist Republics) said he supported the Yugoslav and Hungarian amendments. In the French version of subparagraph (a), the word "surveillance" smacked too much of police observation and should be replaced by the word "contrôle".

Mr. MILLER (United States of America) said he supported the Yugoslav representative's proposal. He was also in favour of deleting the square brackets round subparagraph (c).

Mr. CHAPMAN (Canada) said he was in favour of deleting subparagraph (b) but of keeping subparagraph (c).

Mr. KEMENY (Switzerland) said that subparagraph (c) should be deleted.

Dr. MABILEAU (France) said he was in favour of maintaining subparagraph (c) since diversions were very unfortunately frequent, particularly of the substances in schedule II, and that meant expensive control measures. It would be wise to include a provision of that sort so as to enable administrations to obtain the necessary appropriations to be able to ensure the security of stocks. On the other hand, he was not so sure about the usefulness of subparagraph (b).

Mr. ANAND (India), Mr. SAGOE (Ghana), Dr. REXED (Sweden), Dr. ALAN (Turkey) and Dr. WALSHE (Observer for Australia), speaking at the invitation of the Chairman, said they were in favour of retaining subparagraph (c).

The CHAIRMAN said he noted that a large majority were in favour of maintaining subparagraph (c) and that a smaller number of delegations had proposed the deletion of subparagraph (b).

Mr. KUSEVIĆ (Director, Division of Narcotic Drugs) pointed out that under the terms of article 3, all the measures provided for psychotropic substances were equally valid for preparations containing those substances, but that the word "preparations" did not cover exempted preparations. Consequently, it was for the Commission to decide whether manufacturers of exempted preparations should or should not be made subject to the provisions of the article.

Dr. ALAN (Turkey) said that the second subparagraph of the comments on article 7 (E/CN.7/523/Rev.1, annex IV) stated that "manufacturers of preparations are considerably more numerous than those of substances and that very large stocks are held by manufacturers of preparations". Since that also applied to manufacturers of exempted preparations, they should therefore be subject to the same provisions as the rest.

The CHAIRMAN said that, in their final form, pills were often manufactured by a third manufacturer who received the preparation ready-made. Since that practice was becoming increasingly frequent, the Commission would have to take a decision on the point.

Dr. ALAN (Turkey) said he thought that the practice hardly constituted a special case, since the substances were already contained in the preparations received by the third manufacturer.

Mr. WATTLES (Office of Legal Affairs) said that under the definition given in article 1, the word "manufacture" meant all processes, whether based on a pure substance or a prefabricated compound.

Paragraph 3

The CHAIRMAN said that at the twenty-third session, one delegation had already proposed that the word "therapeutic" be replaced by the words "medical, pharmaceutical" (E/CN.7/523/Rev.1, annex IV, foot-note m).

Mr. WATTLES (Office of Legal Affairs) suggested that such question of terminology might be postponed until the end of the Commission's work.

Mr. BARONA LOBATO (Mexico), supported by Dr. ZEGARRA ARAUJO (Peru), said he thought it would be better not to provide for any exceptions to the licensing requirement; paragraph 3 was therefore superfluous, in view of the measures laid down in article 8.

Mr. MILLER (United States of America) said that if the Commission accepted his amendment for the addition of the words "or other similar control" after the word "licence" in paragraph 1 there would scarcely be any need for paragraph 3. It was difficult to imagine any country which did not have a licensing system for doctors, dentists and veterinary surgeons.

Dr. REXED (Sweden) said he supported the proposal to delete paragraph 3; if that proposal were adopted, there would be no need to discuss replacing the word "therapeutic".

Dr. MABILEAU (France) said he believed that the 1961 Convention contained a similar provision.

The CHAIRMAN said that the provision in question was in article 30, paragraph 1 (c).

Mr. WATTLES (Office of Legal Affairs) said that if the Commission accepted the United States amendment to add the words "or other similar control", in paragraph 1, the provision in paragraph 3 would seem less essential than in the 1961 Convention.

Paragraph 4

Dr. SAMSOM (Observer for the Netherlands), speaking at the invitation of the Chairman, said he had some difficulty in interpreting paragraph 4, particularly as regards the method of deciding whether a licence should be granted or refused. It would perhaps be advisable to amplify the word "qualifications" and say "shall have adequate professional qualifications and satisfy predetermined conditions of morality and honourability, with regard to the effective and faithful execution of ..." etc.

Mr. WATTLES (Office of Legal Affairs) pointed out that article 34, sub-paragraph (a), of the 1961 Convention, referred to the "adequate qualifications for the effective and faithful execution of ....".

Mr. STEWART (United Kingdom) said that that provision implied a particular judgement on the person to whom the licence was granted, and brought into play all kinds of elements which were alien to the scope of control.

Mr. NIKOLIČ (Yugoslavia) said that he saw no point in retaining paragraph 4.

Dr. MABILEAU (France) said that the text of the 1961 Convention, which had taken ten years to draft, should be treated with the utmost respect. The present text was very close to that of the 1961 Convention. Nevertheless, he was in favour of deleting the word "State" before the word "enterprise", as private enterprises might be involved. Also, since the word "qualifications" occurred in the 1961 Convention, it might be possible to say "adequate diplomas and qualifications ...."; the diplomas would confirm the person's technical knowledge, which must be supplemented by human qualifications.

Mr. CHAPMAN (Canada) said that it would be difficult to decide whether a person possessing such diplomas and qualifications would be capable of carrying out the duties required. Perhaps the end of the paragraph should be replaced by the phrase "adequate qualifications having reasonable regard for performance of the duties and responsibilities involved."

The CHAIRMAN invited members to express their views on the Yugoslav representative's proposal to delete paragraph 4.

Dr. ZEGARRA ARAUJO (Peru) said that paragraph 4 was of capital importance, as it went right to the heart of the very ethics of the Protocol. It was the solemn duty of members of the Commission to respect the text of the 1961 Convention and to emphasize that persons entrusted with ensuring the faithful execution of the provisions enacted in pursuance thereof should possess all the necessary qualifications to perform those functions.

Mr. JOHNSON-ROMUAID (Togo) said he thought there was some merit in mentioning some of the conditions for the effective application of the Protocol, even if the provision seemed like needless repetition. He therefore supported the French proposal; but what was desirable in theory was very often far from being feasible in practice: certain countries would obviously find it difficult to procure staff with such qualifications, and each Party would then interpret the text as it thought fit.

Mr. MILLER (United States of America) said he was in favour of keeping paragraph 4, with the amendments proposed by France and Canada.

The CHAIRMAN said it appeared that a great many delegations wished to retain paragraph 4, with the proposed amendments. The Secretariat would take those amendments into account when drafting a text for the second reading.

Article 9 (E/CN.7/523/Rev.1, annex IV)

Mr. MILLER (United States of America), supported by Mr. CHAPMAN (Canada), said that owing to lack of space it was sometimes difficult to include additional directions on packages; warnings could be given in an explanatory leaflet inserted in the box containing the medicament.

Mr. ANAND (India) said it was important that a warning should be given not only on the outside of the package but also on the inner container, since the outer package and the leaflet could be thrown away by the dealer. The warning should therefore appear on the label, the internal packaging and the explanatory leaflet.

Dr. BABAIAN (Union of Soviet Socialist Republics) said he entirely agreed with the Indian representative. The Russian version used the expression "active advertisement"; the adjective was quite superfluous.

Mr. HUYGHE (Observer for Belgium), speaking at the invitation of the Chairman, said it was sometimes difficult, especially in a country such as his own where there were several official languages, to include all the required directions on the packaging; so that an explanatory leaflet was essential.

As for advertising, it was obviously quite out of place in the case of products which could be sold on medical prescription only.

Dr. MABILEAU (France) said that the French version of article 9 was perfectly satisfactory to his delegation since the word "conditionnement" covered both packaging and the explanatory leaflet. That advertising should be prohibited went without saying.

The CHAIRMAN asked the WHO representative whether arrangements could be made for WHO to supply the warnings or whether that would be left to the various control bodies.

Dr. CAMERON (World Health Organization) said that, under article 21 of the WHO Constitution, the World Health Assembly was authorized to adopt regulations concerning the safety, purity and potency of biological, pharmaceutical and similar products moving in international commerce, and on advertising and labelling of such products. It might therefore be said that it was not essential that the Protocol contain provisions relating to warnings on packages and to advertising of such products, since that was a responsibility of WHO. It was important, in fact, that warnings on packages relating to dependence liability be co-ordinate and consistent with other safety warnings that might be involved. That could be arranged by leaving both matters to WHO. WHO, however, had no regulatory authority with respect to substances not moving in international commerce.

Dr. ALAN (Turkey) said he agreed with the views of the French representative and the WHO representative.

Mr. TOFFOLI (Observer for Italy), speaking at the invitation of the Chairman, said he thought that the words "psychotropic substances" in the second line should be replaced by the words "preparations or pharmaceutical preparations containing psychotropic substances".

Mr. KUSEVIČ (Director, Division of Narcotic Drugs) said it was unnecessary to mention preparations since, under article 3, paragraph 1, preparations were subject to the same measures of control as the substances they contained.

Mr. ZEGARRA ARAUJO (Peru) said it was for WHO to fix the standards for the precautions to be taken and to draft the warnings to patients and doctors.

Dr. MABILEAU (France) said it was very helpful to have WHO's expert advice on the dangers of medicaments of all kinds; in particular on the risk of road accidents from the use of substances likely to produce somnolence or of stimulants whose effects were followed by sudden drowsiness.

Dr. BABAIAN (Union of Soviet Socialist Republics) said he understood that the WHO representative and some other representatives were questioning the value of article 9. In his opinion warnings on packages and the prohibition of advertising were not matters outside the competence of WHO since article 21 of the Constitution mentioned international commerce among the fields in which WHO had authority to adopt regulations. Admittedly, article 9 related to regulations to be applied at the national level, but countries could follow any recommendations which WHO might make on the subject.

Dr. WALSHE (Observer for Australia), speaking at the invitation of the Chairman, said she was in favour of article 9 as amended by the United States representative.

Mr. KEMENY (Switzerland) proposed that the text be made more flexible by replacing the words "shall require" in the first line by the words "may require" so that any doctor who, for psychological reasons, wanted to keep a patient in ignorance of what he was prescribing for him, could specify on the prescription, for the benefit of the pharmacist, that the medicament should be made up without any indication. If the Commission did not accept that proposal and warnings were required in every case, it should be specified that they should appear on the tube or box, and not only on the packaging or explanatory leaflet.

Mr. NIKOLIČ (Yugoslavia), Dr. BABAIAN (Union of Soviet Socialist Republics), Dr. ALAN (Turkey) and Dr. AZARAKHCH (Iran) said they were unable to support the Swiss representative's first proposal.

Mr. HUYGHE (Observer for Belgium), speaking at the invitation of the Chairman, said he could see no objection to retaining the words "shall require", since the obligation applied to manufacturers and pharmacists only and not to the doctor who, if he saw fit to do so in a specific case, could ensure that his patient was unaware of the leaflet which normally accompanied the medicament.

Dr. REXED (Sweden) said that article 9 was quite appropriate for inclusion in the Protocol. Perhaps it would be as well to insert in the first line, after the words "shall require", the words "in the light of the relevant WHO recommendations".

Dr. MABILEAU (France) said he supported that proposal.

The CHAIRMAN said that the Secretariat now had sufficient information to prepare a new text for article 9.

Article 13 (E/CN.7/523/Rev.1, annex IV)

Mr. NIKOLIČ (Yugoslavia) said that article 13 seemed to be superfluous, as the comment on it appeared to show, and he proposed that it be deleted in order to lighten the Protocol.

Mr. FOURATI (Observer for Tunisia), speaking at the invitation of the Chairman, proposed that, in the second line, the word "traders" be replaced by the word "distributors".

Dr. MABILEAU (France) said he supported that proposal. With that exception, the article seemed to him quite satisfactory.

Dr. AIAN (Turkey) said he thought that wholesale and retail traders included distributors. If need be, the word "distributors" could be added. However, his delegation supported the article as it stood.

Dr. MABILEAU (France), Chairman of the Technical Committee, said that according to the definitions given in article 1, subparagraph (j), the term "distribution" was a general one which included trade, but the reverse did not apply.

Dr. DANNER (Federal Republic of Germany) said he doubted whether it would be possible to institute a system of inspection of all medical and scientific institutions which used at least some of the substances in schedules II, III and IV.

Mr. CHAPMAN (Canada) said the work involved would undoubtedly be enormous, but the inspection would take place automatically at the same time as the inspection of the records which was, in any case, required by the Protocol.

Dr. BABAIAN (Union of Soviet Socialist Republics) said he shared that view.

Dr. EL-HAKIM (United Arab Republic) said he was in favour of retaining article 13. He proposed that, in the English version of the first sentence, the words "wholesale and retail traders" be replaced by the words "wholesalers and retailers".

Mr. SAGOE (Ghana), Mr. MILLER (United States of America), Mr. RANA (India) and Dr. AZARAKHCH (Iran) said they were in favour of retaining article 13 and approved the wording as it stood.

The CHAIRMAN said the Secretariat now had sufficient information for him to be able to close the discussion.

Article 16 (E/CN.7/523/Rev.1, annex IV)

Mr. NIKOLIČ (Yugoslavia) proposed that the expression "shall use their best endeavours to take" be replaced by the expression "shall take" or "must take".

Dr. BABAIAN (Union of Soviet Socialist Republics) and Dr. AIAN (Turkey) said they supported that proposal.

Mr. STEWART (United Kingdom) said that he also supported it. He proposed that the word "possible" should be inserted before the word "measures".

Mr. SAGOE (Ghana) and Dr. AIAN (Turkey) said they supported the United Kingdom proposal.

Mr. BARONA LOBATO (Mexico) said that he too supported the United Kingdom proposal. In the Spanish version the word "necessarias" might be kept if the word "todas" was deleted.

Mr. ZEGARRA ARAUJO (Peru) and Mr. HERRERA-ROA (Dominican Republic) said they agreed with the Mexican representative.

Dr. EL-HAKIM (United Arab Republic) said that paragraphs 2 and 3 raised questions of technical assistance.

Dr. DANNER (Federal Republic of Germany) said that he would prefer the term "dependent" to the term "addicted" in the second line of paragraph 2 of the English version.

Mr. MILLER (United States of America) said he agreed.

Mr. WATTLES (Office of Legal Affairs) said that it was the only place in the English version of the draft where the term "addicted" was used. He suggested that the expression "dependent on" or "abusers of" should be used instead.

With regard to the amendments, the phrase "shall use their best endeavours" had been used in the draft to avoid causing serious difficulties for countries which would be legally bound to take all measures, but did not have the means to do so.

Dr. MABILEAU (France) said that he had been in favour of the amendments by the Yugoslav and United Kingdom representatives, but had changed his mind after hearing the representative of the Office of Legal Affairs, who should be asked to prepare a generally acceptable version. In the present French version of the article, the word "adonnées" was unsuitable; the Secretariat should prepare a better text for the second reading.

Dr. BABAIAN (Union of Soviet Socialist Republics) said that in paragraph 82 of the report of the Commission on its twenty-third session (E/CN.7/523/Rev.1), it was stated that the Commission had noted that the term "addiction" was widely used and was entrenched in national legislation and international instruments. Perhaps it could be used in the present case. The Russian version was entirely satisfactory.

Mr. ZEGARRA ARAUJO (Peru) said that though the term "toxicómanos" might become appropriate from the medical point of view in Spanish, it would probably be better to use the word "adictos".

Mr. TOFFOLI (Observer for Italy), speaking at the invitation of the Chairman, said that in order to facilitate the early detection" mentioned in the second line of paragraph 1, a central international body would have to publish all the information required for the detection of the illicit traffic.

The CHAIRMAN said that the paragraph referred to the detection of persons, not substances.

Mr. HERRERA ROA (Dominican Republic) proposed that the word "detection", should be inserted before the word "treatment" in the second line of paragraph 2.

Dr. CAMERON (World Health Organization), suggested that the word "identification" would be preferable.

The CHAIRMAN said he noted that the observer for Italy accepted that term. He declared the discussion on article 16 closed.

Article 17 (E/CN.7/523/Rev.1, annex IV)

Mr. WATTIES (Office of Legal Affairs) said that the text used for article 17 was that of article 35 of the 1961 Convention. Though the French, Spanish and Russian texts did not correspond exactly with the text of the 1961 Convention, that was the text that would be used in the second reading.

Dr. MABILEAU (France) said that he really must protest most strongly against such methods and the waste of time they caused. The French version which appeared in the draft Protocol differed very considerably from the official French version of the 1961 Convention, of which the French delegation approved, though it had nothing against attempts to improve it.

Dr. BABAIAN (Union of Soviet Socialist Republics) said he agreed with the French representative that the Russian version of article 35 of the 1961 Convention, which exactly reflected the Soviet delegation's views on action against the illicit traffic, should be reproduced in full and without change.

Mr. KUSEVIČ (Director, Division of Narcotic Drugs) said he could assure the Commission that the technical services of the Secretariat would see to it that a mistake of that sort did not recur in the future.

The CHAIRMAN asked the Secretariat to reproduce for article 17 the exact text of article 35 of the 1961 Convention, which was bound to attract general support, judging by the number of countries which had already ratified it.

Mr. AUBE (International Criminal Police Organization), speaking at the invitation of the Chairman, said that ICPO/INTERPOL would be satisfied with the text of article 17 if it reproduced the text of article 35 of the 1961 Convention. The square brackets in subparagraph (c) should, however, be deleted in the interests of an effective campaign against illicit traffic. But he did not see any real objection to their retention, since, so far as international co-operation was concerned, an exchange of services might be organized, exceptionally, between the secretariat of ICPO/INTERPOL and countries which were not members of the organization, though regular co-operation could not be contemplated.

Mr. MOUJAES (Lebanon) said he agreed with the representative of ICPO/INTERPOL.

Mr. MILLER (United States of America) said that he too was in favour of deleting the words between square brackets in subparagraph (c). In view of the proviso in the introductory sentence to the article, Parties were free to take or refrain from taking the measures listed in subparagraphs (a) to (e); if the words in square brackets in subparagraph (c) were kept, Parties might gain the erroneous impression that they did not need to co-operate, even if their constitutional, legal and administrative system enabled them to do so.

Mr. SAGOE (Ghana) and Mr. CHAPMAN (Canada) said they agreed with that view.

Mr. NIKOLIČ (Yugoslavia) proposed that, in the first line of subparagraph (a), the phrase "at the national level", as well as the adverb "usefully" in the second line be deleted. Subparagraphs (b) and (c) might be combined in a single paragraph. He did not see the point of subparagraph (d).

Mrs. NOWICKA (Poland), Mr. ZEGARRA ARAUJO (Peru) and Mr. CHAPMAN (Canada) said they supported the Yugoslav representative's proposal for the amendment of subparagraph (a).

Mr. KUSEVIČ (Director, Division of Narcotic Drugs), replying to the Yugoslav representative, said that the provision in subparagraph (d) referred to agencies which hampered international co-operation by the tardiness of their replies.

Mr. NIKOLIČ (Yugoslavia) said that a provision of that kind was improper in an international instrument.

Dr. BABAIAN (Union of Soviet Socialist Republics) said that he too would prefer the deletion of the word "national" in subparagraph (a) and the substitution of some such phrase as "within their jurisdiction"; on the other hand, the square brackets round the words "of which they are members" in subparagraph (c) should be deleted and the words should be kept.

Dr. BÖLCS (Hungary), Mrs. NOWICKA (Poland) and Mr. ZEGARRA-ARAUJO (Peru) said that they too were in favour of the deletion of the square brackets in subparagraph (c).

Mr. STEWART (United Kingdom) said he agreed. With reference to the statement by the representative of ICPO/INTERPOL, he would point out that his was not the only international organization to which article 17 referred. Except for the proviso in the introductory sentence, article 17 had a mandatory character which might present embarrassment for some countries. If, as the representative of ICPO/INTERPOL had stated, co-operation had been instituted between the secretariat of that organization and a number of countries which were not members of it, that was to be welcomed, but it should not be the consequence of a legal obligation.

Dr. MÅRTENS (Sweden) said he agreed.

Mr. JOHNSON-ROMUAID (Togo) said that close co-operation between the Parties was extremely necessary in West Africa because of the purely notional nature of frontiers there. He asked the Secretariat to explain how a Party could inform the competent international organization, in particular the Board, if it suffered as a result of failure to co-operate by a third State.

Mr. KUSEVIČ (Director, Division of Narcotic Drugs) replied that the failure to co-operate might be mentioned in the annual reports that countries would be submitting to the Commission.

Mr. HERRERA ROA (Dominican Republic) suggested that the phrase used in subparagraph (a) should be "in the national domain" rather than "at the national level", so as to include the air space.

Subparagraph (c) should list the competent international organizations referred to.

Mr. BARONA LOBATO (Mexico) said that the words "at the national level" were unnecessary in view of the introductory phrase. However, should the Commission decide not to delete them, the Mexican delegation would accept the text as it stood.

Article 18 (E/CN.7/523/Rev.1, annex IV)

The CHAIRMAN said that members should base their comments on the text of article 36 of the 1961 Convention.

Mr. AUBE (International Criminal Police Organization), speaking at the invitation of the Chairman, said that he had the same comments to make on article 18 as on article 17, in view of the fact that it was a reproduction, adapted to psychotropic substances, of the text of the 1961 Convention, which was perfectly suitable. Nevertheless, ICPO/INTERPOL thought it desirable, as France had indicated in its comments on article 18 (E/CN.7/525), that paragraph 2 (b) should be replaced by the provisions of paragraph 2 of article 44 of the 1961 Convention, which left Parties to the 1936 and 1961 Conventions free to continue to apply article 9 of the 1936 Convention, which was more peremptory than the present paragraph 2 (b) of the draft. ICPO/INTERPOL was in favour of keeping article 9 of the 1936 Convention in force for those countries which wished to make use of it.

Mr. KEMENY (Switzerland) said he supported that proposal. He also proposed that there should be a specific reference to personal use in the list of transactions contained in paragraph 1.

Mr. WATTIES (Office of Legal Affairs) said that the obligation laid down in article 9 of the 1936 Convention applied to the offences listed in article 2 of the said Convention in respect of the narcotic drugs defined in its article 1, namely, the drugs and substances to which the provisions of the 1912, 1925 and 1931 Conventions applied or would apply. The 1936 Convention applied, therefore, to the narcotic drugs covered by the 1912, 1925 and 1931 Conventions. Consequently, a provision comparable to article 44 of the 1961 Convention could only be inserted in the Protocol if some of the substances covered by the Protocol were also covered by the 1912, 1925 and 1931 Conventions, and that was not the case. It was thus pointless to refer to the 1936 Convention.

Dr. MABILEAU (France) said he regretted that it was not possible to give effect to the ICPO/INTERPOL representative's proposal. At least it had the merit of reminding them of the importance of the 1936 Convention, the wording of which had deterred many countries from ratifying it. It might be a good idea to reconsider it and see whether it might not be possible to improve its wording so as to make it acceptable to a larger number of countries.

Mr. ANSAR KHAN (Secretary of the Commission), at the request of the Swedish representative and with the approval of the Chairman, read out a communication from the observer for Finland, who had been unable to attend. It said that, first, in view of the great divergencies between countries in criminal policies and types of criminal sanctions, specific types of sanctions should be recommended only with great caution; moreover, the development which would undoubtedly take place in the area of criminal policy should not be checked by over-rigorously defined obligations as to the type of sanctions. Secondly, there appeared to be an inconsistency between article 16 and article 18 in that the treatment and rehabilitation of addicts provided for in article 16 seemed to be in addition only to the punishment provided for in article 18. It would be greatly preferable if, in some cases at least, the treatment of addicts could be considered as an alternative to punishment, which often had negative side-effects. Such a view was in line with the conclusions of WHO (E/CN.7/525). Consequently, in view of the fact that, in terms of article 18, paragraph 1, as drafted, every addict was by definition a criminal, the following changes should be made in that paragraph: (a) At the end of the paragraph, delete the words "particularly by imprisonment or other penalties of deprivation of liberty"; (b) At the end of the paragraph, add a new sentence to read: "Offences committed by addicts may be controlled alternatively by measures indicated in article 16"; and (c) Replace the words "possession" and "purchase" by "possession for distribution" and "purchase for distribution".

Dr. MÅRTENS (Sweden) said he supported the views of the observer for Finland. The humanization of treatment of delinquents who were also addicts was in perfect accord with Swedish policy. The Parties should be able to apply different treatment according to each case, and have recourse not only to punishment but also to treatment and rehabilitation. His delegation could not, however, support the proposal that the words "particularly by imprisonment or other penalties of deprivation of liberty" should be deleted, since they applied to serious offences. On the other hand, it fully supported the proposal that the sentence suggested by Finland should be added to the end of paragraph 1. In addition, he would draw attention to the fact that

article 4, paragraph 1 (b), whereby the Parties were required not to permit the unauthorized possession of psychotropic substances, was inappropriate in article 4 and could be deleted if, as Finland had proposed, the words "possession for distribution" and "purchase for distribution" were added to article 18, paragraph 1.

Mr. MILLER (United States of America) said that, in principle, he fully supported the Swedish representative's views. Everybody was aware that treatment and rehabilitation gave better results than punitive measures and rendered the fight against drug abuse more effective.

Mr. KUSEVIČ (Director, Division of Narcotic Drugs) said that, in some countries, treatment and rehabilitation meant physical rehabilitation only; it would be better, therefore, to mention social reintegration also.

Dr. MABILEAU (France) said that the term "rehabilitation" was used in the 1961 Convention.

The meeting rose at 12.50 p.m.

SUMMARY RECORD OF THE SIX HUNDRED AND FIFTY-NINTH MEETING

held on Wednesday, 21 January 1970, at 2.35 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/L.311) (continued):

Article 19 (E/CN.7/523/Rev.1, annex IV).

Dr. BABAIAN (Union of Soviet Socialist Republics) requested that the title of article 19 in the Russian version be brought into line with that of the corresponding article in the 1961 Convention.

Article 20 (E/CN.7/523/Rev.1, annex IV)

The CHAIRMAN invited members of the Commission to state their preference between the two alternative texts for the article.

Dr. ALAN (Turkey), Dr. MÅRTENS (Sweden), Mr. CHAPMAN (Canada), Dr. AZARAKHCH (Iran), Dr. EL-HAKIM (United Arab Republic), Mr. MOUJAES (Lebanon), Mr. SOLLERO (Brazil), Mr. KEMENY (Switzerland), Mr. SAGOE (Ghana), Mr. STEWART (United Kingdom) and Dr. MABILEAU (France) said that they preferred the first alternative.

Dr. BABAIAN (Union of Soviet Socialist Republics) said that his delegation preferred the second alternative, because it reproduced the wording of the corresponding article in the 1961 Convention. It should be made clear in the text that the expenses of the two organs in question were to be met from the regular budget of the United Nations.

The CHAIRMAN said there seemed to be almost complete agreement that the wording in the first alternative was the more appropriate.

Dr. BABAIAN (Union of Soviet Socialist Republics) said that, even if the first alternative was approved, the expenses incurred by the United Nations and WHO must be charged to the regular budgets of those organizations. A foot-note to that effect could be included in the draft Protocol.

Sir Harry GREENFIELD (President, International Narcotics Control Board) said he assumed that the Commission would wish to make due provision in the draft for the expenses of the Board.

Mr. WATTLES (Office of Legal Affairs) said that the expenses of the Board were borne by the United Nations, and would therefore be covered by the term "expenses of the United Nations."

Article 21 (E/CN.7/523/Rev.1, annex IV)

The CHAIRMAN said that the Commission had to decide whether the procedure for signature, ratification and accession set out in article 21 was acceptable. It differed from the procedure provided for in the corresponding article (art. 40) of the 1961 Convention, which had been accepted by more than seventy countries.

Dr. BABAIAN (Union of Soviet Socialist Republics) said that the somewhat arbitrary wording of article 40 of the 1961 Convention was no longer satisfactory, because of the changes that had taken place in the world since 1961. His delegation had repeatedly stressed that an individual's safety and health should not depend upon his Government's accession to an international instrument. All States should participate in the regulation of matters affecting mankind as a whole.

In their comments on different articles, many members of the Commission had drawn attention to the need to prepare a generally acceptable draft, since the Protocol would not be an effective instrument of international control unless a large number of countries acceded to it, a point which had been emphasized by the President of the Board. Moreover, a provision enabling all States to become Parties to the Protocol would be in accordance with the spirit of Article 2, paragraph 6, of the Charter of the United Nations. His reasons for proposing the inclusion of such a provision were humanitarian, not political, and he hoped that members of the Commission would adopt the same approach to the question.

Mrs. NOWICKA (Observer for Poland), speaking at the invitation of the Chairman, said that her Government was opposed to a provision which did not enable all States to become Parties to an international instrument of a purely humanitarian character. It had made a reservation to that effect in acceding to the 1961 Convention. She favoured the adoption of an "all-States" formula.

Dr. MABILEAU (France) said that either the wording of the draft or the wording used in article 40 of the 1961 Convention was acceptable to his delegation. The wording was traditional.

Mr. MILLER (United States of America) said that his delegation could accept the wording of article 21 as it stood or, as an alternative, that of article 40 of the 1961 Convention. An "all-States" formula was unworkable, since it could not be left to the Secretary-General to determine what entities were States. The Secretary-General himself had consistently pointed out his inability to implement an "all-States" formula with the guidance only of a deliberative organ. The formula

in article 21 was flexible, allowing the Council to invite any State to become a member, a decision which the Commission could not ask the Secretary-General to make; such a formula had been included in many international conventions, including some prepared by the United Nations.

The Commission was a technical body, and he proposed that it should not take up its valuable time debating the issue but should adopt the traditional formula, as reflected in the present text of the article, leaving further debate to the political organs of the United Nations or to the plenipotentiary conference.

Mr. NIKOLIĆ (Yugoslavia) said that if the Protocol was to be effective, it must be universal in character. It would not be so if article 21 was adopted as it stood.

Dr. BABAIAN (Union of Soviet Socialist Republics) pointed out that the question of difficulties for the Secretary-General had not been raised in connexion with the Treaty Banning Nuclear Weapon Tests in the Atmosphere, in Outer Space and Under Water, the Treary on Principles Governing the Activities of States in the Exploration and Use of Outer Space, including the Moon and other Celestial Bodies, the Agreement on the Rescue of Astronauts, the Return of Astronauts and the Return of Objects Launched into Outer Space, and the Treaty on the Non-Proliferation of Nuclear Weapons, all of which were open to participation by all States. Moreover, as recently as October 1969, the United States of America and the USSR had found it possible jointly to submit to the Conference of the Committee on Disarmament the text of a draft treaty on the prohibition of the emplacement of nuclear weapons and other weapons of mass destruction on the seabed and the ocean floor and in the subsoil thereof, which provided for participation without discrimination. He did not understand why the United States delegation should be prepared to accept a discriminatory formula in the draft Protocol.

Article 21 as it stood would preclude a country like the German Democratic Republic, which produced psychotropic substances on a large scale, from acceding to the Protocol. It would be contrary to the interests of humanity to create such a situation. A new formula had been accepted, and the Commission should not revert to the old one.

Dr. BÖLCS (Hungary) associated himself with the views of the USSR representative.

Dr. DANNER (Federal Republic of Germany), Mr. STEWART (United Kingdom) and Mr. SOLLERO (Brazil) supported the United States proposal.

Mr. WATTLES (Office of Legal Affairs), referring to the "all-States" formula, said the Secretary-General could not undertake to determine in contested cases whether a particular régime or territory was a State; that was a matter for the political organs of the United Nations.

If the present wording of article 21 was adopted, the Council could add to the list of countries described by issuing invitations. No one had ever asked it to invite additional countries to become Parties under article 40 of the 1961 Convention, but its ability so to do was clear.

Dr. MÅRTENS (Sweden) proposed that the decision should be referred to a superior body.

The CHAIRMAN remarked that the Commission already had before it the United States proposal that the text of article 21 should be maintained. In view of the differences of opinion, he thought that that proposal should be put to the vote.

The United States proposal was adopted by 13 votes to 3, with 5 abstentions.

Dr. BABAIAN (Union of Soviet Socialist Republics) said that when the article came to be considered at a higher level, the body concerned should have before it not only the text reproduced in annex IV to the report of the twenty-third session of the Commission, but also the alternative formulations suggested in connexion with the procedure for signature, ratification and accession. The Commission had already allowed other articles to go forward with alternatives for consideration by a superior body.

Mr. MILLER (United States of America) pointed out that the Commission had just approved a particular text. He thought it could best reflect the divergency of views by including a reference to the matter in its report.

Dr. MÅRTENS (Sweden), reverting to his suggestion that the decision on article 21 should be left to a higher body, said that his point would be met by the procedure described by the United States representative.

Dr. MABILEAU (France) said that that procedure was also acceptable to his delegation.

The CHAIRMAN suggested that the Commission should approve the procedure suggested by the United States representative.

It was so decided.

Article 22 (E/CN.7/523/Rev.1, annex IV)

Mr. BARONA LOBATO (Mexico), referring to article 41 of the 1961 Convention, said that when it had been adopted by the United Nations Conference for the Adoption of a Single Convention on Narcotic Durgs, there had been some eighty States Members

of the United Nations. He believed that the present membership was 128. He invited the Commission to consider whether the figure to be inserted in the first line of article 22, paragraph 1, of the Protocol should not reflect a different proportion of United Nations membership from that represented by the corresponding figure in article 41 of the 1961 Convention.

Mr. WATTLES (Office of Legal Affairs) observed that the question of the figures to be inserted in article 22, and also the question whether specific States should be mentioned in the phrase in square brackets, might well be viewed in the light of the number and identity of the States which ought to become Parties to the Protocol in order to ensure that the controls for which it provided were meaningful upon its entry into force.

Dr. MABILEAU (France) stressed the importance of the Commission preparing a protocol which would take effect as quickly as possible, in order to protect countries which had a medical or scientific requirement for the substances whose use it regulated. His delegation therefore considered that the number of States to be mentioned in paragraph 1 should be a reasonable one. It suggested that the precise figure should be left for the plenipotentiary conference to determine. Likewise for reasons of speedy application of the Protocol, and also because it opposed the idea of discrimination between States, his delegation further suggested that the wording in square brackets should be deleted.

Dr. ALAN (Turkey) said that his delegation fully agreed that the Commission should draw up a protocol which would enter into force as quickly as possible. It therefore thought that the figure to be inserted in paragraph 1 should be a small one, and suggested that twenty-five would be appropriate. Turkey supported the suggestion that the words in square brackets should be deleted. The enumeration of particular countries would delay the entry into force of the Protocol, and in any case it would be extremely difficult to decide which States should be mentioned.

Dr. ZEGARRA ARAUJO (Peru) said that the purpose of the Protocol was to remedy a pandemic state of affairs which alarmed the entire world. The Protocol should therefore take effect at the earliest possible date. He endorsed the views expressed by the French and Turkish representatives, and supported the suggestion that the wording in square brackets should be deleted. He thought that all members of the Commission were fully aware of the importance of the Protocol to humanity as a whole.

Mr. ANAND (India) said he agreed that the words in square brackets represented a form of discrimination between States, and should be deleted. With

regard to the number of countries to be specified, a judicious balance had to be struck: if the number was too small the Protocol would have less stature than it should, whereas if it was too large the entry into force of the Protocol would be unduly delayed. His delegation supported the Turkish view on that point and thought that a figure in the region of twenty-five to thirty would be appropriate.

Dr. MÅRTENS (Sweden) endorsed the suggestions made by the representative of France.

Mr. NIKOLIČ (Yugoslavia) agreed with the French suggestion that the figure to be inserted in paragraph 1 should be determined by the plenipotentiary conference.

Dr. BABAIAN (Union of Soviet Socialist Republics) said that his delegation favoured the deletion of the wording in square brackets. It objected to the restrictive connotation of the reference to article 21 if the reference was to the article as reproduced in annex IV to the report of the Commission on its twenty-third session.

Mr. CHAPMAN (Canada) observed that although there was a consensus that the Protocol should take effect as quickly as possible, it would remain a somewhat ineffective instrument until a significant number of countries producing psychotropic substances became Parties to it.

The CHAIRMAN noted that several delegations favoured the deletion of the words in square brackets, and that the French representative had suggested that the decision concerning the figure to be specified in paragraph 1 should be taken by the plenipotentiary conference. Since those seemed to be the wishes of the Commission generally, the Secretariat would be instructed to redraft article 22 accordingly.

Article 23 (E/CN.7/523/Rev.1, annex IV)

Dr. BABAIAN (Union of Soviet Socialist Republics) proposed that article 23 should be deleted, because it conflicted with the Declaration on the Granting of Independence to Colonial Countries and Peoples (General Assembly resolution 1514 (XV) of 14 December 1960) and was incompatible with the Charter of the United Nations. The Declaration was not merely a pious wish but a call for action, and no instrument framed in 1970 -- the year by which it had been said that all colonial peoples should be free - should contain an article contemplating a colonial state of affairs.

Dr. BOLCS (Hungary), Mr. ANAND (India) and Mr. NIKOLIČ (Yugoslavia) supported the Soviet Union proposal.

Mr. STEWART (United Kingdom) said that his delegation strongly opposed the proposal for the deletion of article 23, which corresponded to article 42 of the 1961 Convention. It was well-known that the United Kingdom had responsibilities for

non-metropolitan territories; other countries had similar responsibilities. That was a fact of life which the article recognized. If it was deleted, considerable difficulties would arise for the United Kingdom when it came to consider the question of adherence to the Protocol.

Mr. MILLER (United States of America) and Mr. CHAPMAN (Canada) supported the retention of article 23.

Dr. MABILEAU (France) said that his delegation saw no reason not to include article 23 in the Protocol, and thought the matter could be considered further by the plenipotentiary conference.

Mr. JOHNSON-ROMUALD (Togo) asked the representative of the Office of Legal Affairs to explain the legal implications of article 23.

Mr. WATTLES (Office of Legal Affairs), replying to the Togolese representative and commenting on the view that article 23 conflicted with General Assembly resolution 1514(XV), said that the Declaration on the Granting of Independence to Colonial Countries and Peoples looked forward to a future state of affairs and did not purport in itself to alter the status of dependent territories. Countries still had dependent territories, and article 23 had been included for that reason. Under a rule of international law endorsed by the General Assembly and incorporated in the Vienna Convention on the Law of Treaties, the deletion of article 23 would mean that the Protocol would take effect in all territories for which a Party was responsible immediately that Party became bound by the Protocol. Consequently, the position of non-metropolitan territories moving towards independence or autonomy and entitled to give or withhold consent to treaty relations would not be provided for. As a result, no State responsible for such territories could become a Party to the Protocol until it had taken the necessary legal steps to secure the consent of all its territories to the obligations of the Protocol. That would entail long delays; the inclusion of article 23, by removing the need for such a procedure, would therefore speed the entry into force of the Protocol.

Mr. STEWART (United Kingdom) said it should be borne in mind that some countries - and not only his own - had non-metropolitan territories for the international relations of which they were responsible, sometimes at the request of those same territories. It would be a great pity if, as a result of any vote in the Commission, those territories were deprived of the benefits of the Protocol. He could understand the USSR representative's wish to see all territories become independent, but he must oppose his proposal to use the framing of the draft Protocol for an end completely unconnected with the missuse of psychotropic substances.

Dr. MABILEAU (France) suggested that the entire article might be enclosed in square brackets to indicate that there were still some doubts about it.

Dr. BABAIAN (Union of Soviet Socialist Republics) said he wished his proposal for the deletion of article 23 to be put to the vote.

At the request of the USSR representative, the vote was taken by roll-call.

The United Arab Republic, having been drawn by lot by the Chairman, was called upon to vote first.

In favour: United Arab Republic, Yugoslavia, Ghana, Hungary, India, Mexico, Peru, Union of Soviet Socialist Republics.

Against: United Kingdom of Great Britain and Northern Ireland, United States of America, Brazil, Canada, Federal Republic of Germany, France, Iran, Jamaica, Japan, Lebanon, Pakistan, Sweden, Switzerland, Togo, Turkey.

Abstaining: None

The USSR proposal was rejected by 15 votes to 8.

Mr. WATTLES (Office of Legal Affairs) recalled that, apart from article 23 which had just been adopted, he had been requested by the Commission to draft another article about territories which would be based on the provisions of article 43 of the 1961 Convention. The territories involved were not, of course, the same as those referred to in article 23, but were separate areas that a Party might establish for the purpose of applying certain provisions of the Protocol. The new text would be ready in time for the second reading of article 23.

Article 24 (E/CN.7/523/Rev.1, annex IV)

Dr. ALAN (Turkey), referring to the words "After the expiry of .... years" in paragraph 1, pointed out that article 46 of the 1961 Convention provided for a period of two years. His delegation would prefer article 24 of the Protocol to specify a much longer period.

Dr. BABAIAN (Union of Soviet Socialist Republics) proposed that the words within square brackets in paragraph 1 should be deleted, since they were contrary to the spirit of General Assembly resolution 1514(XV) on the Granting of Independence to Colonial Countries and Peoples.

Mr. STEWART (United Kingdom) asked the representative of the Office of Legal Affairs what, in the light of the Commission's decision on article 23, would be the consequences of deleting those words in article 24.

Mr. WATTLES (Office of Legal Affairs) said that the passage within square brackets in article 24, paragraph 1, was in line with the text of article 23 in that both were designed to recognize the fact that some countries had non-metropolitan territories which were autonomous with respect to their treaty obligations. If the passage was deleted and such a territory wished to cease to be bound by the Protocol, it would be necessary for the metropolitan Power to denounce the Protocol on behalf of all its territories, since it would be precluded from doing so solely on behalf of one territory. The passage had been inserted so that separate action could be taken to give effect to the wishes of any non-metropolitan territory which had competence of its own in treaty matters.

Mr. MILLER (United States of America) said that his delegation considered it imperative that the words within square brackets should be retained.

Dr. MABILEAU (France) said that he supported the position of the United States delegation.

Dr. BABAIAN (Union of Soviet Socialist Republics) said he would not press for a vote on the passage in question, although he still considered it unacceptable.

The CHAIRMAN said that the square brackets in paragraph 1 of article 24 would be removed.

Article 25 (E/CN.7/523/Rev.1, annex IV)

Dr. MABILEAU (France) said that his delegation reserved the right to reconsider the article, since it seemed to represent an innovation with respect to article 47 of the 1961 Convention.

The CHAIRMAN said that the present text of article 25 would be retained provisionally.

Article 26 (E/CN/523/Rev.1, annex IV)

Dr. BABAIAN (Union of Soviet Socialist Republics) proposed that the words "or other means" should be inserted after the words "which is not settled by negotiation," and that the latter part of the article should be reworded as follows: "may, with the agreement of all Parties concerned, be referred to the International Court of Justice."

Dr. MABILEAU (France) said that he would prefer to retain the text as it stood.

Mr. ANAND (India) said that, in general, his delegation thought that disputes should not be automatically referred to the International Court of Justice but should be settled in accordance with Article 33 of the Charter of the United Nations. He asked the USSR representative to submit his proposal in writing.

The CHAIRMAN said that the Commission would reconsider article 26 when the Soviet proposal had been circulated.

Article 27 (E/CN.7/523/Rev.1, annex IV)

Dr. BABAIAN (Union of Soviet Socialist Republics) said that his delegation did not yet consider it possible to adopt any position on article 27, since there were a number of basic articles in the draft Protocol on which the Commission had still not taken a decision.

Mr. MILLER (United States of America) said that his delegation supported the position of the USSR delegation.

Article 28 (E/CN.7/523/Rev.1, annex IV)

Mr. WATTLES (Office of Legal Affairs) said that the article was not strictly necessary, since the Secretary-General already had a well-established practice with regard to notifications which he followed in respect of some 150 treaties of which he was the depositary.

Dr. BABAIAN (Union of Soviet Socialist Republics) said that he reserved his position with respect to article 28 because it contained a reference to article 21.

The meeting rose at 4.40 p.m.