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COMMISSION ON NARCOTIC DRUGS

Third Session

SUMMARY RECORD OF THE FIFTY-SIXTH MEETING

Lake Success, New York
Thursday, 6 May 1948, at 10:30 a.m.

<u>Chairman:</u>	Mr. Stane KRASOVEC	Yugoslavia
<u>Vice-Chairman:</u>	Mr. C. L. HSIA	China
<u>Rapporteur:</u>	Mr. A. KRUYSSSE	Netherlands
<u>Members:</u>	Canada	Colonel C.H.L. SHARMAN
	Egypt	Mohamed Amin ZAKY
	France	Mr. Gaston BOURGOIS
	India	Mr. Gopala MENON
	Iran	Mr. A.G. ARDALAN
	Mexico	Mr. Saturnino GUZMAN
	Poland	Mr. Joseph A. STAWSKI
	Turkey	Mr. Cemal KIPER
	Union of Soviet Socialist Republics	Mr. V.V. ZAKUSOV
	United Kingdom	Mr. Thomas EUTSON
	United States of America	Mr. Harry J. ANSLINGER
<u>Also present:</u>	Mr. Herbert MAY	Chairman of the Permanent Central Board and Vice-Chairman of the Supervisory Body
<u>Secretariat:</u>	Mr. L. STEINIG	Director of the Division of Narcotic Drugs
	Mr. M.V. PASTUCHOV	Secretary of the Commission

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CONTINUATION OF CONSIDERATION OF DRAFT PROTOCOL TO BRING UNDER INTERNATIONAL CONTROL NARCOTIC DRUGS NOT COVERED BY THE 1931 CONVENTION (documents E/CN.7/115/Rev.1 and E/CN.7/115/ADD.1 and Add.2)

The CHAIRMAN presented Part I of the draft Protocol prepared by the Secretariat, containing the preamble and the first three articles. The original draft had been amended in compliance with the comments made by various Governments and the wishes expressed by members of the Commission in the course of the discussion. The Director of the Division of Narcotic Drug would make comments on the draft and the members would be in a position to decide whether the draft could serve as a basis for consultations with their Governments or delegations.

Mr. SUEINIG (Secretariat) recalled that the draft Protocol had been drawn up by the Secretariat in accordance with a decision of the Commission; in its present form it contained a preamble and three articles, amended so as to take into consideration the replies received from Governments and the results of the discussion in the Commission.

In the preamble the words "pharmacology" and "chemistry" had been added on the suggestion of the Netherlands representative, and the words "including their preparations" had been added in accordance with the USSR representative's proposal. In article 1 the words "or its preparations" had been added to make the text correspond with that of the preamble. As a result of the comment submitted by the Philippine Republic the words "any material information" had been inserted in paragraph 1. On the suggestion of the United Kingdom representative, the following phrase had been added: "Any State party to the present Protocol may, on receipt of such notification, communicate any material information in its possession regarding the drug to the Secretary-General of the United Nations who shall transmit it to the Commission on Narcotic Drugs and to the World Health Organization." In

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paragraph 3, the words "the Permanent Central Board and the Supervisory Body" had been added at the suggestion of the Chairman of the Permanent Central Board. Mr. Steinig remarked in that connexion that since the entry into force of the 1931 Convention, the Permanent Central Board had collected statistical data which it had later communicated to the Supervisory Body. The latter was, therefore, not directly concerned in the matter, and if the Permanent Central Board had no objection, the Secretariat thought it preferable to omit the words "and the Supervisory Body".

In article 2, the words "or its preparations" had been added to make the text correspond to that of the preamble, and the words "this decision" had been substituted for "the recommendation", on the joint suggestion of the United Kingdom and the United States delegations. Moreover, the words "to the World Health Organization, the Permanent Central Board and the Supervisory Body" had been added. Mr. Steinig remarked that no decision had been taken on the Canadian proposal to allow notifications to be made in writing; a text dealing with that point might eventually be submitted.

In article 3, the word "recommendations" had been omitted in view of its deletion from article 2.

Colonel SHARMAN (Canada) had two remarks to make in connexion with Mr. Steinig's statement. Firstly, he thought it essential to avoid the possible delay of eleven months between the notification of a new drug and the following session of the Commission. He would be glad to know whether the rules of procedure provided for any measures to eliminate such a delay. Secondly, he pointed out that the word "or" in the phrase "or its preparations" did not seem to him appropriate, especially in article 1(4), and at the end of article 2. Its interpretation might give rise to confusion since it was not clear whether the drug and its preparations should be

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considered together or separately. Colonel Sharman preferred the text of the preamble, reading "including their preparations".

Mr. MAY (Permanent Central Board) supported the Canadian representative's remarks and stated he had wished to make the same observations himself. He pointed out that the Permanent Central Board and the Supervisory Body would be responsible for the implementation of measures taken in respect of the drugs in question. Speaking as a lawyer, he thought that it would be more appropriate to use the phrase "and its preparations".

Mr. STEINIG (Secretariat) observed in reply to the Canadian representative that the precedent for consultations in writing went back to 1933. Members of the Supervisory Body were always consulted by that method when the Body was not in session. the 1931 Convention, however, contained no provision for such procedure. Mr. Steinig thought that the Commission might include a recommendation in the final act of the Protocol to permit members of the Commission to be consulted in writing:

Mr. Steinig then stated that the Secretariat had devoted its whole attention to the drafting of the draft Protocol. In the preamble, the phrase "including their preparations" had been inserted to show that preparations would be placed under international control in the same way as pure drugs. The use of the phrase "and their preparations", especially in article 1, would mean that the preparations were as dangerous as the drug itself. Mr. Steinig thought that the difficulty might be solved by the use of the formula "and/or".

Mr. HUTSON (United Kingdom) wished to raise a subsidiary question. He thought a preparation could have no harmful effect if the percentage of the drug employed was insignificant, as, for instance, a preparation of cocaine containing less than 0.1% of cocaine. In his opinion, the Convention should make some mention of such maximum percentages, below which a
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preparation was harmless. He thought that some formula might be found by which such preparations would in certain cases be exempt from control.

Colonel SHARMAN (Canada) did not share the United Kingdom representative's opinion. He believed that the United States representative would agree with his own views. In his opinion, a Convention should not provide for exceptional cases, since such a method could give rise to serious difficulties. In support of his view, he cited the example of the United States where there was an excessive consumption of paregoric drugs. Those products were bought without a prescription, but they could not be considered harmless. In the United States and Canada special laws had had to be enacted and very serious measures, such as the limitation of stocks issued, were taken in respect of such preparations. Colonel Sharman thought that neither synthetic drugs nor any of their preparations should be exempt from control.

Mr. MAY (Permanent Central Board) stated that Mr. Steinig's remark regarding the Supervisory Body was perfectly correct. The Permanent Central Board initiated the measures and the Supervisory Body acted only on the directives it received. Whatever the decision taken in its respect, the Supervisory Body would accept it without protest.

As regards the use of the words "or" or "and" in the phrase "or its preparations", Mr. May thought that the phrase "or its preparations" should be used in article 1, paragraph 2, and "and its preparations" in the other parts of the text. Mr. May observed that the World Health Organization might easily class a drug under sub-paragraph b and one of its preparations under sub-paragraph a.

/Mr. ANSLINGER

Mr. ANSLINGER (United States of America) supported the Canadian representative on the question of exemptions. Doctors and pharmacists agreed more and more generally that no exemption should be made, particularly in the case of synthetic drugs. He cited the example of "demerol" and "amidone", synthetic drugs for which the United States Government had granted no exemption. In a Convention it was difficult to decide whether a grain of morphine in an ounce of liquid was a preparation suitable for exemption from control. Certain industrialists had, for instance, demanded the exemption of products used against coughs. It was virtually impossible to define the exact percentage of a drug in an ounce of liquid. It was, therefore, preferable to grant no exemptions.

As regards the question of the words "or" and "and", Mr. Anslinger recalled that the Polish representative had remarked in the Sub-Commission that attempts to make excessively precise definitions might lead to unnecessary difficulties. Such had been the result of the introduction of the word "preparation".

Mr. STAWSKI (Poland) supported the United States representative's remark on the introduction of the word "preparations". The members of the Sub-Commission had felt that the widest possible definition of the meaning of the word "drug" should be given. For that reason they had agreed to insert the phrase "including their preparations" in the preamble. No distinction should, however, be made between drugs and their preparations, as was the case in articles 1 and 3 of the draft Protocol. The use of the word "drug" in its widest sense made the subsequent mention of "preparations" unnecessary. The Commission should adhere to the precedent of previous Conventions which confined themselves to the word "drugs".

/Mr. HSLAH

Mr. HSIA (China) did not wish to enter into a detailed discussion on the subject of "drugs" and their "preparations". Following the proposals of the Chairman of the Permanent Central Board in respect of the use of the words "or" and "and", he wished, however, to suggest that the word "and" should be used in article 2, and the word "or" in the other parts of the text. He thought that different conceptions were involved in each article.

Mr. KRUYSSSE (Netherlands) commenting on the remarks of the Canadian and United States representatives, pointed out that the difficulties which apparently arose in those countries in connexion with legislation on drugs did not apply in the majority of European countries. He thought that the Protocol should place national legislatures in a position to grant exemptions where they were considered to be necessary. Mr. Kruysse thought that the word "preparations" should be retained in the text, and hoped that the Commission would agree on a proper wording.

The CHAIRMAN welcomed Mr. Laugier, Assistant Secretary-General in Charge of Social Affairs, who had come to take part in the Commission's work.

Mr. LAUGIER (Assistant Secretary-General) thanked the Chairman for his welcome. He expressed his appreciation for the work which the Commission had accomplished thanks to the high competence of its Chairman and its members.

Mr. MENON (India) thought that a separate article should be devoted to a general definition of the term "drug". Once that was done, no further difficulties of a legal nature would arise.

/Mr. ZAKUSOV

Mr. ZAKUSOV (Union of Soviet Socialist Republics) said it was regrettable that so simple a notion as that of "drug" (the corresponding term used in the Russian text of the document examined also meant "medicament" in French) had become so obscure as to necessitate a long debate.

However, since it seemed that there remained difficulties as regards the interpretation of the text, Mr. Zakusov suggested adding to the word "drugs" in the preamble to the draft Protocol the words "or their compounds" which was a current term both in chemistry and therapeutics. Since it was clearly indicated in the preamble that the word "drug" applied not only to the pure substance in question but also to its compounds, there was no need to mention the latter again in the draft Protocol itself.

The USSR representative did not share the opinion of the United Kingdom representative that certain toxic substances could cease to be harmful when used in small amounts in the compounding of medicaments. He felt that if a drug addict could not obtain his favourite drug he would fall back on its by-products. It would be dangerous, therefore, to provide in the draft Protocol for any tolerance as regards the control of drugs, whatever the amount involved.

Mr. BOURGOIS (France) pointed out to the Commission that when the question arose of defining what synthetic compounds should be regarded as dangerous drugs, the World Health Organization would have to express its opinion not only on the drugs and preparations covered by articles 1 and 2 of the draft Protocol but also on the percentage of drugs used in the compounding of drugs covered by these articles. Mr. Bourgois quoted analogous provisions of the 1931 Convention to support his point.

Mr. STEINIG (Secretariat) replied to the previous two speakers.

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He thought that the word which the USSR representative had suggested adding in the Preamble could be translated into English by "compound" and into French by "compositions" and pointed out that both these terms were used in paragraph 2 (b) of article 13 of the 1931 Convention.

He proposed, subject to approval by the USSR representative, that the Preamble should mention only "drugs including their preparations and compounds containing these drugs".

He thought the remarks made by Mr. Bourgois referred rather to the 1925 Convention. Article 1 of the 1931 Convention defined morphine, including preparations made directly from raw or medicinal opium and containing more than 20 per cent of morphine, as a drug, while article 4 of the 1925 Convention listed all preparations which could be exempted.

Mr. ARDALAN (Iran) dealt with line 2 of article 1 of the Secretariat's draft. He advocated using, after the word "used", the conjunction "and" rather than "or", because "and" did not imply, as was the case with "or", the possible elimination of one of the elements of an enumeration. Together with Mr. Sharman and Mr. May he was strongly opposed to any exemption.

To dispel any misunderstanding Mr. HUTSON (United Kingdom) made it clear that he had in fact proposed no exemption at all. He only wanted the World Health Organization and the Commission on Narcotic Drugs to ascertain whether some of the recently invented synthetic drugs could be considered as not harmful. The power of authorization could be reserved for the World Health Organization or the Commission on Narcotic Drugs.

The CHAIRMAN said the discussion had shown the existence of strong opposition to any exemption provisions. He proposed that the Secretariat

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and the representative of Poland should put their proposals in writing and the Commission could examine them on the following Monday.

Colonel SHARMAN (Canada) was in favour of an immediate decision. Moreover, he recalled that he had suggested to refer to preparations only in the Preamble, and to delete that reference elsewhere.

Mr. ZAKY (Egypt) strongly supported the proposal of the Canadian representative. The readers of the future Convention, all of whom were specialists, would make no mistake: they would know, after reading the Preamble, that the word "drug" meant the drug itself and its preparations.

The CHAIRMAN asked the representatives of Egypt and Canada if they agreed with the following wording of the second paragraph of the Preamble: "to place these drugs, including their preparations and the compounds containing these drugs, under control..." The words following after the word "drug" would not be included in the Protocol itself.

Mr. ZAKY (Egypt) and Mr. SHARMAN (Canada) agreed.

Mr. KRUYSSSE (Netherlands) said the question was one of finding a definition for the word "drug" and clarifying what it meant. The World Health Organization could be asked to provide such a definition and, if need be, to decide on exemptions.

He concluded his statement by expressing support for the Canadian proposal.

Mr. MENON (India) asked the representative of the Secretariat whether his services had consulted the Legal Department. Since it was a legal text, it should be couched in such a way as to preclude any difficulties in its application.

/Mr. STEINIG

Mr. STEINIG (Secretariat) replied that that had not been done. He pointed out, however, that the experience of previous Conventions made it possible to consider that the proposal put forward by the Canadian representative would be sufficient to include all the cases which might possibly arise before the World Health Organization.

The CHAIRMAN put the proposal of the Canadian representative to the vote.

The proposal was unanimously adopted.

The CHAIRMAN drew the attention of the Commission to the expression "any material information" inserted in the first paragraph of article 1 after the words "such notification". He felt that that expression was somewhat ambiguous. To make the text clearer, it was sufficient to add to the above expression the words "in its possession" which could be found a few lines farther in the sentence added at the request of the United Kingdom delegation.

Mr. ZAKY (Egypt) felt that the word "may" in the first line of the second part of the first paragraph of the same article, added at the request of the United Kingdom, was too weak. That verb seemed to imply that the communication of the information in their possession was not an obligation for the various States parties to the Protocol. Yet, the whole aim of the Protocol was to appeal to the spirit of international co-operation. Consequently, the most appropriate expression would be "is invited".

Colonel SHARMAN (Canada) suggested using the verb "should" which was just as explicit but less imperative than the verb "is invited".

After an exchange of views, Colonel SHARMAN agreed with Mr. Zaky as regards the choice of the verb to be used.

/Mr. ANSLINGER

Mr. ANSLINGER (United States of America) suggested to change the part in question into a recommendation which would be included in the Final Act. The sentence in question would begin with the words: "It is recommended that any State party...communicate",

The United States representative also proposed to add at the end of the same sentence, after the words "World Health Organization" the words "as well as to the States signatories."

Mr. STEINIG (Secretariat) made it clear that the aim of the amendment in question was to facilitate the task of the Secretariat and of the World Health Organization. Indeed, some Governments might not wish to comply with the requests for information.

Colonel SHARMAN (Canada) thought that in certain circumstances it would be not only advisable but useful to forward the information in question to the other signatories of the convention; drugs were manufactured under different names according to the country and all States concerned should be able to learn those names.

The CHAIRMAN put to the vote the proposal for inserting the last sentence of article 1 into the Final Act.

The proposal was adopted by seven votes to three, with four abstentions.

Mr. STEINIG (Secretariat) stated that if the draft Protocol were submitted for ratification in accordance with the usual procedure, a Final Act would be drawn up. Should the draft Protocol be submitted to the General Assembly for approval, it would be necessary to draft a recommendation, which amounted to the same.

The CHAIRMAN put to the vote the amended text of the sentence in question.

The text was adopted by eleven votes to none, with three abstentions.

The meeting rose at 1.10 p.m.