



**United Nations Conference  
for the adoption of a  
Protocol on Psychotropic  
Substances**

**Vienna — 11 January - 19 February 1971**

**Official Records**

**Volume II:**

**Summary records of plenary meetings**

**Minutes of the meetings of the  
General Committee and the  
Committee on Control Measures**



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## INTRODUCTORY NOTE

The *Official Records of the United Nations Conference for the adoption of a Protocol on Psychotropic Substances* are published in two volumes.

Volume I (E/CONF.58/7) contains the preliminary (organizational) and the concluding (Final Act, resolutions, etc.) documents of the Conference, the texts of the revised draft Protocol on Psychotropic Substances and the 1971 Convention on Psychotropic Substances, and a record of the work of the Conference leading up to the adoption of the Convention, set out article by article. The volume also contains a complete list of the documents of the Conference.

Volume II (E/CONF.58/7/Add.1) contains the summary records of the plenary meetings of the Conference and the minutes of the meetings of the General Committee and the Committee on Control Measures, incorporating the corrections requested by delegations and any other editorial changes.

\* \* \*

In the present publication, references to "China" and to the "representative(s) of China" are to be understood in the light of General Assembly resolution 2758 (XXVI) of 25 October 1971. By that resolution, the General Assembly *inter alia* decided:

"To restore all its rights to the People's Republic of China and to recognize the representatives of its Government as the only legitimate representatives of China to the United Nations, and to expel forthwith the representatives of Chiang Kai-shek from the place which they unlawfully occupy at the United Nations and in all the organizations related to it."

\* \* \*

Symbols of United Nations documents are composed of capital letters combined with figures. Mention of such a symbol indicates a reference to a United Nations document.

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## **ABBREVIATIONS**

<b>GATT</b>	<b>General Agreement on Tariffs and Trade</b>
<b>ICPO/INTERPOL</b>	<b>International Criminal Police Organization</b>
<b>INCB</b>	<b>International Narcotics Control Board</b>
<b>PCNB</b>	<b>Permanent Central Narcotics Board</b>
<b>UNESCO</b>	<b>United Nations Educational, Scientific and Cultural Organization</b>
<b>WHO</b>	<b>World Health Organization</b>



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## SUMMARY RECORDS OF PLENARY MEETINGS

### FIRST PLENARY MEETING

*Monday, 11 January 1971, at 11.15 a.m.*

*Acting President:* M<sup>r</sup>. WINSPEARE GUICCIARDI  
(Under Secretary-General, Director-General of the  
United Nations Office at Geneva, representing the  
Secretary-General of the United Nations)

*later:*

*President:* Mr. NETTEL (Austria)

#### AGENDA ITEM 1

##### Opening of the Conference

1. The ACTING PRESIDENT declared open the United Nations Conference for the Adoption of a Protocol on Psychotropic Substances, and welcomed His Excellency Mr. Franz Jonas, Federal President of the Republic of Austria.

2. On behalf of the Secretary-General of the United Nations, he thanked the Government of Austria for inviting the Conference and making it possible for it to be held in Vienna. That beautiful city had been the meeting place of many congresses and conferences which had made history, and some of them had developed and codified international law in many fields. It was thus in complete harmony with the past and present role of Vienna that the Conference should also be meeting amid the elegant and majestic surroundings of the Hofburg.

3. Everyone was aware that Austria was one of those fortunate few countries where the drug problem had not assumed serious proportions, but there was no immunity against that social disease. All countries, whatever their present situation, had agreed that measures must be taken to contain the problem and to reduce its dimensions; otherwise, the scourge could spread rapidly and cause untold harm and misery.

4. Following a series of treaties drawn up at The Hague and Geneva, and in Paris and New York, the international community already had had at its disposal a framework of treaties providing the essential elements for co-operation among States with the object of ensuring that the use of narcotic drugs was restricted to use for medical and scientific purposes.

5. In addition, less than a month previously, the United Nations General Assembly had endorsed the establishment of the United Nations Fund for Drug-abuse Control (resolution 2719 (XXV) of 15 December 1970). That Fund, which was being set up by the Secretary-General would provide the means to take both immediate and

long-term concerted action against the drug problem as a whole, embracing both the narcotic drugs and the psychotropic substances, which were the subject of the present Conference.

6. In the last decade-and-a-half, some psychotropic substances—stimulants, depressants of the central nervous system and hallucinogens—which were not covered by those international treaties, had begun to take on an increasingly menacing aspect in the field of drug abuse. Much work and thought had been devoted to that problem during the past few years, in the United Nations Commission on Narcotic Drugs, the Economic and Social Council and the World Health Organization (WHO), but all the evidence had shown that recommendations to apply controls, which had been repeatedly issued, had not been having full effect. Thus, it had become necessary to consider treaty arrangements whereby an essential degree of control would be applied by all countries. The revised draft Protocol on Psychotropic Substances before the Conference<sup>1</sup> was the result of the search for the most suitable legal instrument to govern international collaboration in control to that end.

7. Treaties of themselves did not resolve a problem. It was only too apparent that the treaties on narcotic drugs, which had been replaced, by and large, by the 1961 Single Convention on Narcotic Drugs,<sup>2</sup> and which had been generally accepted by a large number of States, had not *per se* solved the problem of drug abuse and illicit trafficking, but experience of international life had made it clear that without those treaties and without the international co-operation which they had generated, the situation would have been catastrophic.

8. The draft Protocol must also be seen in the light of its basic practical use, though of course it could not by itself create a situation where all would be perfect.

9. One of the essentials in the functioning of treaties was that they should be applied conscientiously and effectively by the States which were parties to them, and it was also necessary that as many States as possible should be parties. Those were obvious and indispensable desiderata, and they had to be sought within the area of what was politically feasible. A treaty was an agreement among States, and any conclusions reached must always reflect the difficulties of arriving at an agreed compromise among parties whose interests and approach were not always the same.

10. It would seem, therefore, that those who sought a watertight scheme of control must realize that its very

<sup>1</sup> *Official Records of the Economic and Social Council, Forty-eighth Session, Supplement No. 8 (E/4785), chap. III.*

<sup>2</sup> *See Official Records of the United Nations Conference for the adoption of a Single Convention on Narcotic Drugs, vol. II (E/CONF. 34/24/Add.1) (United Nations publication, Sales No.: 63.XI.5), p. 300.*

rigidity would make it impossible for it to be applied universally with any hope of success.

11. On the other hand, those who wished to follow a pragmatic course with too much flexibility would produce a situation no better than that which prevailed at the moment and was, in fact, so unsatisfactory as to have warranted the convening of the Conference.

12. In steering a middle course, it was to be hoped the Conference would produce a Protocol containing provisions that would find wide acceptance by a large majority of States, because only then would the Protocol stand any chance of being applied on a global basis; lacking that chance, it might well prove to be a dead letter.

13. Following the preliminary work in the Commission on Narcotic Drugs, it would seem that the draft Protocol did in fact contain the essential elements of control. It was now for the Conference to improve the draft by making the controls more secure, and at the same time making their application more realistic.

14. Experience in the control of narcotic drugs had shown that one of the prerequisites for success was the availability of information regarding the quantities of drugs and the uses to which they were put. That information, whether in the form of statistics or reports, was centralized by the international organizations, i.e. the United Nations and the International Narcotics Control Board. But the character of psychotropic substances was such—and the draft Protocol recognized that—that information in respect of all substances did not need to be the same in every case. Some information in respect of all of them, however, must be obtained.

15. One of the tasks of the Conference would be to examine the psychotropic substances with great care in order to arrive at a correct and realistic apportionment of statistical and reporting obligations by the parties in respect of each one of them. Therein lay an important safeguard which, objectively applied by the international bodies, would ensure that the interests of all parties were protected.

16. The Conference was being held at a time when the international community was determined to tackle the drug Problem on a world-wide scale. The provisions in the draft Protocol to fight drug abuse and illicit trade would be supplemented by the comprehensive programme which the United Nations was now putting into operation, and it was hoped that the Conference would likewise recommend Governments to implement the Protocol even before its entry into force. That would both improve the present situation and facilitate eventual ratification of, or accession to, the new treaty.

17. On behalf of the Secretary-General, he wished the Conference every success and would like to assure the participants that they could count upon the Secretariat to give every assistance in the hard work that lay ahead of them during the coming weeks.

18. H.E. Mr. Franz JONAS (Federal President of the Republic of Austria) expressed his pleasure in welcoming to Austria an international Conference to which

all the States members of the Economic and Social Council of the United Nations had been invited.

19. The Conference had an important and urgent task to fulfil. The steadily growing misuse of narcotic drugs confronted many States with serious medical and social problems. A few years previously, Austria had been able to consider itself lucky to be one of the countries in which drugs had been abused only on a small scale. Above all, there had been no young people among the addicts. Unfortunately, there had in recent years been a vast increase in narcotics abuse by the young. At the same time, the number of punishable offences in connexion with the procurement of drugs had risen sharply.

20. The Austrian authorities could not ignore those developments. The Ministry of Education was at that moment preparing a comprehensive campaign of enlightenment which would aim particularly at securing the co-operation, in an appropriate form, of young people in training schools and institutes of general education.

21. With the 1961 Single Convention on Narcotic Drugs, the United Nations had placed the spread of narcotic drugs, and above all their misuse, under effective control. Unfortunately, constantly increasing numbers of other substances were also being misused. They were the so-called psychotropic substances, indulgence in which caused damage to health similar to that caused by the traditional drugs. The international illicit traffic in drugs exploited curiosity and inexperience, especially among the young, and injury to health was the inevitable result. The people as a whole had to bear the consequences.

22. That was not the first time that the results of scientific research had led to consequences other than those initially envisaged. Discoveries which, in the hands of experienced and responsible specialists, could be used for the benefit of man, were being unscrupulously misused by greedy and irresponsible speculators. That development filled all States with great concern, and Austria was firmly resolved to apply appropriate measures for combating the causes and effects. Not only must there be measures for the treatment and rehabilitation of addicts, but the further spread of abuse must be prevented. That end would best be achieved by enlightening those in jeopardy and by strictly controlling the trade in such substances.

23. The 1961 Single Convention had proved a useful instrument in combating the misuse of narcotic drugs. Clearly, therefore, the same method could be employed in combating the widespread abuse of psychotropic substances, and in confining their application to medical and scientific uses.

24. The United Nations Commission on Narcotic Drugs had prepared a draft international convention on those substances, to be known as the "Protocol on Psychotropic Substances". The draft of that comprehensive work of treaty-making, which was placed before the Conference for its consideration and approval, presented the participants with a responsible task. In conducting their deliberations, they would constantly have in mind the health of their peoples, and especially

of youth, which should be protected against modern civilization's many hazards.

25. On behalf of the Austrian people, he cordially welcomed the assembled representatives to the United Nations Conference for the Adoption of a Protocol on Psychotropic Substances. Austria was always happy to be chosen as a place of international meetings and deliberations, and he found it gratifying that neutral Austria's readiness to serve in promoting international understanding was recognized by the world forum of the United Nations. He hoped that the serious business of the Conference would not prevent the participants from spending some interesting and enriching weeks in his country and its capital, Vienna, where they would find that they were the guests of an industrious and open-minded people.

26. He wished the participants full success in their efforts and trusted that their work would help to preserve the nations from a great danger. Many would be those who would have cause to be grateful to them in the future.

27. The ACTING PRESIDENT thanked the Federal President of the Republic of Austria for his extremely interesting address.

*The Federal President of the Republic of Austria withdrew.*

*The meeting was suspended at 11.40 a.m. and resumed at 11.45 a.m.*

## AGENDA ITEM 2

### Election of the President

28. The ACTING PRESIDENT called for nominations for the office of President.

29. Mr. BEEDLE (United Kingdom), speaking on behalf of his own delegation and many others, wished to thank the Austrian Government for acting as host to the Conference and for enabling it to meet at Vienna in an historic and magnificent setting which could not but favour the successful completion of its work. He proposed Mr. Erik Nettel, Doctor of Law of the University of Vienna, as President; Mr. Nettel, who had great experience in questions of international law and had represented his country at many international conferences, was an ideal candidate for the office of Conference President. In 1968, he had chaired the Third Committee of the United Nations General Assembly with great success and would undoubtedly make a valuable contribution to the Conference.

30. Mr. WECKMANN MUÑOZ (Mexico), Dr. BABAIAN (Union of Soviet Socialist Republics), Dr. DANNER (Federal Republic of Germany), Mr. INGERSOLL (United States of America) and Dr. MABILEAU (France) supported the nomination.

*Mr. Nettel (Austria) was elected President by acclamation and took the Chair.*

31. The PRESIDENT thanked the Conference for the honour it had shown him and his country. He spoke of the remarkable developments in modern drug therapy and of the reverse of the coin, namely, the spectacular increase in drug abuse. In modern society, anxiety,

insomnia and other manifestations of tension were widespread. The number of persons who took drugs such as tranquillizers, stimulants or other psychotropic substances of their own accord was steadily rising. Moreover, society seemed increasingly to allow that practice, with the result that a new and most dangerous situation arose. For the fact was, as experience had shown, that it was extremely difficult to combat the use for non-therapeutic purposes of narcotic drugs such as opium where that use was recognized by society, as had been the case in some Asian countries. Governments and the international community had had to make unceasing and systematic efforts to change society's attitude towards opium and its alkaloids, and would have to go on doing so. Although it was very difficult to evaluate the results of the international control of narcotic drugs, none could deny that national and international control measures had significantly helped to limit opium abuse. The restrictions imposed on morphine and other opium derivatives had not caused the medical profession much difficulty in most countries.

32. The repression of drug abuse was absolutely dependent on co-operation between the countries which were parties to the international treaties, but the situation had now become more complicated by reason of the abuse of psychotropic substances; unlike narcotic drugs, they were not subject to international control, and the misuse of them was developing to an ever more alarming degree.

33. He then described the harmful and dangerous effects of hallucinogens, such as LSD, for which no therapeutic use had yet been found.

34. However, two other categories of scientific substances, stimulants and depressants of the central nervous system, had extensive therapeutic uses. The most important of those drugs were the barbiturates. Since they were used in large quantities therapeutically, it was much more difficult to evaluate their abuse than that of narcotic drugs. In some countries, they accounted for nearly 30 per cent of the drugs prescribed by physicians. Barbiturates could be regarded as unharmed drugs when used in small doses under medical supervision, but often their use was not confined to cases of therapeutic necessity. Such an absence of control over dependence-producing substances open to wide abuse was a source of great danger to individuals, to public health and to society.

35. The number of persons who abused amphetamines, generally young people or young adults, had increased alarmingly. Inveterate drug addicts often took them intravenously and they were also taken orally mixed with barbiturates.

36. Hallucinogens such as LSD were very dangerous substances; they had considerable pharmacological effects and should be used solely for research.

37. The abuse of certain very useful drugs such as soporifics, sedatives, tranquillizers and stimulants had led to public health and social problems in some countries. Methods had to be found to prevent the abuse of those drugs, which played a highly important and useful role in therapy.

38. Governments were fully alive to the dangers which the abuse of those drugs could provoke. The Commission on Narcotic Drugs had prepared a new draft international Protocol providing for the control of such substances. The variety of control measures prescribed had to reflect both the variety of substances listed in the schedules and the multiplicity of problems raised by their use. The Conference had that draft Protocol before it to form the basis of its work, and the Commission, the Secretary-General and his staff deserved thanks for the work done in preparing that material.

39. However, much remained to be done to transform the draft text into an international instrument of general scope. It was his hope that the Conference would meet the expectations of all those who had entrusted it with that weighty task.

The meeting rose at 12.25 p.m.

## SECOND PLENARY MEETING

Monday, 11 January 1971, at 4 p.m.

President: Mr. NETTEL (Austria)

### AGENDA ITEM 3

#### Adoption of the agenda (E/CONF.58/3/Rev.1)

*The provisional agenda (E/CONF.58/3/Rev.1) was adopted.*

### AGENDA ITEM 4

#### Adoption of the rules of procedure (E/CONF.58/1 and Corr.1 and 3)

1. The PRESIDENT invited the Conference to consider the provisional rules of procedure prepared by the Secretariat (E/CONF.58/1 and Corr.1 and 3).

2. Mr. ANAND (India) noted that, under rule 5, provision was made for twenty-one Vice-Presidents. That figure was based on the corresponding rule in the rules of procedure of the General Assembly, which applied to a body with a membership of over 120. Since the number of participants in the present Conference was less than half that figure, he proposed that the words "twenty-one Vice-Presidents" in rule 5 should be replaced by the words "eleven Vice-Presidents".

3. For the same reason, he proposed that the second sentence of rule 19, which in its present form provided that the Committee on Control Measures would consist of "all members of the General Committee and at least thirty other representatives of participating States, without excluding any other representative who wishes to take part in its work", should be reworded to read: "The Committee on Control Measures shall include any

delegation that wishes to take part in its work and so notifies the Executive Secretary".

4. The PRESIDENT suggested that the Conference should adopt the provisional rules of procedure with the two amendments proposed by the representative of India.

*It was so agreed.*

### AGENDA ITEM 5

#### Election of Vice-Presidents

5. The PRESIDENT said that, under rule 5 of the rules of procedure, as just amended, the Conference was called upon to elect eleven Vice-Presidents.

6. As a result of informal consultations, it had been proposed that a representative of each of the following eleven delegations should be elected as Vice-Presidents: Brazil, Ghana, India, Japan, Mexico, Togo, Turkey, the Union of Soviet Socialist Republics, the United Arab Republic, the United Kingdom of Great Britain and Northern Ireland and the United States of America.

*That proposal was adopted.*

### AGENDA ITEM 6

#### Appointment of the Technical Committee

7. The PRESIDENT said that, as a result of informal consultations, it had been proposed that the Technical Committee to be appointed under rule 18 of the rules of procedure should consist of the following twenty-one States: Australia, Austria, Belgium, the Byelorussian Soviet Socialist Republic, Canada, the Federal Republic of Germany, France, Hungary, India, Japan, Mexico, the Netherlands, Poland, Sweden, Switzerland, Togo, Turkey, the Union of Soviet Socialist Republics, the United Kingdom of Great Britain and Northern Ireland, the United States of America and Yugoslavia. Since then, a request for membership of the Technical Committee had been received from the delegation of the United Arab Republic.

8. Mr. ANAND (India) said he supported the United Arab Republic delegation's request.

9. Dr. BABAIAN (Union of Soviet Socialist Republics) and Mr. MANSOUR (Lebanon) said they too were in favour of the request.

10. Dr. HOLZ (Venezuela), supporting the request, asked that Venezuela should also be made a member of the Technical Committee.

11. Dr. MABILEAU (France) said that both requests were acceptable to him.

12. Dr. ALAN (Turkey) said that he too supported both requests; the addition of those two countries as members of the Committee would make the Committee more representative geographically.

13. Mr. MIRANDA HERNANDEZ (Spain) requested that his country should also be included in the membership of the Technical Committee.

14. The PRESIDENT suggested that the Technical Committee should be composed of the following States:

Australia, Austria, Belgium, the Byelorussian Soviet Socialist Republic, Canada, the Federal Republic of Germany, France, Hungary, India, Japan, Mexico, the Netherlands, Poland, Spain, Sweden, Switzerland, Togo, Turkey, the Union of Soviet Socialist Republics, the United Arab Republic, the United Kingdom of Great Britain and Northern Ireland, the United States of America, Venezuela and Yugoslavia.

*It was so agreed.*

#### AGENDA ITEM 7

##### Appointment of the Committee on Control Measures

15. The PRESIDENT said that, under rule 19 of the rules of procedure, as just amended, membership of the Committee on Control Measures was open to any delegation participating in the Conference, provided that it notified the Executive Secretary.

16. He therefore suggested that any delegation wishing to take part in the work of the Committee on Control Measures should notify the Executive Secretary immediately after the meeting.

*It was so agreed.*

#### AGENDA ITEM 8

##### Appointment of the Drafting Committee

17. The PRESIDENT drew attention to rule 17 of the rules of procedure, which called for the appointment of a Drafting Committee consisting of fifteen members. Informal consultations had been held which had taken into account, in particular, the need to cover the various languages, and he accordingly suggested that the Drafting Committee should consist of the following States: Canada, China,\* France, India, Iran, Mexico, Poland, Spain, Tunisia, the Union of Soviet Socialist Republics, the United Arab Republic, the United Kingdom of Great Britain and Northern Ireland, the United States of America, Venezuela and Yugoslavia.

18. Dr. BABAIAN (Union of Soviet Socialist Republics), speaking on a point of order, pointed out the illegality of the participation in the work of the Conference of the representatives of Chiang Kai-shek, and stated that only a delegation appointed by the Government of the People's Republic of China could represent China.

19. Dr. WIENIAWSKI (Poland) associated himself with that statement.

20. His delegation regretted that, because of its small size, it would not be able to accept membership of the Drafting Committee.

21. Mr. NIKOLIĆ (Yugoslavia) said that he too wished to stress that China should be represented at the Conference by a representative of the People's Republic of China.

22. Dr. BÖLCS (Hungary) also supported the USSR representative.

23. Mr. OVTCHAROV (Bulgaria) associated himself with the statements made by the representatives of the USSR, Poland, Yugoslavia and Hungary.

24. Mr. SERRANO FERNANDEZ (Chile) said that his delegation would welcome the participation of the People's Republic of China in the Conference.

25. Mr. INGERSOLL (United States of America) pointed out that the Conference had limited terms of reference; it was not qualified to pass a verdict on a complex and highly political issue such as that of the representation of China.

26. Dr. MABILEAU (France) said that in the opinion of his Government the seat of China should be occupied by a representative of the People's Republic of China and not by a representative from Taipei.

27. The PRESIDENT said that the statements just made would form part of the records of the Conference.

28. Since the Polish delegation was unable to participate in the work of the Drafting Committee, he would now suggest that that Committee should consist of the following fifteen countries: Canada, China,\*\* France, India, Iran, Mexico, Spain, Tunisia, the Ukrainian Soviet Socialist Republic, the Union of Soviet Socialist Republics, the United Arab Republic, the United Kingdom of Great Britain and Northern Ireland, the United States of America, Venezuela and Yugoslavia.

*It was so agreed.*

The meeting rose at 5 p.m.

### THIRD PLENARY MEETING

*Tuesday, 12 January 1971, at 11.20 a.m.*

*President: Mr. NETTEL (Austria)*

#### AGENDA ITEM 10

##### Organization of work (E/CONF.58/2/Rev.1)

1. The PRESIDENT informed the participants that the General Committee had that morning devoted its first meeting to the organization of the Conference's work. It had had before it the note by the Secretary-General on the organization of the work of the Conference and the time-table (E/CONF.58/2/Rev.1).

2. The General Committee had decided to propose that the Conference should adhere very closely to what was laid down in the note by the Secretary-General, on the understanding that changes might be made to the programme if circumstances so required.

*The proposal of the General Committee was adopted.*

#### AGENDA ITEM 6

##### Appointment of the Technical Committee (continued)

3. The PRESIDENT announced that the delegation of Argentina, which was now complete, had informed the

\* See introductory note.

\*\* See introductory note.



Bureau that it wished to become a member of the Technical Committee. He suggested that that request should be accepted.

*It was so agreed.*

#### AGENDA ITEM 11

#### Consideration of the revised draft Protocol on Psychotropic Substances adopted by the Commission on Narcotic Drugs, in accordance with Economic and Social Council resolution 1474 (XLVIII) of 24 March 1970

(E/4785, chap. III)

#### GENERAL STATEMENTS

4. Mr. SHEEN (Australia) said that the gathering at Vienna of so many eminent experts testified to the fact that the world was well aware of the danger caused by the improper use of psychotropic substances and was determined to combat it. The provisions of the Protocol regulating the distribution and use of those substances should be such that they could be applied universally. Due regard should therefore be paid to the circumstances of all States which might become parties to that instrument.
5. It was equally important that the participating countries should remain free to apply more rigid controls than those contained in the Protocol itself. Australia had already taken action with regard to certain central-nervous-system stimulants by the use of a computerized system of monitoring all licit transactions in narcotic drugs. Any diversion into illicit traffic could by that means be detected immediately. The composition of the schedules to be annexed to the Protocol was also of paramount importance. Lastly, Australia believed that new and potentially dangerous substances would give rise to a problem as serious as the problems of the drugs to be placed under control as soon as the Protocol came into force.
6. Mr. CHAPMAN (Canada) said that the non-medical use of drugs, especially by the young, in Canada had been a problem of increasing gravity for several years. The Canadian Government had therefore set up a commission of inquiry into the non-medical use of drugs in May 1969. The commission's terms of reference were very broad and provided authority, among other things: (a) to marshal the present fund of data and knowledge concerning the non-medical use of psychotropic substances; (b) to report on the present state of medical knowledge concerning the effects of those drugs and substances; (c) to study, and report on, the motivations for the non-medical use of those drugs; (d) to study, and report on, the social, economic, educational and philosophical features of the non-medical use of those substances, and, in particular, the extent of use, the age-groups of the persons concerned and problems of communication; and (e) to see what measures the Canadian Government might take, at all levels, either alone or together with other Governments, to reduce the difficulties arising from the non-medical use of drugs.
7. The commission of inquiry had submitted an interim report, and its final report would be available at the end of May 1971, but the Canadian Government had already taken steps towards solving the problem and had established a co-ordinated national programme consisting of four points: (a) research to achieve a better understanding of the causes and consequences of the non-medical use and the misuse of drugs; (b) a national information programme on the psychotropic substances liable to misuse, addressed to the various population groups in Canada; (c) special services to supplement the established services in the priority areas of crisis intervention, rehabilitation and prevention; and (d) an expansion of the existing service responsible for diagnosing the misuse of psychotropic substances.
8. The Canadian Government recognized the need for international control measures as well as national measures; and he agreed with the representative of the Secretary-General that, to be effective, an international protocol on psychotropic substances must be applied conscientiously and effectively by the States parties to it. Furthermore, it was essential that as many States as possible should become parties to such a protocol. First of all, then, the control measures proposed should make the Protocol an effective instrument in regulating and, if necessary, prohibiting the licit trade in the psychotropic substances covered by it and for reducing so far as possible the illicit traffic in those substances; and, secondly, the instrument should be flexible enough to be widely acceptable, provided that flexibility did not mean permissiveness. Lastly, as conditions differed from country to country, and a substance might be abused in one country but not in another, the future Protocol must enable a country to impose, in addition to the essential international control measures, any national restrictions which it might find appropriate for the protection of public health and welfare.
9. Dr. REXED (Sweden) observed that the reason for the meeting of the Conference was the ever-growing misuse of psychotropic substances in recent years. An investigation by the European Regional Office of WHO had shown that the situation in several countries which had formerly been free from the misuse of drugs was now growing worse. That was true of the Scandinavian countries, for example. In those circumstances, national legislation no longer seemed adequate for the protection of the population, and it was essential to set up a system of international co-operation.
10. The draft Protocol was a striking innovation compared with the 1961 Single Convention on Narcotic Drugs, for whereas the Single Convention had dealt mainly with substances derived from natural products originating in developing countries, and some of those countries had had to make a special effort to apply the provisions of the Convention, which had adversely affected their agricultural production, the purpose of the draft Protocol was entirely different, since it would apply to synthetic substances manufactured industrially in developed countries. The developed countries and their industries must now take the responsibility of creating an international and national control system adequate to cope with the present and future problems associated with the new substances and the drugs derived from them. Some of those substances had not created any special difficulties so far, but they might nevertheless lead to

addiction, and the international community must be able to act when the situation so required. It was certainly important that the medical and pharmaceutical industries should continue their research, but no matter how strict the control exercised during research and clinical tests, a substance liable to lead to serious abuses was often used as a medicine. One of the primary features of the Protocol should, therefore, be to give the State the means to act speedily to prevent the distribution of a single substance. Moreover, the instrument should be complete in the fullest sense, and its provisions should be such that they could be applied rapidly and flexibly when the need arose, without hampering the industries concerned in the pursuit of their useful activities.

11. He hoped the Conference would be able to produce an adequate international instrument which could subsequently be reviewed in the light of any new facts brought to light by medical and scientific research.

12. Dr. BERTSCHINGER (Switzerland) said that there were two aspects to the control of psychotropic substances: the limitation of production to production for legitimate purposes and the suppression of the illicit traffic. The aim was to avoid abuse without preventing the use of psychotropics for therapeutic purposes or hindering scientific progress. The success of international controls depended entirely on the application of strict measures at the national level and the Protocol should clearly state the obligations of the participating States. The text should be drafted in such a way as to be acceptable to the largest possible number of countries; it should only state the broad principles and it should be left to Governments to put those principles into effect in their national laws. In addition, the control measures should be sufficiently flexible to take into account the special characteristics of the various substances; hence the importance of the question of the schedules. In short, the draft Protocol should be simplified to the maximum extent compatible with effectiveness. In view of its importance as an international instrument, it might perhaps be preferable to designate it as a convention.

13. Dr. BABAIA (Union of Soviet Socialist Republics) said that the Soviet Union attached great importance to the introduction of effective measures to combat the illicit traffic in narcotic drugs and psychotropic substances and prevent drug abuse and addiction. The USSR had signed, or adhered to, a large number of international agreements on narcotic drugs: the 1925, 1931 and 1936 Conventions and the 1946 and 1948 Protocols. It was a party to the 1961 Single Convention on Narcotic Drugs, an important international instrument on the subject. The Soviet Union had been actively co-operating with other nations in that field.

14. Although addiction to psychotropic substances had not created any problem in the Soviet Union, the USSR, for humanitarian reasons, had consistently expressed itself in favour of the introduction of measures, including measures at the international level, for the control of those dangerous substances. Psychotropic substances, notably amphetamines, barbiturates and hallucinogens, had been under strict control in the USSR, and the use of LSD and its derivatives had been prohibited to all persons. However, taking into account the widespread

addiction to those substances in a number of countries at the present time, effective controls, combining both national and international measures, were required. But international control could only be effective if the largest possible number of countries joined in the efforts in that direction. The Protocol was of importance to the whole international community and therefore, in accordance with the principle of sovereign equality of States, all States should be given an opportunity to take part in the present Conference. It was for that reason that the Soviet Union considered it inadmissible and unlawful that the German Democratic Republic, the Democratic People's Republic of Korea and the Democratic Republic of Viet-Nam should not have been invited to participate in it. That kind of discrimination was harmful to international co-operation, since those States would have been able to make a valuable contribution to the campaign against the illicit traffic in and the abuse of psychotropic substances.

15. The USSR delegation wished to draw the Conference's attention to its communication of 27 March 1970, transmitting a letter addressed by the Ministry for Foreign Affairs of the German Democratic Republic to the Economic and Social Council at its forty-eighth session,<sup>3</sup> in which the Ministry stressed that the German Democratic Republic was interested in the preparation and signature of a protocol to control psychotropic substances and was prepared to participate in the Conference of Plenipotentiaries and to become a party to the Protocol. It was a matter for regret that the organizers of the present Conference should not have responded duly to that important communication of the German Democratic Republic.

16. Dr. DANNER (Federal Republic of Germany) said that the Federal Republic of Germany wholeheartedly approved the objectives of the draft Protocol, namely, to bring under control the psychotropic substances which were being abused and which could give rise to dependence. In particular, his delegation supported the provisions under which the distribution of and trade in those substances and their preparations would be made subject to a licensing system. His delegations also supported the proposed provisions for the substances included in schedules I and II and considered that the regulations governing those substances should be similar to those embodied in the Single Convention. In the case of the substances in schedule III, he thought that a declaration should only be required for exports and imports, as provided for in article 11 of the draft Protocol. As to the substances in schedule IV, he considered that, since it was not sufficiently clear that they did give rise to dependence and since no appreciable risk of abuse was involved, there was no need for any special regulations.

17. He hoped it would be possible to produce a text which would prove acceptable to all countries.

18. Mr. HUYGHE (Belgium) said he wished to stress that the abuse of psychotropic substances did not give rise to any serious problems in Belgium, because of the

<sup>3</sup> E/L.1304.



drastic measures which had been taken with regard to the registration, manufacture, trade in and supply of substances such as the amphetamines, barbiturates, tranquilizers and hallucinogens.

19. Speaking on behalf of both Belgium and Luxembourg, he said that his views on the problems as a whole were the same as those of the representative of Switzerland. Obviously, the introduction of international control was imperative for certain categories of psychotropic substances and the aim of the Protocol in its final form should be to prevent the self-administration, abuse and excessive consumption of those substances, suppress illicit traffic in them and put a stop to that traffic where it already existed. The proposed measures should be simple and capable of application by all countries. For that reason, the Protocol should apply only to those psychotropic substances which gave rise to dependence or could lead to grave abuse constituting a social problem or a danger to public health. There was no point in including in the schedules substances which were rarely abused and the adverse effects of which affected only the individual concerned.

20. It was desirable that the Protocol should not impose on countries such heavy administrative burdens as to make it impossible for them to comply with international obligations. Moreover, as the Swedish representative had pointed out, the problem was not one of natural substances; it concerned synthetic substances, the manufacture of which was in most countries already subject to a licensing and control system enforced by qualified persons. It would therefore be easy to check the quantities of raw materials imported and exported and to control consumption without entering into the detail of preparations.

21. He noted that there was no difference in the control procedure proposed for the substances in schedules III and IV respectively, and it therefore seemed to him that schedule IV might be unnecessary. If it were retained, it should include only substances which were potentially dangerous but would be subject to control at the national level only.

22. Belgium and Luxembourg would co-operate wholeheartedly in the formulation of a Protocol framed in accordance with the broad principles to which he had just referred.

23. Mr. BEEDLE (United Kingdom) said that, as had been pointed out by the Special Committee of the Commission on Narcotic Drugs in 1966, the problems of the abuse of psychotropic substances complicated and aggravated the problems of narcotic addiction. Developments in the past ten years had altered the whole perspective for those trying to impose controls; the pharmaceutical "explosion", the flood of new products, the pace of economic and social change, the growth of communications and other factors made young people particularly vulnerable to an increasing variety of forms of drug misuse. For want of better knowledge and information, Governments, the professions, penal and social agencies, and the industry had not yet found effective counter-measures. The control systems provisionally established were thus being called in question and overhauled, and greater attention was being paid to enlisting

the advice of doctors, sociologists and other professional experts in programmes of drug-abuse control and of information to the public about the social dimensions of the problem. The recent reports of the WHO Expert Committee on Drug Dependence reflected those trends.

24. He agreed with the opinion of previous speakers that the Protocol should not encumber medical practice and scientific research with unnecessary controls but should support national controls with a suitably flexible international system adaptable to changing circumstances and needs. Above all, the truly international problems requiring an international solution should be precisely delimited. Too little was known about the new problems to justify a rigid centralization of decisions about control. If national authorities were provided with adequate powers of access to expert advice about their own situations, the parties could be given more discretion than under the Single Convention to decide for themselves upon control measures and the scope of such control. With that in view, the United Kingdom Government had submitted legislation to Parliament, (a) for the elaboration of sanctions against traffickers, (b) for the setting up of permanent expert advisory machinery to tackle the problem by social, educational and medical as well as by legislative means, and, (c) for new powers and control regulations.

25. Mr. ANISCHENKO (Byelorussian Soviet Socialist Republic) described the convening of the Conference as an indication of the importance of the problem of the abuse of psychotropic substances in many countries, in particular among young people, and deplored the fact that certain countries, such as the German Democratic Republic, the Democratic Republic of Viet-Nam and the Democratic People's Republic of Korea, had been excluded from the Conference.

26. The Byelorussian Soviet Socialist Republic did not itself have any problem of the kind under review, but could not remain indifferent to the dangers threatening the international community and hoped that the Protocol would provide an effective barrier to the spread of psychotropic substances.

27. Mr. INGERSOLL (United States of America) expressed his concern regarding the serious drug problem in the United States, where drugs had unfortunately become fashionable in different circles. New psychotropic substances had had the most frightful effects on their victims, and the rest of the public was alarmed and bewildered in consequence. The present Conference was evidence of similar concern on the part of other nations.

28. In order to tackle the situation, and in recognition of the fact that there was no single approach to the problem, the United States Congress had, in October 1970, passed the Comprehensive Drug Abuse Prevention and Control Act, 1970, the main features of which were a strengthening of control measures against drugs and criminal and civil penalties against the illicit traffic in them, prevention programmes against drug abuse and the restoration of drug abusers to society. That law was based *inter alia* on the principles that many drugs had legitimate medical purposes, and that misuse of those drugs was harmful to the health and welfare of the

American people. He thought that those principles were applicable in the work of the present Conference.

29. Many other countries were becoming alive to the need to strengthen their legislation in that area. Internationally, the 1961 Single Convention on Narcotic Drugs adopted by the United Nations ten years previously was extremely important, and the activity conducted since then by the United Nations, especially the establishment of a United Nations Fund for Drug-abuse Control, was most encouraging.

30. A treaty on psychotropic substances would help to complete the international system of control. He hoped that the Conference would adopt an effective treaty with the backing of a large majority of States, in accordance with the hope expressed by the representative of the Secretary-General (first meeting). He agreed with an earlier speaker that the treaty should not unduly encumber the medical profession or the pharmaceutical industry, and he added that it should not encumber research.

31. There were many points in the draft Protocol of which the United States delegation approved; only on two or three points did it consider that any major changes would be required, and it was prepared to explore constructive alternatives. With the team of experts in law, public administration, medicine, public health and law enforcement of which it was composed, it hoped to make a substantial contribution to the Conference's success.

The meeting rose at 12.50 p.m.

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#### FOURTH PLENARY MEETING

*Tuesday, 12 January 1971, at 3.25 p.m.*

*President: Mr. NETTEL (Austria)*

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#### AGENDA ITEM 11

**Consideration of the revised draft Protocol on Psychotropic Substances adopted by the Commission on Narcotic Drugs, in accordance with Economic and Social Council resolution 1474 (XLVIII) of 24 March 1970 (continued) (E/4785, Chap. III)**

#### GENERAL STATEMENTS (continued)

1. Mr. OVTCHAROV (Bulgaria) said that the problem of the abuse of drugs and of psychotropic substances was not acute in his country because of an effective system of national control and social influences which inhibited addiction.

2. The whole world was passing through a pharmacological revolution that not only changed the course of many illnesses but also had psychological and physiological effects. Drugs were potentially so dangerous that

all countries must come together in order to grapple with the problems they created.

3. The Protocol must impose strict and effective measures that would be applicable to all countries and the definitions that the Conference was to establish must be such as to restrict the use of psychotropic substances in medicine and prevent their abuse. The Protocol should be genuinely international in character.

4. He agreed with the Soviet Union representative (third meeting) that an invitation to the Conference should have been issued to the Governments of the German Democratic Republic, the Democratic People's Republic of Korea and the Democratic Republic of Viet-Nam. Important research was being done in the German Democratic Republic, where the Government had established an effective control over drugs, so that it could have made a significant contribution to the Conference's work.

5. Dr. THOMAS (Liberia) said that there were unidentified plants containing psychotropic substances in young countries, particularly those situated in the tropics. Barbiturates and amphetamines were used in those countries for medical purposes, and in certain rituals large amounts of substances with hallucinogenic effects were consumed. Those substances had been used for centuries and the time had come to identify and classify them and to bring them under control. Fifty per cent of the population of Liberia was under 25 years of age, and young people were looking for excitement and were tempted by drugs. Special attention should therefore be given to the investigation of substances growing wild, so as to help the authorities of the countries concerned to prevent abuse.

6. The Protocol to be negotiated at the Conference should be flexible and should provide a model for new States. Flexibility was particularly necessary because new problems would arise within the next ten to fifteen years.

7. Mr TSYBENKO (Ukrainian Soviet Socialist Republic) said that in the Ukrainian Soviet Socialist Republic there was no problem of drug abuse, but full support was always given to any effort to establish effective control measures, both national and international.

8. His country was a party to the 1961 Single Convention on Narcotic Drugs and believed that with the participation of as many States as possible progress would be made in protecting the health of all peoples.

9. It was quite unacceptable and contrary to the rules of international law and the principle of the universality of treaties that the three countries mentioned by the Soviet Union representative had not been invited to take part in the work of the Conference. Such action was discriminatory.

10. Mr NIKOLIĆ (Yugoslavia) said that the position of his Government in regard to the draft Protocol was well known to members of the Commission on Narcotic Drugs. There was no problem of abuse in Yugoslavia, but during the past two years there had been cases of addiction, mainly among young people, and the number of those cases was increasing.

11. Dangerous drugs had been under control for some years and his Government would have been in a position to sign the draft Protocol as it stood, because it was already applying the control measures required. But national control measures alone were not enough to curb drug addiction, and international action was indispensable.
12. His delegation would press for the Protocol to be open to universal accession, thus ensuring that there was no dangerous gap in the system.
13. Mr. HENSEY (Ireland) said that drug abuse was a comparatively recent development in Ireland and though it was fairly significant in Dublin, it was not an acute problem in the country generally. His Government had therefore been able to benefit from the experience of others. A working party of experts which had been set up in 1969 by the Minister for Health to consider the problem had submitted interim recommendations. Immediate measures had been taken to strengthen controls and further legislation was being prepared.
14. One effective measure that had been taken was that early in 1970 the manufacture, importation, distribution and sale of amphetamines and their derivatives had been generally prohibited following consultations with representatives of the medical profession, who had expressed the view that such substances were of limited therapeutic value.
15. The abuse of psychotropic substances could not, however, be tackled by countries in isolation. Such substances needed to be brought under some form of international control. However, that control must be practical and realistic and should not unduly hinder the legitimate use of the substances in medicine.
16. His Government was generally in agreement with the draft Protocol. There was no difficulty regarding the controls proposed for the substances set out in schedules I and II but the position regarding the substances in schedules III and IV might need reconsideration and clarification.
17. Mr. BARONA LOBATO (Mexico) said that participation by Mexico in the present Conference showed his country's continuing interest in the work of the Commission on Narcotic Drugs and in the idea of placing psychotropic substances under international and national control. From the outset, the Mexican Government had been anxious that those substances should be used exclusively for medical and scientific purposes and that their abuse should be avoided and the illicit traffic in them curbed.
18. Although the abuse of psychotropic substances was not yet a problem in Mexico, his Government shared the concern aroused in other countries and had thought it desirable to introduce preventive legislation on the subject. A bill now before the Mexican Congress would place the manufacture, distribution, sale and supply of psychotropic substances under a system of control virtually as strict as that applied to narcotic drugs. In addition, there was an educational programme drawing attention to the dangers of self-administration and of the abuse of hallucinogens, stimulants and depressants.
19. Generally speaking, the principles embodied in the revised draft Protocol were acceptable to his Government, bearing in mind the objectives stated in the preamble and the fact that the ultimate aim was to safeguard human health, both physical and mental.
20. It seemed to be generally agreed that psychotropic substances should be used solely on medical prescription or for research purposes, that their manufacture should be subject to a licensing system, that imports and exports should be made subject to a system of Government licences and permits, that at the national level distribution should be controlled, that to prevent abuse unauthorized possession and hence illicit traffic should be suppressed, and that periodic reports should be submitted to international control bodies.
21. In view of the humanitarian purposes to be served by the proposed international instrument, it was desirable that all States should subscribe to it. Moreover, since it was urgently necessary that the protocol should enter into force as soon as possible, the number of ratifications necessary for entry into force should be set at 40 or 35, in other words a figure equal to or less than that specified for the 1961 Single Convention.
22. Mexico had voted in favour of the Declaration on the Granting of Independence to Colonial Countries and Peoples contained in General Assembly resolution 1514 (XV), and he therefore wished to state that his country's position on article 23 of the draft Protocol, as expressed at the first special session of the Commission on Narcotic Drugs (659th meeting), remained the same.
23. The Mexican Government would make every effort in its power to co-operate in the international campaign against the non-medical use of psychotropic substances and the illicit traffic in those substances.
24. Mr. KOCH (Denmark) said that the development of means of communication made it much easier to move goods and people across frontiers, so that Governments must co-operate in protecting the populations of their countries against dangerous substances, but without unduly hampering the movement of other goods.
25. His Government agreed with the main principles set out in the draft Protocol, by which countries were required to establish national control over the production, distribution and exportation of psychotropic substances. Such an instrument would be a first stage towards harmonizing national legislation and practice in the medical field, especially in regard to the provisions limiting the use of psychotropic substances to use for medical purposes. The implications of the draft were in line with the work done on the Nordic and European Pharmacopoeia.
26. His Government welcomed the initiative taken by the United Nations to provide a basic instrument that would promote international co-operation in the campaign against illicit traffic. In accepting it, Governments would prove their readiness to help their neighbours in maintaining reasonable and necessary control measures; but the Protocol must be applied with flexibility, and his Government would oppose the introduction of compulsory measures that would frustrate the legitimate use in

research and trade of substances with great therapeutic value.

27. Representatives should not delude themselves into thinking that the Protocol would solve anything but a small range of problems connected with drug abuse, or that the core of the problem could be reached through the criminal law. Information, education, research and facilities for the treatment of victims of drug addiction were essential.

28. His delegation would have some objections to raise to certain measures for the control of drugs that were not so harmful as to warrant their inclusion in schedules I and II, but, generally speaking, it favoured the main principles of the draft and hoped that differences of opinion on details could be smoothed out.

29. Dr. WIENIAWSKI (Poland) said that the position of his Government was well known to members of the Commission on Narcotic Drugs. The abuse of psychotropic substances was a by-product of the progress of the medical and pharmaceutical sciences and its prevention must not be allowed to hamper the development of medicine and therapeutic methods.

30. The situation in some countries pointed to the need for stronger internal control measures. In Poland, they had been introduced at an early stage and abuse had thereby been prevented.

31. In 1945-1946, there had been some indications of abuse of amphetamines by young people. At that time, they could be freely obtained from chemists, so in 1946 they had been placed under controls similar to those imposed on narcotic drugs and abuse had gradually disappeared. From 1930 onwards, barbiturates could only be obtained on prescription and, once they appeared tranquillizers were also not freely available. Those control measures had been made possible by a very large increase in the number of doctors in Poland and the extension of health services. The latter could do much in the prevention of abuse.

32. It was the duty of health and law enforcement authorities to recognize the danger signs, so that controls could be applied before abuse had taken a hold. International action could only be effective if individual countries took strong internal measures. International administrative measures should not be unduly extensive and complex.

33. The widest possible participation in the Protocol was needed if it was to be effective, and he agreed with the Soviet Union representative that the failure to invite to the Conference representatives from the German Democratic Republic, the Democratic People's Republic of Korea and the Democratic Republic of Viet-Nam was inadmissible.

34. Mr. SERRANO FERNANDEZ (Chile) said that, some thirteen years earlier, he had been privileged to meet in India Aldous Huxley and Arthur Koestler, both of whom had sometimes attributed miraculous powers to drugs. Huxley had realized, however, that the belief in the omnipotence of drugs was not new; since the most remote times, men had believed that they would find in drugs a substitute for heaven and had failed to do so.

Adepts entered the temple of drugs—even minor drugs like tobacco—in search of transcendent adventure, but their expectations were deluded.

35. Man had always used drugs to soothe pain, to reach beyond certain limits of perception, to speak with the gods or to be like the gods. The Bible referred to the use of wine and the Hindu Veda spoke of soma, the divine liquor. The exact nature of ambrosia, the food of the Greek gods, was not known. The Aztecs used peyote, which was extracted from a cactus plant containing mescaline. The Mexicans also consumed a sacred mushroom containing psilocybine. In the Amazon region, the aborigines consumed the seed of the plant *Pitadenia Peregriana*. In Siberia, tribesmen prepared a mushroom liquor which they used in order to produce trances. At all times and in all places, drugs and beverages had been used to induce conditions similar to schizophrenia.

36. Current research in psychiatry and biochemistry seemed to indicate that the systematic use of hallucinogenic drugs was an expression of the same fundamental process. It was suspected that schizophrenia might be produced by a toxic substance in the brain, but extensive research had not made it possible to identify the toxin involved, although a new drug—LSD—was available which induced schizophrenia.

37. The hippies and others who used drugs, connecting them with flowers and love, did not perhaps realize that they were the modern representatives of a long tradition. Flowers had been offered to the Mexican god Quetzalcoatl, and drugs had also been used in that cult. Hindu mystics associated drugs and love with the search for a lost primeval unity. For Arab sufis and poets, wine was a means of transcending boundaries.

38. Drugs and beverages, however, could not replace the state of ecstasy which was reached step by step by the saints. To climb a mountain painfully on foot was very different from reaching the summit by cable railway. There was no achievement without effort. Koestler had referred to that subtle difference in his latest book, *The Ghost in the Machine*.

39. Those preliminary remarks served to stress the important fact that the indiscriminate use of drugs at the present time had very deep roots. The ultra-mechanized and rationalized civilization of our times threatened to crush man and destroy him. The progress of that civilization completely by-passed the younger generation and caused it to seek refuge in a world of fantasy and hallucination—a world in which youth's anxieties, frustrations and profound feelings of hopelessness could be dissolved. A civilization which placed its whole faith in material progress and which had virtually deified rationalistic technology did not satisfy the human thirst for transcendental experience. It was for that reason that the countries which had achieved the greatest material progress and highest level of living were also those in which the suicide rate was highest and in which alcoholism was most widespread. It must be remembered that alcohol was also a drug used as a means of escape.

40. Since the abuse of drugs was thus an expression of man's yearning for the transcendental and of his frustrations in a godless society, it could not be fought against



by repressive and prohibitory legislation alone. Similarly, student unrest and urban and rural guerrilla activities could not be effectively curbed purely by means of police measures. All those phenomena had their origin in the lack of the spiritual element in a machine-ridden and hedonistic civilization which was incapable of inspiring any enthusiasm or idealism in the younger generation.

41. Those psychological, moral, social and spiritual factors would therefore have to be taken into account in any legislation or protocol for the regulation or prohibition of the use of psychotropic substances, even if they were reflected only in the spirit of the decisions to be adopted.
42. The United Nations, through its Economic and Social Council, had been very deeply concerned to find some means of controlling the abuse of, and the illicit traffic in, psychotropic substances. While the gravity of the problem must be recognized, however, it should also be realized that if an unduly strict international control were to be introduced covering the whole range of psychotropic substances, the result could perhaps be to hamper the work of the medical profession.
43. Chile had been perhaps one of the first countries to introduce control measures over the use of psychotropic substances, for it had done so in 1963. The consumption of those substances had been rising recently at an alarming rate: 30 per cent from 1967 to 1968, 43 per cent from 1968 to 1969 and 62 per cent from 1969 to 1970. Those figures covered only the psychotropic substances under control in Chile, i.e. stimulants of the central nervous system of the amphetamine type, depressants of the barbiturate type, and meprobamate alone among the tranquillizers. Early in 1970, the national control system had been made more strict, but it still applied to the same range of substances.
44. The new measures thus introduced included special regulations on the manufacture, importation, transit, transfer, possession, detention and consumption of narcotics, hallucinogens and other substances having similar effects. The penal code had been amended so as to introduce heavier penalties for offences against public health.
45. Accordingly, the importation of the raw materials needed for those substances, the processing of those materials and the production of pharmaceutical products from them, the distribution of the products and the dispensing of them to the public by pharmacies were subject to control by the National Health Service, and any violation of the regulations was punishable by severe penalties.
46. The most important innovation had been to make the sale of psychotropic substances by pharmacies subject to the same restrictions as the sale of narcotic drugs; in other words, those substances could henceforth be dispensed only against a non-renewable medical prescription, which had to be kept by the pharmacy in its records. A similar procedure was followed in hospitals: the substances were issued only against a medical prescription and exclusively by the hospital pharmacy.
47. Those measures applied to substances of the amphetamine type and to meprobamate and its pre-

parations. As for the hallucinogens such as LSD, mescaline, psilocybine dimethyltryptophane and cannabis, as well as all substances in schedule I of the draft Protocol, their importation, manufacture and use, even in scientific research, were totally prohibited.

48. The introduction of those measures, which had not met with any resistance on the part of the medical profession, the manufacturers or the pharmacies, could serve as an illustration of the type of decision that the present Conference might adopt.
49. As to tranquillizers other than meprobamate, neither the medical profession nor the emergency health services of Chile had experienced any problems which suggested the need to introduce any measures more strict than the present requirement of medical prescription. Any attempt to introduce a licensing system, for example, would hamper the work of physicians using substances which had great therapeutic value and involved only limited dangers.
50. Lastly, he wished to stress that the most serious problem in Chile at the present time was the consumption of marijuana by young persons between the ages of 9 and 21 who were still in the process of physical growth and intellectual development.
51. There were a number of reasons for the growth of the cannabis problem in Chile. The country was a producer of hemp for industrial uses, and there were plantations of over 1,000 hectares. In most of Chile, the climate was suitable for that crop. The plant could be grown on a small scale, even in gardens. The youth of the country was being subjected to propaganda of foreign origin which tended to minimize the effects of marijuana, suggesting even that it was less dangerous than tobacco or alcohol. Certain sociologists and psychologists had unfortunately also claimed that there was no physical dependence and little psychic dependence in the case of marijuana. Lastly, it had not been possible to devise any means of impressing upon young people the real dangers involved in the consumption of the substance.
52. Mr. KIRCA (Turkey) said that at its second special session the Commission on Narcotic Drugs had chosen the word "drug" to represent a concept covering both traditional narcotic drugs, most of which were of vegetable origin, and synthetic substances, a great number of which were psychotropic substances. The Commission had also stressed the relationship between the supply of drugs and the demand for them.
53. As in the case of all fairly rare goods, not only did the supply of drugs contribute to the creation of the demand, but also the demand often created the supply and contributed to its continuation. Educational problems and problems of philosophical attitudes were involved which were of capital importance in an effective fight against the spread of the abuse of drugs of all sorts; but those problems were for the social scientists and were outside the scope of the Conference's agenda. In connexion, however, with the problem of the demand itself creating the supply, he felt he must mention the partial but important current trend in drug abuse towards

the replacement of the traditional narcotic drugs by the psychotropic substances.

54. He had no intention of suggesting that the abuse of traditional narcotic drugs was no longer important. There was, however, a body of international legislation designed to control the supply of those drugs in such a way that illicit traffic in them could be prevented as far as was possible. Now that the law of substitution had come into play, supplementary legislation designed to control the supply of synthetic drugs, in particular the psychotropic substances, was urgently required.

55. Existing international control legislation placed heavy obligations on the developing countries, but those obligations had been willingly accepted in the interests of the international community and of all mankind. The developing countries were waiting to see what the developed countries were now prepared to do to control the synthetic drugs manufactured by their industries.

56. In that connexion, considerations of parity, equity and justice could not be ignored. The problem should be tackled simultaneously at two levels: the agricultural level and the industrial level. There was no doubt that the industrialized countries were better equipped both financially and administratively to discipline their synthetic drugs industry than were the developing countries to control their cultivation of natural products. It was neither reasonable nor fair, therefore, to ask the developing countries to do that without asking the developed countries to make a corresponding effort in respect of their industrial products. His Government was convinced that the very holding of the Conference was proof that all the interested parties were aware of that important aspect of the problem.

57. His delegation would not suggest that the control measures for psychotropic substances in general and for each individual substance should be the same as those already in force for the traditional narcotic drugs. Methods of control would necessarily be different and would have to be adapted to the particular nature of the substance whose production and sale was to be controlled. The aim of control measures should, however, be the same in the case of cultivated products and manufactured products, namely the reduction of illicit traffic to a minimum and its eventual elimination.

58. Control measures could and should be provided for at the national and international levels. As he saw it, international measures included those applied directly by international bodies and those applied by national administrations by virtue of international obligations. His Government believed that there should be some just and equitable balance between the international control measures applicable to the traditional narcotic drugs and those to be provided for the psychotropic substances; States should be prepared to accept almost the same degree of limitation of sovereignty in the interests of controlling the psychotropic substances as had been accepted in the case of narcotic drugs control. A restriction of liberty was involved in any control measure. Controls had restricted the liberty of agricultural producers and would continue to do so in the interests of the international community. It could not be argued that,

when it came to industrial producers, those same overriding interests called for fewer restrictions and hence fewer controls.

59. Dr. MABILEAU (France) said his delegation was pleased that the preparatory work for the Conference had been accomplished in a relatively short period of time. It would have regretted any further delay, particularly since the draft resolution concerning the control of barbiturates submitted by Brazil, France, Turkey, the United Arab Republic, Venezuela and Yugoslavia at the United Nations Conference for the Adoption of a Single Convention on Narcotic Drugs in 1961<sup>4</sup> had failed to gain the required two-thirds majority by only one vote.<sup>5</sup>

60. The French delegation was convinced that the supply of psychotropic substances should be limited to that required for medical and scientific uses and that an international treaty was required for the purpose. It believed that such an instrument should be based on three principles, namely: each country should ensure that the nature and quantity of psychotropic substances used on its territory rigorously corresponded to scientific and medical needs alone; each country should subject those substances to a system of national control based on international agreement; the control to which barbiturates and tranquillizers in particular were to be subjected should not be of such a nature as unduly to affect the large licit trade in those substances.

61. His delegation hoped that despite its complexities, the draft Protocol would be adopted by the Conference in the time at its disposal and would come into force as soon as possible.

62. Mr. ROECK (International Criminal Police Organization), speaking at the invitation of the President, said that ICPO/INTERPOL was in favour of the adoption of a protocol on the psychotropic substances. With the help of such an instrument, the abuse of and illicit traffic in those substances in many parts of the world could largely be prevented and overcome. INTERPOL believed that it was necessary and urgent for co-ordinated measures to be taken at the international level, and it strongly supported the principle of a protocol for the purpose.

63. Forty years previously, the world had been faced with the problem of the abuse of narcotic drugs and had considered it necessary to unite all its forces to combat that scourge by concluding international conventions which, amongst other things, guaranteed a co-ordinated fight against illicit traffic. Today the world was faced with a similar problem in connexion with the psychotropic substances, which had been developed to cure the sick, but were very dangerous if used without control or supervision. It was logical that the world should make the same effort in 1971 to fight the modern scourge as it had made earlier to fight the scourge of narcotic drugs abuse.

<sup>4</sup> *Official Records of the United Nations Conference for the adoption of a Single Convention on Narcotic Drugs*, vol. II (E/CONF.34/24/Add.1) (United Nations publication, Sales No.: 63.XI.5), p. 295.

<sup>5</sup> *Ibid.*, vol. I (E/CONF.34/24) (United Nations publication, Sales No.: 63.XI.4), 40th meeting, p. 201.

64. ICPO/INTERPOL was ready, within the limits of its Statute, to carry out any task that it might be called upon to undertake under the provisions of the Protocol,

65. The PRESIDENT said that General El Hadeka, Director-General of the Permanent Anti-Narcotics Bureau of the League of Arab States, had asked to address the Conference. The League of Arab States had not been invited to attend the Conference under the terms of Economic and Social Council resolution 1474 (XLVIII), but under rule 39 of its rules of procedure the Conference could invite any person whose technical advice it considered useful to attend its meetings. He was sure that, in view of General El Hadeka's vast experience of narcotic problems, his advice would be appreciated, and in the absence of any objection, he would invite him to address the meeting.

66. General EL HADEKA (League of Arab States), speaking at the invitation of the President, said that up to the present the psychotropic substances had not caused any serious problem in the Arab countries, because they were subjected to strict control in those countries, and in most of them were included in lists of narcotic drugs. In the past two years, however, there had been cases of addicts turning to such substances when they had been unable to obtain the narcotic drug to which they were addicted, and students had also found ways of obtaining such substances for use before their examinations.

67. In a world linked by rapid means of transport, there was nothing to stop the scourge of drug abuse spreading and affecting new areas every day. That situation called for international co-operation amongst all countries and not merely between producers and consumers; no region, no ethnic group, no social class, was free from danger.

68. It was for that reason that the Arab States, conscious of their international duty, would give their full support to the work of the Conference and, once the Protocol had been adopted, they would implement it conscientiously throughout the Arab world in the interests of mankind.

The meeting rose at 5.10 p.m.

## FIFTH PLENARY MEETING

*Wednesday, 13 January 1971, at 10.15 a.m.*

*President: Mr. NETTEL (Austria)*

### AGENDA ITEM 9

#### Appointment of the Credentials Committee

1. The PRESIDENT suggested, on the basis of consultations that had taken place, that the Credentials Committee should consist of the following nine members: Australia, Ecuador, Ghana, Greece, Ireland, Liberia,

Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics and United States of America. However, Greece had given notice that it would not be able to attend the Conference, and he therefore suggested that Spain should serve in its stead.

2. Mr. EYRIES VALMASEDA (Spain) expressed his country's readiness to replace Greece on the Credentials Committee.

*The proposal of the President was adopted.*

### AGENDA ITEM 6

#### Appointment of the Technical Committee (resumed from the 3rd meeting and concluded)

3. The PRESIDENT announced that Iran had expressed the wish to participate in the work of the Technical Committee. The Conference had previously accepted applications from four other countries, and he suggested that Iran's request should be granted.

4. Mr. NIKOLIĆ (Yugoslavia) said that he had no objection to Iran's request but would like to know what the composition of the Technical Committee would then be.

5. The PRESIDENT replied that the Technical Committee would consist of the following twenty-six members: Argentina, Australia, Austria, Belgium, the Byelorussian Soviet Socialist Republic, Canada, the Federal Republic of Germany, France, Hungary, India, Iran, Japan, Mexico, the Netherlands, Poland, Spain, Sweden, Switzerland, Togo, Turkey, the Union of Soviet Socialist Republics, the United Arab Republic, the United Kingdom of Great Britain and Northern Ireland, the United States of America, Venezuela and Yugoslavia.

*It was so agreed.*

### AGENDA ITEM 11

**Consideration of the revised draft Protocol on Psychotropic Substances adopted by the Commission on Narcotic Drugs, in accordance, with Economic and Social Council resolution 1474 (XLVIII) of 24 March 1970 (continued)**  
(E/4785, chap. III)

#### GENERAL STATEMENTS (concluded)

6. Dr. AZARAKHCH (Iran) said that, although psychotropic substances had not yet given rise to any serious problems in Iran, persons addicted to opium and unable to obtain sufficient quantities of it were having recourse to barbiturates and tranquillizers to supplement it. It was quite conceivable, therefore, that the misuse of such substances could spread in Iran in the future. In any case, the ease and speed of modern transport favoured the spread of a drug addiction epidemic, and all countries were in jeopardy accordingly.

7. In combating the misuse of psychotropic substances, reliance must be placed primarily on the experience that had been gained in combating narcotic drugs. Nothing, of course, should be done to hamper either scientific research or the pharmaceutical industry, but progress in either connexion should not result in the creation of

new products endangering mankind. The primary purpose of the Protocol should be to set up control machinery such as to debar psychotropic substances from illicit markets and restrict their use to medical and scientific purposes; it should be easier to control psychotropic substances than narcotic drugs, inasmuch as the former were synthetic products whose industrial manufacture could be effectively supervised without difficulty.

8. Dr. EL HAKIM (United Arab Republic) agreed with the previous speakers in recognizing the need for an international instrument which would safeguard the physical and mental health of present and future generations without hampering medical advances.

9. Though the problem was not as acute in the United Arab Republic as in other countries, several cases of illicit traffic in psychotropic substances had been found, and it was to be feared that the misuse of drugs might spread as the country developed economically. An effective international instrument was essential if that danger was to be averted. It must be borne in mind, however, that conditions in developing countries differed from those in developed countries. That did not mean that the developing countries should apply the Protocol less strictly, but simply that they attached special importance to scientific and medical research.

10. The sort of protocol which his delegation hoped would be prepared would be one which permitted strict control of the abuse of substances liable to cause addiction in the light of the experience of the various countries. In particular, the instrument should be flexible enough to enable new substances to be added to the schedules and certain substances to be withdrawn or to be transferred to other schedules on the basis of recommendations by WHO. Furthermore, the provisions of the Protocol should be couched in terms clear enough to avoid any confusion with the terms of the 1961 Single Convention on Narcotic Drugs.

11. The United Arab Republic was prepared to do its utmost to contribute to the health and welfare of mankind, as well as to the progress of science and industry. It had already applied the provisions of the Single Convention and was exercising control over such substances as stimulants and hallucinogens, and over the export, import and manufacture of certain pharmaceutical preparations. It would therefore have no difficulty in applying the provisions of the future Protocol.

12. Lastly, it was worth while to stress the need for information campaigns on the subject of the misuse of drugs. In that connexion, the subjects of drug addiction and mental health should be included in the curriculum of educational institutions, particularly of those which trained future doctors, sociologists and psychologists, in line with the recommendation made by the Pan-Arab Mental Health Congress held at Cairo in December 1970.

13. Dr. JOHNSON-ROMUALD (Togo) viewed the holding of the Conference and the preparation of an international instrument for the control of psychotropic substances as matters of outstanding importance. Though the African countries were not yet seriously affected by drug addiction, the development of modern communications meant that no country could regard itself as safe

from that evil. The main danger from psychotropic substances in the African countries lay in the amphetamines, which unscrupulous traffickers were clandestinely placing on the markets of neighbouring countries. That situation provided sufficient proof of the need for regional co-operation, for only that could make control effective.

14. The increase in drug addiction stemmed from deeply rooted social reasons. Africans in particular deeply deplored the lack of human sympathy in the developed world, and the harshness of modern society, which mercilessly crushed the weak and maladjusted. The loneliness and isolation of individuals in great cities were factors making for drug addiction; that basic aspect of the question should be clearly brought out.

15. The Conference could count upon the active collaboration of Togo, which looked forward to making a useful contribution to the essentially human problem of drugs.

16. Mr. FERNANDEZ (Argentina) was glad to note that the delegations were at one in recognizing the need and urgency of checking, by concerted measures, the ever speedier progress of a social scourge which threatened all mankind. The 1961 Single Convention had regulated only one aspect of the drug problem, and advances in pharmaceutical research had merely aggravated the problem. The abuse of psychotropic substances was spreading like a plague; no country could say that it was wholly safe from it, and it was obvious that national control measures could not by themselves be truly effective.

17. His delegation considered that the draft Protocol, as a well-thought-out document now before the Conference (E/4785, chap. III), faithfully reflected the cogent views enunciated and covered all aspects of the matter. It was confident that there was no risk of a text of that kind impeding technical progress or scientific research or hampering the medical use of the substances concerned, since it would obviate, among other evils, the pernicious practice of self-medication. But its provisions must be honestly and effectively applied by all concerned. The Argentine Republic had imposed stringent measures in recent years; it was prepared to adopt even more rigorous ones and its representatives would co-operate unreservedly and to the best of their ability in the final drafting of the Protocol.

18. Mr. ASANTE (Ghana) said that Ghana was fortunately not so advanced as to be threatened as yet by the uncontrolled spread of psychotropic substances. Owing to the development of international communications and tourism, however, it could not regard itself as immune. Ghana was therefore glad to take part in the Conference and hoped very much that it would lead to the signature of an appropriate instrument, which, needless to say, must be universally applied.

19. Nevertheless, no matter how well-drafted a protocol was, it could cover only part of a far wider problem. Psychotropic substances had become so widely distributed because thinking, sensitive individuals, especially the young, stifling in a world which had failed to master its



own development, were seeking to escape and readily fell into the snare of "artificial paradises".

20. His delegation hoped that the Conference would bear that in mind when drafting the final text of the Protocol and would not lose sight of the limitations inherent in its task.

21. Dr. URANOVICZ (Hungary) said that the abuse of psychotropic drugs did not present an immediate problem in his country. Nevertheless, his Government genuinely wished to co-operate in an effort to protect the welfare of the whole of mankind. But the basis for international control measures, if they were to be effective, should be national measures strictly regulating the manufacture, distribution and therapeutic use of psychotropic substances, and such international measures must be adjusted to the relative danger of the substances, their usefulness in therapy and their liability to abuse. Those considerations must be borne in mind in preparing the final draft. The draft Protocol placed far too much emphasis on administrative measures regarding substances of great usefulness in therapy with only slight liability to abuse. Such measures would unnecessarily burden the public health authorities; nor would they give a realistic picture of the international situation.

22. It was regrettable that countries like the People's Republic of China, the German Democratic Republic, the Democratic People's Republic of North Korea and the Democratic Republic of Viet-Nam had not been invited to take part in the work of a Conference of such great importance to all nations.

23. Mr. ANAND (India) said that India shared the concern of the world community regarding the abuse of narcotic drugs and psychotropic substances, which were proving a great health hazard and a social problem in many countries. India had always favoured the imposition of effective control on dangerous drugs and had supported the fight against their abuse since the international Conference at Shanghai in 1909. It had an excellent record in narcotics control, and was a party to all the international treaties on narcotic drugs. Even though considerable expense and administrative inconvenience were involved in the enforcement of control measures, India had accepted the burden willingly, the welfare of the international community as a whole being its primary consideration. The Commission on Narcotic Drugs had recommended national control over amphetamines, barbiturates, tranquillizers and hallucinogens in 1955, 1957 and 1963. But the abuse of psychotropic substances was still growing and was a dangerous threat to public health and required urgent remedial action. The need for international control had become urgent. India had already placed psychotropic substances under strict control and their abuse was not yet such an alarming problem as it was elsewhere. In the world of today, however, abuse could easily spread from country to country and none could afford to be complacent; the interests of all mankind were indivisible, and India was anxious that an effective international control should be established as soon as possible.

24. The draft Protocol before the Conference was the result of many years' work. The position of his Govern-

ment was well known; its delegation would make detailed comments during the consideration of the text, article by article. In general, his delegation considered that since psychotropic substances were as dangerous as narcotic drugs, if not more so, they should be subjected to a control régime at least as strict as that imposed upon narcotic drugs by the Single Convention. Schedules II and III, in particular, covering the amphetamines and barbiturates, should be reviewed. The control régime ought to be determined by the degree of liability of a substance to abuse constituting a public health problem, rather than by its usefulness in therapy. The substances concerned should remain available for genuine medical use, but the possibility of abuse should be prevented and they should be subject to a control régime depending on their dangerousness. Realism and flexibility had been mentioned, but in that instance too much flexibility might well mean a lack of realism.

25. Public opinion was following with the utmost interest the work of the present Conference. All States should co-operate to ensure its success. Effective international control implied a surrender of the right to make unilateral decisions on whether or not to impose control measures. Any countries which might have hesitated to accept the recommendations of WHO or the decisions of the Commission on Narcotic Drugs ought unreservedly to submit to the decision of the Economic and Social Council and to fall in line with the verdict of the rest of the world. The relevant provisions of the draft Protocol should be redrafted so as to avoid even the semblance of a confrontation or conflict between WHO and the Commission on Narcotic Drugs, for both of them were United Nations bodies.

26. Mr. TERERAHO (Rwanda) said that his Government had carefully studied the draft Protocol and had asked the competent authorities to examine it in great detail. His Government attached great importance to the success of the Conference and was ready to co-operate with all who desired to combat the abuse of psychotropic substances.

27. The threat of contagion was not yet serious in Rwanda, but its economic and social situation dictated the need for caution. The country was developing fast and no one could tell whether the danger might not arise in the fairly near future. Energetic measures were needed at once to obviate the risk of sudden crises later. His Government was already applying very strict controls over imports of psychotropic substances, which had greatly increased since the country had become independent. Imports were controlled by the Pharmaceutical Office, a governmental body which granted licences only for medical purposes and distribution was permitted only on the production of a medical prescription. Hospitals could obtain supplies of such substances only if authorized by a doctor recognized by the Ministry of Health.

28. His delegation very much hoped that there would be genuine co-operation between those taking part in the fight against the scourge threatening much of the human race and that agreement would be reached on a generally acceptable text.

29. Mgr. MORETTI (Holy See) said that his presence at the Conference was intended to demonstrate the Holy See's deep concern for the "Health and welfare of mankind", mentioned in the preamble to the 1961 Single Convention.
30. In the course of an address he had delivered in October 1970 to a group of doctors attending a conference on narcotic drugs at Rome, Pope Paul VI had said that those who were doctors and specialists in chemistry and biology should instruct everyone—pastors, parents, educators, sociologists, politicians and all concerned with the health of mankind—about those mysterious drugs which were today spreading like a mortal contagion; they must speak up while there was yet time to arrest the spread of drug-taking and social degeneration.
31. It would hardly be possible to state more clearly the three main criteria which should inform the work of the Conference: the technical indications must be clear, the legal resolutions must be authoritative, and the measures adopted must be applied universally and without delay. But neither science nor the law, nor yet force, were enough; there must also be education, for too many young people were still unaware of the degradation towards which the drug traffickers and clandestine speculators, whose victims they were, were leading them. Society, which had failed to find a place for them, must rehabilitate them as a group. From that psychological and social point of view, the draft Protocol could not be said to be wholly satisfactory.
32. Care should also be taken to ensure that the text finally adopted did not discourage those engaged in the search for additional forms of medical treatment and for medicaments that would be increasingly effective in bringing about the physical, moral and social regeneration of those who were either voluntarily or involuntarily the victims of illness and needed specific medical treatment.
33. Mr. MARSCHIK (Austria) said he wished to thank the Commission on Narcotic Drugs for the preparatory work it had done on the draft Protocol. The Austrian delegation approved most its provisions, especially those dealing with the control of the illicit traffic in psychotropic substances, and it therefore welcomed the measures contemplated in article 17. It also approved the tendency to place less emphasis on penal sanctions and more on the medical problems; that tendency was reflected in article 18, paragraph 1, and the measures set forth in article 16 were in conformity with it.
34. The drafting of the proposed Protocol would be more difficult than that of the earlier conventions, owing to the number of substances that were taken into account. They were used for a very wide range of pharmacological purposes and their therapeutic value, like the risks to which they gave rise, differed widely. It was therefore necessary to envisage control measures whose strictness would vary with the substance concerned. Substances which were dangerous and had practically no medical value, like the hallucinogens, should be those most strictly controlled.
35. In his view, it might be necessary to make certain changes in the listing of substances proposed by the Commission on Narcotic Drugs (schedules I-IV annexed to the draft Protocol). In the case of the substances listed in schedules III and IV, which were the less dangerous, the Protocol should provide for only a minimum of control measures, and it should be left to each country to introduce the legislation that best met its needs.
36. Like other speakers, he would urge that the provisions adopted should be sufficiently simple to enable them to be applied effectively, for otherwise the aims of the Protocol would not be achieved.
37. Mr. HOOGWATER (Netherlands) said it should be noted that the problems with which the Conference was dealing did not affect all countries to the same degree; that might perhaps explain why measures taken to cope with the abuse of psychotropic substances differed from country to country. That situation should be accepted, for it was primarily the responsibility of the Governments of the countries concerned to take whatever measures seemed to them to be necessary.
38. The main purpose of the Conference was to propose internationally acceptable legislation which would enable Governments to define national policies in the campaign against drug abuse and execute them effectively; that aim could only be achieved when there was some reasonable assurance that national measures would be backed by international action. That did not mean that the transfer to exporting States of national responsibilities for the control of imports of psychotropic substances, as envisaged in article 12, was acceptable.
39. International action would only be effective if it covered practically the whole world. That meant that all representatives should be willing to accept compromise instead of maintaining positions which might prove unacceptable to a great number of countries.
40. The Netherlands Government had recently proposed new legislation to Parliament which would make it possible to tackle the drug abuse problem very effectively. A research programme dealing with the medical, pharmacological and sociological aspects of drug abuse was now under way. His Government sponsored initiatives concerning health education in drug questions without being itself responsible for the educational function proper. In his delegation's view, new international legislation should approach the problem realistically. Medical, scientific and financial resources should not be devoted to controlling drugs the abuse of which was not a significant social and public health problem. The need to establish international régimes of control for the substances at present listed in schedules III and IV had not yet been demonstrated.
41. A great deal of importance was attached in his country to the rehabilitation of drug addicts; they were not regarded as criminals but rather as patients for whom adequate care should be provided. His delegation was therefore glad to see some reflection of that opinion in article 18 of the draft Protocol, but it would like that article to be still more definite, and it would propose an amendment to the present text in due course. It also found the existing text of article 16 somewhat unsatisfactory. In any case, it should be made clear that the measures envisaged in that article were not of a penal nature.

42. Mr. EYRIES VALMASEDA (Spain) reminded the Conference that Spain had signed and ratified all the international agreements on narcotic drugs from the 1912 Hague Convention to the Single Convention of 1961. It had ratified the 1936 Convention a few months previously, in September 1970.
43. Although the abuse of psychotropic substances was not yet serious in Spain, his country had not waited to take steps against the danger, and two years previously it had decided to place hallucinogens under the same régime of control as the narcotic drugs in schedule I of the Single Convention.
44. Subsequently, it had introduced restrictions on amphetamines and barbiturates. The control measures on imports, exports and so forth were applied strictly and vigilantly by health inspectors. A very careful watch was kept on tranquillizers in case it should be necessary to introduce stricter measures than those at present in force.
45. Mr. SHIK HA (Republic of Korea) said that his country had been complying with the decisions of the Commission on Narcotic Drugs and had become a party to the 1961 Single Convention. It had recently enacted a law on the control of dependence-producing drugs, which had come into force in November 1970. Its purpose in so doing had been to take steps to meet the problems which might arise in Korea in the future and to meet the request by the Commission on Narcotic Drugs that all countries should take appropriate measures to deal with psychotropic substances. The Act consisted of 43 articles supplemented by a Presidential decree, and it covered control measures for amphetamines, LSD, barbiturates, meprobamate, propoxyphene, tetrahydrocannabinol and other tranquillizers. Penalties of considerable severity were laid down for those violating the law.
46. U HLA OO (Observer for Burma), speaking at the invitation of the President, said that it was only as a result of unavoidable circumstances and not through lack of interest that Burma had been unable to participate in the first and second special sessions of the Commission on Narcotic Drugs, and that it was participating in the Conference only as an observer.
47. Whereas narcotic drugs, especially opium, raised problems in Burma, that was not yet the position as far as psychotropic substances were concerned. Very recently, the Burmese pharmaceutical industry, a State-owned concern, had begun the manufacture of tranquillizers, which were in that category. The sole distributors of those tranquillizers, which were issued on medical prescription only, were trade corporations and people's shops. There was therefore little or no chance of abuse. Nevertheless, the Government had set up a small Committee to study the problem of psychotropic substances in all its aspects, and to formulate measures to place them under national control. The Committee included representatives of the enforcement division of the Department of Health and of the trade corporations dealing in medicines. To sum up, although psychotropic substances were not as yet a serious menace in Burma, the Government was not underestimating the danger and would spare no effort to collaborate with other countries in combating that common scourge.
48. Mr. ONODERA (Japan) said that his country was noted for its highly effective system of drug control. Nevertheless, Japanese youth had not entirely escaped the worldwide trend towards increasing drug abuse. As in many other countries, psychotropic substances, notably LSD, were an important feature of that misuse, and his Government was contemplating measures to meet that new situation before it got out of hand.
49. As to the draft Protocol, his Government had still to study the provisions carefully in the light of domestic legislation, but his delegation could already say that in principle the draft Protocol pointed in the same direction as his Government's efforts. His delegation therefore welcomed that instance of international co-operation whole-heartedly. However, it would have some modifications to propose, especially with regard to the schedule groupings and the control measures, and would submit its proposals in due course.
50. Mr. CHAYET (International Council on Alcohol and Addictions), speaking at the invitation of the President, observed that the non-governmental organization of which he was the spokesman was represented in some fifty countries. In his opinion, the problem of narcotic drugs, acute though it already was in many countries, was undoubtedly only in its initial stages. As research went on to discover new substances for medical purposes, the illicit use of those substances would be likely to spread. However, it was difficult to know the exact pattern of the abuses which would develop during the years ahead, for the problem was largely one which affected young people, whose reactions were unpredictable.
51. What was needed, therefore, was a text which would permit the new substances to be subjected to prompt control as and when they appeared. Since the abuses differed from one country to another, the text should be flexible enough to serve every country as a guide in framing laws to meet its own requirements.
52. He agreed with the representatives of Sweden, the United Kingdom and the United States (3rd meeting) that it would be wrong to interfere with the development of new substances and discourage research workers by red tape. In point of fact, it was sometimes found that little research had been done on substances which had later become the subject of widespread abuse; the controls imposed had actually discouraged research without succeeding in eliminating abuse.
53. He also hoped that, in combating addiction, recourse would be had not to penal and administrative measures alone but also, and increasingly, to action by doctors, psychiatrists, psychologists, sociologists and educators. At present, the attitudes and measures being utilized to combat drug abuse were not readily accepted by young people. That was something which must be remedied, for in the final analysis the drug problem was a human one. In some countries, it was found that the effect of general reliance on penal sanctions was to create a new class of delinquents involving large numbers of people from all sections of society. That type of action had also placed a heavy burden on the police and on the

courts. It was therefore preferable to have recourse to penal sanctions only where they could really have deterrent effects. In general, the Protocol should not compel countries to proscribe the possession of certain substances for personal use, but rather to prevent the commission in a country of acts which might be harmful to another country, in accordance with the principles of international law. Lastly, the Protocol should guarantee the freedom of medical research and give therapeutic and educational agencies a meaningful role.

54. Sir Harry GREENFIELD (President of the International Narcotics Control Board) said that for the past decade the Permanent Central Narcotics Board and then its successor, the International Narcotics Control Board had been concerned about the problem of the accelerating misuse of central-nervous-system stimulants and depressants and of hallucinogens, but that, before giving public expression to its concern, INCB had thought it right to make a careful study of the subject. In 1965, PCNB had first sounded a warning on the dangers which those substances presented to public health.<sup>6</sup> In 1966, it had taken part in the study organized by the Commission on Narcotic Drugs, and it had presented to the Committee dealing with the question a paper outlining the main ingredients which in its judgement should find a place in any new measures that might be introduced to cope with the problem.<sup>7</sup> Then, in 1967, PCNB had proposed a sort of blueprint for additional measures of international control.<sup>8</sup> Since then, INCB had continued its close study of the problem, and it had co-operated in all the processes leading up to the present Conference. It had commented on the situation year by year in its annual reports.

55. He had noted with satisfaction, in the general debate, that delegation after delegation had expressed the same concern as INCB; like INCB, they thought that new legislation should be truly international and generally acceptable to Governments, that it should embrace the whole spectrum of dangerous psychotropic substances, and that it should not hinder continuity of research. Furthermore, its provisions should be flexible, so that the controls could be progressively adapted to the changes in the situation that were inevitable.

56. He had also been relieved to find that, while all agreed that controls should be effective, there was also a recognition that the procedure for applying them should not be so cumbersome that the purpose of the legislation would be defeated.

57. In its report on its work in 1970, INCB categorized the main features which it would like to see in the Protocol as it was finally adopted.<sup>9</sup>

58. INCB hoped that Governments would begin to apply the provisions of the Protocol in advance of ratification, for two reasons: the present situation would

be improved as a result, and general ratification of and accession to the Protocol would be encouraged.

59. Mr. YANG (China)\* said that his country was trying to institute national legislation on psychotropic substances. China\* would collaborate to the full in the present Conference with a view to its resulting in the conclusion of an effective protocol at the international level, for it considered that without international control the abuse of psychotropic substances could not be effectively withstood.

The meeting rose at 12.30 p.m.

## SIXTH PLENARY MEETING

Wednesday, 27 January 1971, at 3.10 p.m.

President: Mr. NETTEL (Austria)

### AGENDA ITEM 11

**Consideration of the revised draft Protocol on Psychotropic Substances adopted by the Commission on Narcotic Drugs, in accordance with Economic and Social Council resolution 1474 (XLVIII) of 24 March 1970 (continued)**  
(E/4785, chap. III)

#### REPORT OF THE DRAFTING COMMITTEE ON ARTICLES 5 AND 6 (E/CONF.58/L.4)

1. The PRESIDENT suggested that, as the Russian version of articles 5 and 6 was not yet ready, consideration of the report of the Drafting Committee on articles 5 and 6 should be deferred until a later plenary meeting.

*It was so agreed.*

#### REPORT OF THE COMMITTEE ON CONTROL MEASURES ON ARTICLES 5, 6, 7, 9, 10, 13 AND 15 (E/CONF.58/L.5)

2. The PRESIDENT drew attention to the report of the Committee on Control Measures on articles 5, 6, 7, 9, 10, 13 and 15 (E/CONF.58/L.5) and suggested that it should be referred to the Drafting Committee.

*It was so agreed.*

#### ARTICLE 16 (MEASURES AGAINST THE ABUSE OF PSYCHOTROPIC SUBSTANCES) (E/CONF.58/L.3)

3. Mr. KOECK (Holy See) said that his delegation whole-heartedly supported the contents of article 16, one of the most important articles of the Protocol. His delegation was greatly concerned at the evil effects, both on the individual and on society, of the growing abuse of psychotropic substances and believed that even the full application of all the measures envisaged in article 16

<sup>6</sup> See *Report of the Permanent Central Narcotics Board to the Economic and Social Council on the work of the Board in 1965* (E/OB/21) (United Nations publication, Sales No.: 65.XI.9), paras. 162-164.

<sup>7</sup> E/OB/W.510.

<sup>8</sup> See *Final Report of the Permanent Central Narcotics Board and Drug Supervisory Body, November 1967* (E/OB/23-E/DSB/25) (United Nations publication, Sales No.: E.68.XI.3), paras. 112-164.

<sup>9</sup> United Nations publication, Sales No.: E.71.XI.2, paras. 103-199.

\* See introductory note.



would not be enough without a thorough investigation of the reasons for the present crisis.

4. It had been said that persons took to those substances in order to make up for the misery of life; but it was in the highly developed countries, where the man in the street enjoyed a standard of living unheard of in other parts of the world, that there was the greatest abuse of narcotic and psychotropic drugs. If the reason for taking drugs was a refusal to live the kind of life demanded by a modern industrial society, then there must be something wrong with that society. Those "voyages" into a kind of artificial paradise demonstrated the ideological and spiritual emptiness of modern society.

5. Consequently, the campaign to prevent drug abuse must begin with the moral and social reconstruction of the community; any other approach would be an attempt to cure the symptoms rather than to tackle the evil at its roots.

6. It was impossible to enumerate all the measures that would be appropriate in the campaign against drug abuse, although those mentioned in article 16, paragraph 3, were particularly important. It was essential to spread knowledge of the destructive consequences of drug abuse as a social evil; the problem should be dealt with at school and by the distribution of publications specially designed for the young. The mass media should also be used. In countries where information media were not highly developed, the authorities should draw upon the technical and financial resources offered by such specialized agencies as the United Nations Educational, Scientific and Cultural Organization (UNESCO) and the World Health Organization (WHO).

7. Although it supported article 16, his delegation nevertheless considered that it would be desirable to delete from paragraph 2 the words "as far as possible" and had submitted its amendment to that effect (E/CONF.58/L.3). It was true that, in accordance with the old legal maxim *ultra posse nemo tenetur*, no country could be asked to do more than was possible in fulfilling its treaty obligations; on the other hand, by general international law, as recently codified in article 26 of the 1969 Vienna Convention on the Law of Treaties,<sup>10</sup> all States were bound to fulfil their treaty obligations in good faith. For that reason, his delegation urged the deletion of the words "as far as possible". Another reason was that, in common parlance, the expression "as far as possible" often indicated no more than a very moderate standard of effort.

8. Mr. SAMSOM (Netherlands) said that his delegation was prepared to accept the text of article 16 as it stood. The article was important in that it provided a basis for promoting national and international measures against drug dependence.

9. The steps taken for the early identification of users of psychotropic substances should have the character of public health measures. It was necessary to avoid taking

penal measures at that early stage, since the stigma attached to penalties hampered the whole process of rehabilitation and social reintegration. Although he did not wish to make a formal proposal, he would therefore prefer the title of the article to read "Non-penal measures against the abuse of psychotropic substances".

10. Mr. ASANTE (Ghana) said that his delegation was in broad agreement with article 16. It also supported the amendment submitted by the Holy See, the adoption of which would improve the text of paragraph 2. Ghana, a country where over 40 per cent of the national income was spent on training and education, would do its utmost to comply with the provisions of that paragraph.

11. Consideration might be given to the deletion of the concluding words of paragraph 3 "if there is a risk that abuse of such substances will become widespread", since they suggested that the clause beginning with the words "and shall also promote" was merely conditional. The words were therefore undesirable for the same reasons as the expression "as far as possible". He would not press his suggestion, however, if other delegations attached importance to those words.

12. Mr. OBERMAYER (Austria) said he supported article 16, which laid down guidelines for the measures that should be taken to protect public health from the dangers created by the abuse of psychotropic substances and to help the victims of abuse. His country had already successfully undertaken measures of the type envisaged in the article.

13. Dr. BABAIAN (Union of Soviet Socialist Republics) said that his delegation was prepared to support article 16, subject to certain drafting changes to the Russian text.

14. The title of article 16 was in keeping with the basic ideas embodied in the three paragraphs of the article. Paragraph 1 dealt with measures for the identification, treatment and rehabilitation of the persons involved, paragraph 2 set forth the obligation of the parties to the Protocol to train personnel at all levels, and paragraph 3 was concerned with the important subject of public information.

15. The PRESIDENT said that suggestions regarding drafting amendments should be submitted to the Drafting Committee. Any amendments of substance should be submitted in writing to the Conference.

16. Mr. ASANTE (Ghana), speaking on a point of order, said that delegations had already had enough time to submit in writing any amendments of substance to article 16. He urged that the Conference should deal with the article at the present meeting.

17. Mr. MILLER (United States of America) said that article 16 made it clear that law enforcement measures could not of themselves solve the problem of drug abuse. Experience in the United States had clearly demonstrated that a multi-disciplinary approach was necessary when attacking that problem; research and education were of particular importance. Article 16 was a step forward, in that it drew attention to the kind of measures that could be taken.

<sup>10</sup> *Official Records of the United Nations Conference on the Law of Treaties, First and second sessions, Documents of the Conference (A/CONF.39/11/Add.2)* (United Nations publication, Sales No.: E.70.V.5), p. 292.

18. His delegation did not have any strong views about the words "as far as possible" in paragraph 2, but it should be borne in mind that they could be read in two different ways. They could mean that the parties were required to do all that their technical and economic resources permitted, but they could also mean that each country would do everything possible to carry out the obligations laid down in paragraph 2. Therefore, the effect of the proposed deletion was unclear.
19. Mr. BEEDLE (United Kingdom) said that actual experience in certain countries and the findings of WHO expert committees showed that the problem of the abuse of psychotropic substances required a multi-disciplinary approach, and that was now generally recognized. The largely penal approach favoured in the past had had limited success, but so far it could not be claimed that wider measures had met with any greater success.
20. From the point of view of countries where there was at present no problem of the abuse of psychotropic substances, it would be unrealistic to couch certain provisions of article 16 in mandatory terms. Although there was a threat that the problem would become world-wide, it must also be borne in mind that the countries in question had other social problems that were more pressing. The article should therefore not be worded in such a way that it appeared to impose an obligation to take action before a country actually had a problem. It should be left to each party to determine at its discretion how, when and to what extent it would commit its resources.
21. Mr. RENK (Switzerland) said that he fully supported the amendment proposed by the Holy See. Article 16 was very important and for that very reason it was desirable that its provisions should be made mandatory.
22. At the same time, it had to be recognized that the measures contemplated would represent a considerable financial burden, even for the wealthier countries. For that reason, he urged that, in applying the article, attention should be concentrated on the more dangerous substances.
23. Dr. MABILEAU (France) said that, in principle, his delegation accepted article 16, which stressed the importance of prevention.
24. It was important to remember that the abuse of the psychotropic substances to be covered by the Protocol and the abuse of the narcotic drugs covered by the 1961 Single Convention on Narcotic Drugs constituted a single large problem. The occasional use of a psychotropic substance involving limited dangers often led to the use of other drugs. That well-known process of escalation rendered the preventive measures envisaged in article 16 all the more necessary.
25. The ideal solution would be the early detection of young people in danger of becoming victims of the abuse of drugs. Unfortunately, the best that could be hoped for in practice was the early identification of those actually abusing drugs, so that action could be taken to prevent their becoming addicts to dangerous drugs.
26. His delegation supported the amendment by the Holy See which strengthened to some extent the provisions of paragraph 2.
27. Dr. THOMAS (Liberia) said that, since it was recognized that there was a danger of the abuse of psychotropic substances becoming widespread, the wording of the concluding portion of paragraph 3 seemed too weak. The Drafting Committee should consider amending the words "such understanding among the general public if there is a risk" to read "the understanding among the general public that there is a risk". If the Drafting Committee was unable to take up that suggestion, his delegation would be prepared to accept article 16 as it stood.
28. The PRESIDENT pointed out that the suggested alteration would represent a change of substance. He noted that the Liberian representative had not proposed a formal amendment.
29. Mr. MANSOUR (Lebanon) said that the provisions of article 16 were of great moral and practical importance. His country, as an active member of the Commission on Narcotic Drugs, had participated in the drafting of that article and supported the present text.
30. Mr. CHENG (China)\* expressed his delegation's support for article 16 and also for the proposal to delete the words "as far as possible" in paragraph 2. In the Chinese text, those words could be read as an escape clause.
31. With regard to the wording of paragraph 3, he agreed with the views expressed by the representatives of Ghana and Liberia.
32. Although the danger of abuse of psychotropic substances was not as widespread in his country as it had become elsewhere, his delegation fully supported the approach adopted in article 16.
33. Dr. HOLZ (Venezuela) said that article 16 placed a moral obligation upon countries to do everything in their power to combat the abuse of psychotropic substances. His delegation supported the article and had no objection to the amendment proposed by the Holy See.
34. Dr. EL HAKIM (United Arab Republic) said that it would be unrealistic to impose mandatory obligations on a country, particularly a developing country, which either did not have the problem of abuse of psychotropic substances or could not afford to carry out all the measures set forth in article 16. He therefore urged the retention of the words "as far as possible" in paragraph 2. He wished to make it clear, however, that his delegation supported all the recommendations contained in article 16, although the problem of the abuse of psychotropic substances was not yet acute in his country.
35. Dr. OLGUÍN (Argentina) said it was impossible to over-emphasize the importance of the provisions in article 16 for controlling abuse of psychotropic substances and preventing its spread, which were the basic objectives of the draft Protocol. His delegation could approve that article as it stood, but it was prepared to accept the amendment proposed by the representative of the Holy See, which in its view, would serve to strengthen the provisions.

\* See introductory note.

36. U HLA OO (Burma) said it should be realized that even if the words "as far as possible" were omitted from paragraph 2, the extent to which the provisions of that paragraph could be implemented would vary according to the financial circumstances of each country. While he could accept the text of paragraph 2 as it stood, he wondered whether it would not be better to follow the wording of article 38 of the Single Convention, which had proved adequate in the case of drug addicts, substituting the words "abusers of psychotropic substances" and "abuse of psychotropic substances" for "drug addicts" and "drug addiction".
37. Dr. AZARAKHCH (Iran) said that his delegation could accept article 16 either as it stood or amended in the way proposed by the representative of the Holy See. He believed that deletion of the words "as far as possible" in paragraph 2 would, in fact, strengthen the provisions of that paragraph.
38. Mr. KIRCA (Turkey) said that his delegation preferred the wording of the paragraph as it stood, but if the majority supported the proposed amendment, he would not object to its adoption.
39. His delegation interpreted article 16 to mean that it would be left to each party to take at its discretion whatever action it thought suitable.
40. Mr. TSYBENKO (Ukrainian Soviet Socialist Republic) said that the article's provisions were not only very important; they were also extremely appropriate for developing countries and developed countries alike, both at the present time and in the future. He supported the text as it stood.
41. Mr. CALENDIA (Italy) said he was in favour of the amendment proposed by the representative of the Holy See; the deletion of the words in question would remove any possibility of ambiguity.
42. Mr. BARONA LOBATO (Mexico) said his delegation supported the provisions of article 16, which were of great importance to the building of a firm foundation for the campaign against addiction. All countries, regardless of their stage of development, could adopt the proposed measures. The words "as far as possible" had been included in paragraph 2 by the Commission on Narcotic Drugs in order to enable parties to decide what action was appropriate in their own case. His delegation could not agree to their deletion.
43. Mr. KOCH (Denmark) said he was in favour of the text of article 16 as it stood. The amendment proposed by the representative of the Holy See might perhaps add a final polish to the ideas and principles underlying the article, but there was no point in doing so if, as a result, some countries would be unable to put those ideas and principles into practice.
44. Mr. BENZIAN (Algeria) said that the text as it stood was acceptable to his delegation in principle. The omission of the words "as far as possible" from paragraph 2 would remove a certain degree of flexibility from the provision and hence might defeat the purpose of the proposed amendment. In discussions so far, the emphasis had been on good will; in the present case, the Conference should content itself with providing a stimulus, and leave it to the parties to take what action they could.
45. Mr. TENDERAHO (Rwanda) said his delegation preferred the text as it stood, subject perhaps to minor drafting changes.
46. Dr. CORRÊA da CUNHA (Brazil) said that his delegation could accept the present text. He agreed with what had been said by the representatives of the United Kingdom, Turkey and Mexico.
47. Mr. ANAND (India) said that in general he was in favour of the measures envisaged in the article. It must be remembered, however, that resources in the developing countries were limited and that priorities had to be set for dealing with their many problems. He thought it undesirable to adopt too rigid or too mandatory a wording, and found the solution suggested by the representative of Burma attractive.
48. Mr. O'NEILL (Ireland) said he did not think that the amendment proposed by the representative of the Holy See added very much to the provisions of the article, but since it would remove any possibility of ambiguity, he was prepared to support it.
49. Mr. LOSANA MÉNDEZ (Spain) supported the amendment proposed by the representative of the Holy See.
50. Mr. SLAMA (Tunisia) said he thought that the provisions of article 16, which were of very great importance, were set out very clearly. Amendments might make the wording less clear, and he accordingly supported the text as it stood.
51. Mr. ROECK (International Criminal Police Organization), speaking at the invitation of the President, said that ICPO/INTERPOL considered that the need for continuous measures of the type envisaged in article 16 was indisputable. He would point out, however, in connexion with the second part of paragraph 3, that there was an inherent danger in publicity relating to psychotropic and other dangerous substances. Experience had shown that sensational press publicity had led people to take the substances in question, which was the opposite from what was intended. The Drafting Committee should pay careful attention to the wording of that paragraph, so as to obviate such a danger.
52. Mr. ASANTE (Ghana) said that in view of certain comments that had been made, particularly those of the representative of ICPO/INTERPOL, he thought it would be wise to refer the article to the Drafting Committee rather than dispose of it at the present meeting, as he had suggested earlier.
53. The PRESIDENT suggested that the Conference should vote on the amendment proposed by the representative of the Holy See. Since no opposition had been expressed to the principles underlying the provisions of article 16, the article could then be referred to the Drafting Committee for possible improvement.
- It was so agreed.*
- The result of the vote on the amendment proposed by the representative of the Holy See (E/CONF.58/L.3) was 18 in favour and 17 against, with 14 abstentions.*

*The amendment was not adopted, having failed to obtain the required two-thirds majority.*

**ARTICLE 17**  
**(ACTION AGAINST THE ILLICIT TRAFFIC)**  
**(E/CONF.58/L.1)**

54. Mr. WINKLER (Austria) said that the main purpose of the Austrian amendments (E/CONF.58/L.1) was to clarify the article and to make its provisions more effective. The proposed second paragraph would ensure that, as was in the interests of international co-operation, traditional forms of legal assistance would continue; its provisions would in no way prejudice the assistance already called for under the terms of the draft Protocol.

55. Mr. KOCH (Denmark) said that, although he had no very strong feelings about the Austrian amendments proposed to sub-paragraphs (a) and (e), he would be somewhat hesitant to accept them, simply because the wording of the article as it stood followed very closely that of similar provisions of the Single Convention; in the view of his delegation, that was desirable, to avoid difficulties of interpretation. As to the third amendment, he wondered if it was really necessary to add such a paragraph. For parties to the European Convention on Mutual Assistance in Criminal Matters, at any rate, such a provision in the draft Protocol would appear to be superfluous.

56. The PRESIDENT observed that that was a matter for each delegation to decide.

57. Mr. BEEDLE (United Kingdom) said he had just noticed that the provision of the Single Convention corresponding to that in sub-paragraph (a) contained the words "at the national level" after the word "arrangements". Since the intention of sub-paragraph (a) was that the arrangements referred to should be made at the national level, he would formally propose that the words "at the national level" should be inserted after the word "arrangements", if the Conference was prepared to accept such an oral amendment.

58. He had no objection to the Austrian amendment to sub-paragraph (e) or to the proposed second paragraph but he was not in favour of the proposed amendment to sub-paragraph (a), since its effect would be to make the provisions of that sub-paragraph mandatory. Flexibility was desirable, and greater flexibility would be obtained with the wording as it stood.

59. The PRESIDENT read out rule 35 of the rules of procedure of the Conference governing proposals and amendments. Since the proposal by the United Kingdom representative involved a very simple amendment, he would assume, in the absence of any objection, that the Conference was prepared to accept it for discussion, although it had not been circulated in writing.

*It was so agreed.*

60. Mr. BEB a DON (Cameroon) said that article 17 was acceptable as it stood, but he had no objection to the Austrian amendment to sub-paragraph (e), or to the proposal for a second paragraph, which would render the article more complete.

61. Mr. KIRCA (Turkey) said that he could not vote for the article unless the United Kingdom amendment were adopted. The words "it is desirable that" in sub-paragraph (a) were acceptable. He was inclined to favour the text of the Single Convention for sub-paragraph (e) in preference to the Austrian amendment.

62. As he understood it, the obligation imposed upon any party in sub-paragraphs (b), (c) and (d) was to inform the other parties concerned and particularly the authorities of the Government in whose country the substance had originated, or of which the traffickers were nationals, of any illicit traffic case or seizure.

63. Dr. JOHNSON-ROMUALD (Togo) said that, in order that the Protocol could be applied in developing countries, particularly those in Africa, full account must be taken of the situation there. There was a shortage of officials in those countries, and for that reason, after prolonged discussion, the Commission on Narcotic Drugs had inserted the words "it is desirable that", so as to leave the parties some discretion. He could not agree, therefore, to the mandatory form of words proposed by Austria for sub-paragraph (a).

64. He could support, on the other hand, the Austrian amendment to sub-paragraph (e) and the proposal for a second paragraph.

65. Mr. ASANTE (Ghana) said he was in favour of the United Kingdom amendment and was opposed to the wording proposed by Austria for sub-paragraph (a).

66. The Austrian amendment to sub-paragraph (e) was acceptable.

67. He was opposed to the proposed second paragraph which would cause complications and would enable a party to opt out of its obligations under article 17 on the grounds that it had concluded a treaty concerning assistance in criminal matters. Sometimes it was necessary to obtain information from another Government even when no criminal act had been committed.

68. Mr. NIKOLIĆ (Yugoslavia) proposed that the whole of article 17 should be replaced by the wording of Article 35 of the Single Convention, with the substitution of the words "psychotropic substances" for the words "narcotic drugs". The Single Convention had been widely ratified, and lawyers would be puzzled by differences in wording between the two instruments. His proposal was based on purely practical considerations.

69. The PRESIDENT pointed out that the Conference had decided to use the draft Protocol as its basic document. The Yugoslav proposal would thus have to be presented in the form of an amendment to article 17 to the effect that in sub-paragraph (a) the words "at the national level" should be inserted after the word "arrangements", and that the words "it is desirable that they" should be replaced by the words "they may usefully" and that in sub-paragraph (e) the word "papers" should be substituted for the word "documents" and the word "designated" for the word "designed".

70. He asked whether the Conference was willing to accept the Yugoslav proposal for discussion in that form.



71. Mr. ASANTE (Ghana) said that he objected to such an extensive oral amendment. His instructions related solely to the draft Protocol.
72. Dr. REXED (Sweden) said he agreed with the previous speaker; amendments should be submitted in writing.
73. The PRESIDENT asked the Yugoslav representative to submit his proposal in writing.
74. Mr. McCARTHY (Canada) supported the United Kingdom amendment and expressed the view that the Yugoslav proposal was a useful one.
75. Dr. BABAIAN (Union of Soviet Socialist Republics) said that his delegation had consistently advocated the use of the Single Convention in the preparation of the Protocol to control psychotropic substances and welcomed the fact that other delegations were coming round to that view.
76. He supported the United Kingdom and Yugoslav amendments, since they were in line with the Single Convention. The discussion on article 17 should be deferred until the Yugoslav proposal had been circulated in writing.
77. Mr. ANAND (India) said he regretted that psychotropic substances were not to be brought under control by the extension of the scope of the Single Convention.
78. It was puzzling that the Yugoslav delegation, which at the first special session of the Commission on Narcotic Drugs (658th meeting) had proposed the deletion of the words "at the national level" and of the word "usefully", should now wish to revert to the text of the Single Convention. Since the text had been very carefully considered both at that session and at the Commission's twenty-third session prior thereto, when the draft had been worded exactly as in the Single Convention, he considered that the Conference should approve the draft as it stood and reject both the United Kingdom and the Yugoslav amendments.
79. Mr. KIRCA (Turkey) said that if the Conference deviated too much in the Protocol from the wording of the Single Convention, both instruments would give rise to difficulties of interpretation. He agreed with the Yugoslav proposal.
80. Dr. THOMAS (Liberia) said that the Conference should consider only the Austrian amendments, which had been circulated in writing, particularly as certain oral amendments to article 16 had not been admitted.
81. He preferred the original text of article 17 with the United Kingdom amendment, because it was close to the text of the Single Convention, which had been operating satisfactorily for a number of years.
82. The PRESIDENT drew attention once more to rule 35 of the rules of procedure and pointed out that the Conference had decided that the United Kingdom amendment was receivable. The Yugoslav representative had been asked to submit his proposal in writing.
83. Dr. MABILEAU (France) said that his delegation could have accepted article 17 as it stood, but in view of the Yugoslav proposal it considered that further discussion of the article should be deferred until the proposal had been circulated in writing.

84. He was inclined to favour the Austrian proposal for a second paragraph, but would ask the Drafting Committee to alter the wording of the French text. The words "*assistance mutuelle en matière criminelle*" should be replaced by "*entr'aide judiciaire en matière pénale*".

85. Mr. MANSOUR (Lebanon) said that it would be preferable if representatives could submit their amendments in writing and in advance. He did not consider the addition of a second paragraph in article 17 to be necessary. The parties could always conclude bilateral or multilateral treaties providing for more vigorous measures against illicit traffic. Article 17 was satisfactory as it stood.

86. Dr. OLGUÍN (Argentina) said that sub-paragraphs (a), (b), (c) and (d) in the draft were satisfactory. He could accept the Austrian amendment to sub-paragraph (e) and the Austrian proposal for the addition of a second paragraph.

The meeting rose at 5.55 p.m.

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## SEVENTH PLENARY MEETING

Thursday, 28 January 1971, at 2.40 p.m.

President: Mr. NETTEL (Austria)

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### AGENDA ITEM 11

Consideration of the revised draft Protocol on Psychotropic Substances adopted by the Commission on Narcotic Drugs, in accordance with Economic and Social Council resolution 1474 (XLVIII) of 24 March 1970 (*continued*)  
(E/4875, chap. III)

#### ARTICLE 17

(ACTION AGAINST THE ILLICIT TRAFFIC) (*continued*)  
(E/CONF.58/L.1, E/CONF.58/L.7, E/CONF.58/L.12)

1. Mr. NIKOLIĆ (Yugoslavia) drew attention to the proposal he had made at the 6th meeting, which he had now submitted in writing (E/CONF.58/L.7). It was simply from a desire to be co-operative that he had changed the position he had adopted at the first special session of the Commission on Narcotic Drugs.
2. The 1961 Single Convention on Narcotic Drugs had been ratified by many States and had been in force for some time, so it might create misunderstandings if an article in the present Protocol with more or less the same purpose as article 35 of the Single Convention were worded differently. Therefore, the purpose of his amendments was to reproduce the wording of article 35.
3. Mr. KIRCA (Turkey), introducing his amendment (E/CONF.58/L.12) to sub-paragraph (b) of article 17, said that in some cases the parties to the Single Convention, after making a seizure, provided information

- about it rather late to the other parties concerned, though they might have informed the Secretary-General much earlier. The purpose of his amendment was to avoid such delays and in particular to ensure that a party of whose country the traffickers were nationals or in whose country the substances had originated was informed of seizures promptly. After discussing the matter with the Secretariat and in the working group set up to study article 14, his delegation had concluded that the proper place for the provision was in article 17 rather than in article 14.
4. Mr. ASANTE (Ghana) said that in principle he could support the Turkish amendment, but some drafting changes might be necessary.
  5. Mr. LINKE (Austria), replying to some of the comments made on the Austrian amendments (E/CONF.58/L.1) at the 6th meeting, said that their purpose was to clarify the text of article 17. Though there was great force in the argument that the text of the draft Protocol should follow as closely as possible the text of the Single Convention, it should be improved where possible. The Single Convention had been drafted almost ten years previously and since that date experience had been gained in drawing up other multilateral instruments.
  6. His delegation had not proposed the addition of a second paragraph with any intention of limiting international co-operation; its aim was to draw attention to the fact that additional means of co-operation existed in the bilateral and multilateral treaties on legal assistance in criminal matters.
  7. Mr. ANAND (India) said that the existing text of article 17 was acceptable to his delegation and he did not favour either the Yugoslav amendments or the United Kingdom oral amendment (6th meeting). The only improvements suggested by the Yugoslav representative that could be accepted were the substitution of the word "papers" for the word "documents" and the word "designated" for the word "designed" in sub-paragraph (e).
  8. The proposed insertion of the phrase "at the national level" in sub-paragraph (a) was superfluous and could create difficulties. Each Government must decide for itself what kind of co-ordinating agency it wished to set up, having regard to its constitution and to its legal and administrative system. That argument had prevailed at the first special session of the Commission when it had been decided not to include the phrase. The Austrian amendment to sub-paragraph (a) was certainly objectionable, because of its mandatory form.
  9. Nor could he agree with the Austrian amendment to sub-paragraph (e). Some Governments might object to documents being transmitted direct to the competent authorities of the parties, since they preferred all communications from foreign Governments to pass through the Ministry of Foreign Affairs.
  10. He was uncertain about the precise implications of the proposed second paragraph. If it were inserted, some proviso would have to be added to the effect that in the case of a conflict between the provisions of the Protocol and a bilateral or multilateral treaty the provisions of the Protocol would prevail.
  11. He had no objection to the Turkish amendment to sub-paragraph (b), provided the words "to the other Parties directly concerned" were replaced by the words "bodies designated by the Parties."
  12. Dr. AZARAKHCH (Iran) said that his delegation had always urged that the text of the Protocol should follow as closely as possible that of the Single Convention. As article 17 of the draft Protocol was very similar to article 35 of the Convention, he would have been ready to accept it. However, he had no objection to the Yugoslav and Turkish amendments.
  13. Mr. KIRCA (Turkey) said that the insertion of the words "at the national level" in sub-paragraph (a) was essential, so as to make it clear that the clause dealt with the co-ordination of internal measures. Unless those words were inserted, sub-paragraph (b) would simply repeat what was said in sub-paragraph (a).
  14. The other Yugoslav amendments were also acceptable.
  15. He was opposed to the Austrian amendment to sub-paragraph (a). As to the Austrian amendment to sub-paragraph (e), he wondered whether there was any difference in meaning between the expression "*poursuites criminelles*" and the words "*action judiciaire*" used in the Single Convention. If there was a difference, the effect of the Austrian amendment might be to restrict the scope of international co-ordination.
  16. The third Austrian amendment was for the addition of a second paragraph. The question must be dealt with in such a way that the Protocol, whose provisions were of a general nature, prevailed over a bilateral or multilateral treaty concerning mutual assistance in criminal matters which contained special provisions; the latter must in any case apply only to the parties. That would have to be made clear if the Austrian amendment were accepted.
  17. In his own delegation's amendment he wished to add the words "or the competent authorities designated by the Parties for this purpose" after the words "diplomatic channels".
  18. Dr. BABAIAN (Union of Soviet Socialist Republics) said that for a number of years consideration had been given to the idea of using the Single Convention for the purpose of controlling psychotropic substances; but as certain countries had stated that the adoption of such a course would create difficulties for them, his delegation had agreed that a new international instrument in the form of a protocol should be drawn up. It had nevertheless been agreed that it would be desirable to use, as far as was possible and expedient, the language of the Single Convention.
  19. Since article 17 to a large extent reproduced the corresponding provision in the Single Convention, his delegation had no objection to it and favoured the Yugoslav amendments, which brought the wording even closer to that of the Single Convention.
  20. His delegation was reluctant to accept the Turkish amendment the revised version of which had not yet been submitted in writing. An important question of substance was also involved: the Turkish amendment referred to article 14, which was still under discussion, and a number of amendments to it had been submitted to the Com-

mittee on Control Measures. Since it was not possible to say how article 14 would finally be worded, his delegation could not take a position on the Turkish amendment.

21. His delegation supported the Austrian amendments to sub-paragraphs (a) and (e). The position of the developing countries should be taken into account; those countries did not favour the introduction of a mandatory requirement that a co-ordination agency should be set up.

22. His delegation was favourably inclined towards the third paragraph of the Austrian amendment but wished to consider all the implications of that important amendment before taking a final decision.

23. Mr. ASANTE (Ghana) said that his delegation could accept the text of article 17 as it stood. In his view, the Yugoslav amendments should be disposed of first, since they were the furthest removed from that text.

24. He opposed the Austrian amendment to insert an additional paragraph. His country was a party to a number of bilateral and multilateral agreements which precluded mutual assistance in criminal matters when there were political implications or refugees were involved; instances of that kind had sometimes occurred in cases concerning narcotic drugs.

25. In principle, his delegation favoured the Turkish amendment. The purpose of the change of wording made orally by the sponsor could be achieved equally well by replacing the words "through diplomatic channels" by the words "through appropriate channels".

26. Mr. McCARTHY (Canada) said he supported the Yugoslav proposal to insert the words "at the national level". A single party to the Protocol could only co-ordinate matters within its own territory.

27. His delegation had no objection to the Turkish amendment, now that the text had been amended.

28. Mr. KOCH (Denmark) said he was in favour of the proposal to introduce the words "at the national level" in sub-paragraph (a). In the absence of those words, the provisions of the sub-paragraph could be taken to cover co-ordination at both the national and the international levels, and thus to duplicate the following sub-paragraphs, which dealt with questions of international co-operation.

29. He supported the Yugoslav proposal to replace the words "it is desirable that they" by "they may usefully" in sub-paragraph (a), and he therefore opposed the Austrian amendment to that sub-paragraph.

30. In the case of sub-paragraph (e), too, he supported the Yugoslav amendment and opposed the Austrian amendment. It was undesirable to depart from the language of the corresponding provision of the Single Convention, because it might then be held that a different meaning was intended.

31. His delegation was prepared to support the Turkish proposal for the introduction of a new paragraph.

32. The Austrian proposal to insert a second paragraph was unacceptable to him. The proposed new paragraph was probably superfluous and might even be confusing. It could be read as meaning that the provisions of a treaty such as the European Convention on Mutual

Assistance in Criminal Matters would prevail over the provisions of the Protocol, whereas that Convention stated that the provisions of other instruments on specific aspects of assistance prevailed over the provisions of the Convention. In view of those difficulties, it was desirable that article 17 should not deal with the effect of the Protocol on other international instruments and vice versa.

33. Mr. SHEEN (Australia) said that the opening words of article 17 "Having due regard to their constitutional, legal and administrative systems" meant that the parties would do their best to abide by the principles embodied in the article.

34. His delegation supported the Yugoslav amendments which brought the text of article 17 closer to the corresponding provision in the Single Convention.

35. Mr. BARONA LOBATO (Mexico) said that his delegation accepted article 17 with the Yugoslav amendments. It could not take a position on the other amendments without a more thorough examination of their implications, but it was in any case inclined to support sub-paragraph (e) as it stood.

36. Mr. ANISCHENKO (Byelorussian Soviet Socialist Republic) said that the Yugoslav amendments were acceptable, since they advocated the adoption of wording that was very close to that of the corresponding provision of the Single Convention, particularly in Russian, but his delegation could not support the Austrian amendment to sub-paragraph (a), which departed from the text of the corresponding provision of the Single Convention. With regard to the Turkish amendment he would like to see the revised Russian text before taking a position.

37. Mr. LINKE (Austria) said that in the light of the discussion and in order to facilitate the work of the Conference, he withdrew the Austrian amendment to sub-paragraph (a).

38. The PRESIDENT, referring to the legal point raised earlier by the Turkish representative, asked the Austrian delegation whether the words "criminal proceedings" used in the Austrian amendment to sub-paragraph (e) were intended to have a meaning different from that of the words "a prosecution" used in the text of article 17.

39. Mr. LINKE (Austria) said that no difference of substance was intended. The term "criminal proceedings" was intended to cover not only proceedings in court but also a preliminary investigation, even when conducted by the police.

40. Mr. KIRCA (Turkey) pointed out that the term "*action judiciaire*" used in the existing French text was a broad one and covered more than criminal proceedings. Since it was not the intention of the Austrian delegation to introduce a change of substance, it would be better to employ the same terminology as that used in the Single Convention.

41. The PRESIDENT pointed out that the French expression "*action judiciaire*" did not correspond to the English "criminal proceedings". Since the changes made orally to the text of the Turkish amendment were not very important, he appealed to the USSR and Byelorussian delegations not to insist on a written Russian

version, so that the Conference could vote on that amendment.

42. Mr. KIRCA (Turkey), speaking on a point of order, said that, if he was not mistaken, the difficulties of the USSR delegation were due to more than the absence of a written text of the amendment he had proposed orally to his amendment. In the circumstances, he moved that discussion on article 17 be adjourned and voting deferred until the final text of all amendments were available in writing in all working languages.

43. Dr. BABAIAN (Union of Soviet Socialist Republics) said he could confirm what the Turkish representative had said; his delegation's main difficulty was the uncertainty about the content of article 14, which was referred to in the Turkish amendment. He supported the proposal for adjournment of the discussion; the article could be considered further when a decision had been taken on article 14 and other relevant matters.

44. The PRESIDENT said that, under rule 31 of the rules of procedure, he could permit two representatives to speak in favour of, and two against, the motion for adjournment of debate before putting the motion to the vote. In view of the fact that the USSR representative had already spoken in favour of the motion, he could only permit one further representative to speak in favour of, and two against, the motion.

45. Mr. ASANTE (Ghana) said he was opposed to the adjournment of the debate. The Conference was in a position to take a decision on some parts of article 17, and, to save time, it should proceed to vote on all the proposals except the Turkish amendment to sub-paragraph (b), which was the only one still causing difficulty.

46. Dr. JOHNSON-ROMUALD (Togo) said he was strongly opposed to any further adjournment of the debate on article 17.

47. Mr. TSYBENKO (Ukrainian Soviet Socialist Republic) said he supported the motion for the adjournment of the debate.

*The motion for the adjournment of the debate on article 17 was rejected by 31 votes to 10, with 7 abstentions.*

48. The PRESIDENT informed the Conference that he had just received the text of a sub-amendment which the Turkish representative wished to propose to the third paragraph of the Austrian amendment. Since the Turkish representative's proposal involved complex legal considerations, he did not see how it could be adequately discussed on the basis of an oral presentation.

49. However, the Conference might agree to vote immediately on all the amendments proposed, with the exception of that Turkish proposal and the paragraph of the Austrian amendment to which it referred, which could be dealt with once the text of the Turkish proposal had been circulated.

*It was so decided.*

50. The PRESIDENT said he would put the amendments to the vote in the order of the sub-paragraphs to which they related.

*Sub-paragraph (a)*

*The Yugoslav proposal (E/CONF.58/L.7) to insert the words "at the national level" after the phrase "make*

*arrangements" was adopted by 42 votes to 1, with 7 abstentions.*

*The Yugoslav proposal (E/CONF.58/L.7) to replace the words "it is desirable that they" by "they may usefully" was adopted by 34 votes to 1, with 13 abstentions.*

*Sub-paragraph (b)*

*The Turkish amendment (E/CONF.58/L.12), as orally amended by the sponsor, was adopted by 18 votes to 7, with 25 abstentions.*

51. Mr. ASANTE (Ghana) said he had voted for the Turkish amendment because he supported it in principle, but he was not happy about the English version as orally amended, and hoped that the Drafting Committee would find more satisfactory wording.

*Sub-paragraph (e)*

*The Austrian amendment (E/CONF.58/L.1) was rejected by 22 votes to 9, with 19 abstentions.*

*The first Yugoslav amendment (E/CONF.58/L.7) was adopted by 29 votes to 1, with 19 abstentions.*

52. The PRESIDENT said that the second Yugoslav amendment to sub-paragraph (e) could be regarded as purely a drafting amendment and could be referred direct to the Drafting Committee. The third Yugoslav amendment was identical in tenor to the first, which had just been adopted by the Conference; he suggested that the Conference adopt it without a vote.

*It was so agreed.*

53. The PRESIDENT suggested that a vote should be taken on the article as a whole, as amended, on the understanding that if the Conference subsequently decided to add a second paragraph, as had been proposed by the Austrian representative, the article as a whole would again be put to the vote. If the Conference decided not to add a second paragraph, however, he would take it that no further vote on the article as a whole would be required.

*It was so agreed.*

*Article 17 as a whole, as amended, was adopted by 46 votes to none, with 2 abstentions.*

The meeting rose at 4.50 p.m.

## EIGHTH PLENARY MEETING

Monday, 1 February 1971, at 10.15 a.m.

President: Mr. NETTEL (Austria)

### AGENDA ITEM 11

**Consideration of the revised draft Protocol on Psychotropic Substances adopted by the Commission on Narcotic Drugs, in accordance with Economic and Social Council resolution 1474 (XLVIII) of 24 March 1970 (continued)**  
(E/4785, chap. III)

ARTICLE 17 (ACTION AGAINST THE ILLICIT TRAFFIC)  
(continued)

(E/CONF.58/L.1, E/CONF.58/L.14)

1. The PRESIDENT invited the Conference to consider the third Austrian amendment, for the addition of a



second paragraph to article 17 (E/CONF.58/L.1) and the Turkish sub-amendments (E/CONF.58/L.14). Both the amendment and the sub-amendments had already been introduced by their respective sponsors (7th meeting).

2. Mr. HOOGWATER (Netherlands) said he would have no difficulty in accepting the first change proposed by the Turkish delegation, since, in his opinion, it represented a marked improvement on the text proposed by the Austrian delegation.

3. He was afraid, however, that the addition to that text of a new sentence worded as suggested by the Turkish delegation in its second sub-amendment might cause confusion. He wondered whether, for example, if a number of neighbouring countries concluded an agreement whose provisions were more severe than those of the Protocol, an offender would then be entitled to plead the less severe provisions of the Protocol.

4. Mr. WATTLES (Legal Adviser to the Conference) observed that article 30 of the 1969 Vienna Convention on the Law of Treaties codified the principle of customary international law that, in the event of a conflict between two treaties, the provisions of the later treaty prevailed over those of the earlier one. The Turkish representative's proposal seemed difficult to reconcile with that principle.

5. Mr. KIRCA (Turkey) agreed that his proposal amounted to the establishment of a derogation from the general rules of customary international law; a derogation of that kind existed, however, in Article 103 of the United Nations Charter. He was surprised that Austria should think it necessary to include in the Protocol a provision which did not exist in the 1961 Single Convention on Narcotic Drugs. Moreover, he could not see in what connexion his proposal could raise the difficulty referred to by the Netherlands representative; any more severe measures stipulated in an agreement signed between particular States parties to the Protocol must of necessity provide for the more rapid transmission of legal documents, and that would certainly be a cause for satisfaction.

6. In any case, his delegation thought it unnecessary that the paragraph proposed by the Austrian delegation should be added to the Protocol. Should the Conference wish to adopt the paragraph, however, Turkey would like to be sure that parties to the protocol which were not parties to another international agreement could invoke vis-à-vis the parties which were at the same time parties to such an agreement the rights and obligations accorded to and imposed on the latter by the Protocol.

7. Mr. HOOGWATER (Netherlands) said that he for his part would like to be sure that a trader who infringed the more severe provisions of another international agreement would not be entitled to relieve himself of liability by sheltering behind the provisions of the Protocol.

8. Mr. WATTLES (Legal Adviser to the Conference) said that if some parties to the Protocol concluded a further agreement among themselves after they had signed the Protocol, the provisions of the new agreement would in no way bind the other parties to the Protocol, whereas they would bind the parties which had signed the agreement. Difficulties could arise between States which were parties only to the Protocol and States which were parties to both the Protocol and the new agreement; the situation

would then have to be examined in detail in each particular case.

9. Mr. NIKOLIĆ (Yugoslavia) remarked that delegations had come to Vienna with their Governments' instructions, which were based on the draft Protocol; they would therefore have great difficulty in taking up a position if attempts were made to add to the draft provisions whose implications had not been studied by the competent national legal authorities. In his opinion, it would be better to keep to the existing text, which was based on article 35 of the Single Convention and not waste time on discussions that were unlikely to have any practical results.

10. Dr. BABAIAN (Union of Soviet Socialist Republics) pointed out that article 19 of the draft Protocol gave every party the possibility of adopting stricter or more severe measures of control than those provided for by the Protocol. The question was, then, whether the adoption of the amendment proposed by Turkey would circumscribe that possibility.

11. The PRESIDENT said he did not think the proposed amendment would prevent parties to the Protocol from adopting more severe measures.

12. Mr. MILLER (United States of America) said he was afraid the changes proposed by Austria and Turkey raised more problems than they solved. He therefore shared the Yugoslav representative's view that it would be prudent to keep to the existing text.

13. Dr. JOHNSON-ROMUALD (Togo) and Dr. MÅRTENS (Sweden) supported the view expressed by the Yugoslav and United States representatives and requested an immediate vote on the amendment submitted by Austria and the sub-amendments proposed by Turkey.

14. Mr. ASANTE (Ghana) suggested that, in view of the discussion which had just taken place, the sponsors of the proposals might perhaps wish to withdraw them.

15. Mr. KIRCA (Turkey) said he would willingly withdraw his proposed sub-amendments if the Austrian delegation withdrew the proposal underlying them.

*The first Turkish sub-amendment (E/CONF.58/L.14) was put to the vote.*

*The result of the vote was 15 in favour and 8 against, with 29 abstentions.*

*The proposal was not adopted, having failed to obtain the required two-thirds majority.*

*The second Turkish sub-amendment (E/CONF.58/L.14) was rejected by 26 votes to 8, with 20 abstentions.*

*The third Austrian amendment (E/CONF.58/L.1) was rejected by 26 votes to 11, with 14 abstentions.*

#### ARTICLE 18 (PENAL PROVISIONS) (E/CONF.58/L.2, E/CONF.58/L.8, E/CONF.58/L.10, E/CONF.58/L.16; E/CONF.58/C.4/L.30)

16. Mr. LINKE (Austria), introducing the Austrian amendments (E/CONF.58/L.2), explained that the intention of his delegation's amendment to paragraph 1 was to draw a sharper distinction between the three possible courses of action: (a) to impose adequate punishment upon offenders, (b) to accompany that punishment with measures of treatment, education or social reintegration,



or (c) to resort to those measures without imposing any punishment. It was therefore a purely drafting amendment, which might be referred to the Drafting Committee. The purpose of the second amendment proposed, that to paragraph 2 (a) (iv) of the article, however, was to draw the attention of the Conference to an omission in the draft Protocol, the effects of which might be legally unacceptable. The draft Protocol as at present worded might enable an offender to evade the enforcement of the sentence imposed upon him, by fleeing abroad. The idea was, of course, to protect an offender against the possibility of multiple prosecutions, but it was not for the Conference to deal with that possibility and it would be better to leave it to national law to settle such cases as they arose.

17. The intention of the fourth amendment, for the insertion of a new paragraph providing for the possibility of seizure and confiscation was to bring the text of the Protocol into line with article 10 of the 1936 Convention and article 37 of the 1961 Single Convention. Lastly, the fifth amendment, to paragraph 3 of article 18, related only to the wording of the text and it too might be referred to the Drafting Committee.

18. The PRESIDENT said that, in view of the Austrian representative's explanations, only the second and fourth Austrian amendments would be put to the vote.

19. Mr. FEUILLARD (France), introducing the French amendment (E/CONF.58/L.8), said he wished first of all to make clear that the French delegation fully accepted the substance of article 18, paragraph 2 (b). But it considered that provision inadequate and was proposing that a sub-paragraph (c) should be added, specifying, as in article 44, paragraph 2, of the Single Convention, that any of the parties to the Protocol which so wished might, after notifying the Secretary-General, regard *ipso facto* as extraditable offences under any extradition treaty which had been concluded or might thereafter be concluded between the parties the offences referred to in paragraph 1 and paragraph 2 (a) (ii), or, if they did not make extradition contingent on the existence of a treaty or a stipulation of reciprocity, recognize them as extraditable offences at their own discretion. It was unlikely that such a provision would give rise to difficulties.

20. Mr. McCARTHY (Canada), introducing the Canadian amendments to paragraph 1 (E/CONF.58/C.4/L.30) and paragraph 4 (E/CONF.58/L.10), observed that it would have been better to discuss article 4 before article 18, since it was necessary to know precisely what was the scope of the limitations imposed on the use of psychotropic substances before defining the penalties.

21. The main purpose of the Protocol was not to place restrictions on the international trade in psychotropic substances, as in a trade treaty, but to establish an effective system of control and administration. From that point of view, article 18 was one of the most important in the Protocol, because it indicated to Governments the attitude they should take towards offenders. The medical and social causes of the problem should not be underrated. Canada had already stated its intention of embarking on an extensive educational, medical and sociological research programme with a view to combating

drug abuse effectively. But the last sentence in paragraph 1 of article 18 of the text of the draft Protocol did not state clearly enough the need to take measures of treatment, education, after-care, rehabilitation and social reintegration, and the Canadian delegation had therefore submitted its amendment to that paragraph.

22. The purpose of the amendment to paragraph 4 was to provide greater flexibility in the application of the provisions in article 18, and in particular to enable parties to take any measures of treatment they considered desirable, without necessarily making the possession of a substance in schedule II an offence.

23. Mr. SHEEN (Australia) introduced the Australian sub-amendment (E/CONF.58/L.16). The Australian delegation could accept the Austrian amendment to paragraph 1, but it should be specified that the measures of treatment, education and reintegration might be applied while the offender was serving his sentence.

24. The PRESIDENT said that the Austrian amendments and the Australian sub-amendment to article 18, paragraph 1, would be referred to the Drafting Committee.

25. Mr. NIKOLIĆ (Yugoslavia), supported by Mr. ASANTE (Ghana), said he was surprised that substantive amendments were still being proposed to the text of article 18, which had already been submitted to Governments and had been considered at length by the Commission on Narcotic Drugs, where the comments had been taken into account. He proposed that article 18 of the draft Protocol should be considered paragraph by paragraph, a simultaneous endeavour being made to reconcile differences of opinion.

26. Dr. THOMAS (Liberia) said that the Austrian, Canadian and French amendments usefully supplemented the text of the draft Protocol, inasmuch as they stressed the need for measures of reintegration as well as penal provisions.

27. Mr. CHENG (China)\* observed that in some countries, such as China, measures of reintegration were not a legal requirement if no penalty was imposed. In that respect, the Austrian amendment, supplemented by the Australian sub-amendment, provided greater liberty of action than the Canadian amendment, in that it enabled the courts to place offenders in institutions for rehabilitation without having to pronounce a penal sentence.

28. Mr. RENK (Switzerland) said he agreed with the Canadian representative that it was hard to deal with article 18 without knowing the exact scope of the limitations imposed on the use of psychotropic substances or the scope of application of the control of substances, the subject of article 2, and without knowing the final content of the schedules. He referred to his previous statement concerning article 16 (sixth meeting) and said that he reserved the right to state his delegation's position after articles 2 and 4 had been considered. He would support any motion to defer any decision on article 18.

29. Mr. BARONA LOBATO (Mexico) said that the text for paragraph 1 proposed by the Austrian delegation was better than the text in the draft Protocol. The Mexican delegation was prepared to accept any amend-

\* See introductory note.

ment which, without affecting the substance, would provide that the competent authorities could replace a penal sentence by measures of treatment, education or reintegration. A clear distinction should, however, be drawn between drug addicts, for whom measures of treatment were suitable, and traffickers, who should be liable to imprisonment. Illegality should be graduated according to whether it was civil, administrative or penal. That would make it possible to overcome the difficulties in article 4. In the light of those views, he could accept the Austrian amendment to article 18, paragraph 1. The amendment to paragraph 2 was consistent with the principle of territoriality and introduced a useful clarification. He had some objections, however, to the third Austrian amendment, in which it was proposed that the words "los delitos" in the Spanish text should be replaced by "las infracciones"; legally, only serious offences could be grounds for extradition. The same difficulty arose over the fourth Austrian amendment, in which the word "infracciones" should also be replaced by the word "delitos". He preferred the text of paragraph 3 as proposed in the fifth Austrian amendment, which was drafted in more precise terms than the existing text of the draft Protocol.

30. In short, the Austrian amendments were on the whole acceptable, because they were couched in optional terms and it would therefore be open to each party to apply the relevant provisions or to refrain from doing so.

31. The French amendment reproduced the terminology used in paragraph 2 (b), and if it was intended to replace that sub-paragraph, he could accept it. If not, the French proposal would need thinking over. It might perhaps be possible to combine the Canadian amendment to paragraph 1 with the Austrian amendment to the same paragraph since the Canadian amendment stressed the alternatives open to an individual, whether convicted or not. The Canadian amendment to paragraph 4 was also consistent with the principle of territoriality.

32. He had some misgivings, however, about the first sentence in paragraph 2 of the draft Protocol as it stood; were not the terms "legal system" and "legislation" synonymous? It might perhaps be better to amend the text to read: "Subject to the constitutional limitations of a party, its legislation and its administrative system".

33. Dr. CORRÊA da CUNHA (Brazil) said he wished to explain his country's position with regard to the illicit traffic in psychotropic substances. It was important to draw a clear distinction between traffickers, who should be prosecuted and punished, and drug addicts, who should be subjected to appropriate treatment under medical supervision. It should not be forgotten, however, that drug addicts were dangerous patients who exercised a bad influence by trying to recruit new drug takers. Very often, too, such patients refused to submit to medical treatment. The existing text of the draft Protocol thus reflected the essentials of the problem quite correctly and stressed the need for international control. Since each paragraph recognized every party's right to lay down penal provisions in accordance with its national requirements, he could accept the text of article 18 as it stood.

34. Mr. KIRCA (Turkey) explained the reasons why his delegation preferred the original text of the draft Protocol to the amendments. His delegation would vote against the amendments, except for the French proposal.

35. Dr. MÅRTENS (Sweden) said that it was essential to make clear in paragraph 1 that parties could choose between penal measures and measures of treatment. The drafting of the second sentence could certainly be improved; he suggested that the drafting amendments by Australia, Austria and Canada relating to paragraph 1 should be referred to the Drafting Committee, which might try to combine them.

36. The amendments relating to paragraphs 2, 3 and 4 of article 18 submitted by Austria and France affected the substance and his delegation did not feel it could accept them, if only because they introduced new provisions which had not been included in the Single Convention and were not necessary in the draft Protocol either.

37. Mr. FEUILLARD (France) said that his delegation could accept the Canadian amendment to paragraph 1 if the exemption implicit in it concerned only the offence of abuse of psychotropic substances, but it seemed that was not the case and that the exemption would apply to any person guilty of any of the offences set out in article 18, paragraph 1, namely manufacture, distribution, offering for sale, and so on. If that was really the meaning of the Canadian amendment, his delegation could not accept it. On the other hand, it was prepared to accept any amendment which would provide exemption solely for persons abusing psychotropic substances; that would obviously mean that the parties considered that the abuse of psychotropic substances had to be made a separate and self-contained penal offence. The Austrian amendment to paragraph 1, to which there was an Australian sub-amendment, was therefore more in line with the views of the French delegation, to the extent that the replacement of punishment by measures of treatment or education was merely optional.

38. The PRESIDENT suggested that the Conference should consider article 18 paragraph by paragraph.

*It was so agreed.*

#### *Paragraph 1*

39. Mr. MILLER (United States of America) said that he was on the whole in favour of the original text of paragraph 1. He recognized, however, that in the English version the word "controlled" in the second sentence was not very clear; the Drafting Committee might improve the wording of that sentence. It might be dangerous to create a special category of offences for persons who merely abused psychotropic substances, as distinct from those who were drug addicts. If, however, the Conference decided to amend the second sentence of the paragraph, his delegation could accept the Canadian amendment.

40. Dr. BABAIAN (Union of Soviet Socialist Republics) said that the amendments to paragraph 1 were not simply drafting amendments but changes of substance. His delegation preferred the original text of the draft Protocol.

41. Dr. SADEK (United Arab Republic) proposed that the amendments should be referred to the Drafting Committee.

42. Mr. BEEDLE (United Kingdom) said he supported the Canadian amendment for the deletion of the last sentence in paragraph 1, since the sentence was superfluous and not at all clear. That sentence introduced a new element which did not appear in article 36, paragraph 1, of the Single Convention.

43. Mr. McCARTHY (Canada) said that he wished to dispel a misunderstanding. The amendment proposed by his delegation did not seek to deprive any party of the right to choose between penal measures and measures of treatment; it simply reflected the great need for flexibility in that connexion. He cited the case of a Canadian high school at which three-quarters of the pupils had been found in possession of psychotropic substances. They could not be regarded as delinquents. It was therefore necessary to impart some flexibility to the paragraph and to provide for a solution to the problem other than that of recourse to the traditional penal procedure. His delegation would welcome any change in the paragraph which the Drafting Committee could make to that effect.

44. Dr. JOHNSON-ROMUALD (Togo) said that he favoured the original wording of the paragraph and asked for it to be put to the vote.

45. The PRESIDENT said that he would take that request as a proposal that the list of speakers be closed. He heard no objections thereto, and accordingly declared the list closed.

46. Mr. HOOGWATER (Netherlands) said that his delegation could accept the existing text of paragraph 1 if the Drafting Committee altered the last sentence so as to make it clear that the offences concerned were the ones specified in the first sentence of the paragraph.

47. Mr. ASANTE (Ghana) said that the present wording of paragraph 1 was acceptable to his delegation, though in the English version the word "controlled" might well be replaced by a word signifying "dealt with". But Ghana could also agree to the deletion of the last sentence of the paragraph.

48. Dr. MÅRTENS (Sweden) stressed the need for the retention of the second sentence of paragraph 1. In view of the difficulties involved, to which several delegations had drawn attention, he proposed that paragraph 1 should be referred to the Drafting Committee to be reworded.

49. Mr. NIKOLIĆ (Yugoslavia), speaking as the Chairman of the Drafting Committee, said that he thought the Conference would first have to agree on the interpretation of the second sentence of paragraph 1, for, while some delegations regarded it as an alternative, the Netherlands delegation had said that it should relate to the offences mentioned in the first sentence of the paragraph.

50. Mr. BEEDLE (United Kingdom) referred to the case cited by the Canadian representative where psychotropic substances had been found in the possession of a large number of school pupils who could not be regarded as delinquents and for whom the existing provisions of article 18 would be too stringent. The solution to that problem lay in article 4, to which the Canadian delegation

had submitted an amendment (E/CONF.58/C.4/L.34), which the United Kingdom would support.

*The meeting rose at 1.5 p.m.*

## NINTH PLENARY MEETING

*Tuesday, 2 February 1971, at 10.10 a.m.*

*President: Mr. NETTEL (Austria)*

### AGENDA ITEM 11

**Consideration of the revised draft Protocol on Psychotropic Substances adopted by the Commission on Narcotic Drugs, in accordance with Economic and Social Council resolution 1474 (XLVIII) of 24 March 1970 (continued)**  
(E/4785, Chap. III)

#### ARTICLE 18

(PENAL PROVISIONS) (continued)  
(E/CONF.58/L.2, E/CONF.58/L.8, E/CONF.58/L.10,  
E/CONF.58/L.16; E/CONF.58/C.4/L.30)

#### *Paragraph 1 (continued)*

1. Mr. McCARTHY (Canada) said that, although his delegation's position remained unchanged, it would withdraw its amendment (E/CONF.58/C.4/L.30), in view of the way the discussion had gone at the 8th meeting.
2. Dr. HOLZ (Venezuela) expressed agreement with the views advanced by the Soviet Union representative at the 8th meeting. His delegation would vote in favour of the original text of paragraph 1, with any amendments that the Drafting Committee might see fit to make to it.
3. Mr. MILLER (United States of America) said that his delegation would accept paragraph 1 as set forth in the draft Protocol, but on the understanding that the wording of the second sentence was perhaps not entirely satisfactory and that the Drafting Committee would have to make the necessary drafting changes. The text should in particular make it quite clear that abusers of psychotropic substances who committed an offence should not necessarily be liable to the same penalties as traffickers, and that it lay with the competent national authorities to decide how to deal with them.
4. Dr. JENNINGS (Ireland) approved of the wording as set forth in the draft Protocol. He suggested that in the second sentence of the English version the word "controlled" should be replaced by the words "dealt with".
5. The PRESIDENT invited the Conference to vote on the Australian sub-amendment (E/CONF.58/L.16) to the first Austrian amendment, to replace the second sentence of paragraph 1 of article 18 (E/CONF.58/L.2, para. 1).  
*The result of the vote was 13 in favour and 11 against, with 23 abstentions.*

*The Australian sub-amendment (E/CONF.58/L.16) was not adopted, having failed to obtain the required two-thirds majority.*

*The Austrian amendment to the second sentence of paragraph 1 (E/CONF.58/L.2, para. 1) was rejected by 19 votes to 11, with 20 abstentions.*

6. The PRESIDENT called for a vote on article 18, paragraph 1, of the draft Protocol, on the understanding that the text would be referred to the Drafting Committee for any necessary drafting amendments.

7. Mr. BEEDLE (United Kingdom) moved that there should be a separate vote on the second sentence of the paragraph.

8. Dr. JOHNSON-ROMUALD (Togo) and Dr. MÅRTENS (Sweden) opposed the United Kingdom motion.

*The United Kingdom motion was rejected by 28 votes to 8, with 16 abstentions.*

9. Mr. HOOGWATER (Netherlands), speaking on a point of order, said that some delegations, including his own, had said they would accept paragraph 1 of the text in the draft Protocol on condition that major drafting changes were made in it. In particular, he thought it essential that the text should clearly indicate that the national authorities of each party would be entitled to decide on the most appropriate manner of dealing with abusers of psychotropic substances. He therefore proposed that the vote on paragraph 1 should be postponed until the new wording of the paragraph was available.

10. The PRESIDENT pointed out that the matter raised by the Netherlands representative related to a point of substance. Since the Netherlands was not on the list of speakers, which had been closed at the 8th meeting, the point was out of order.

*Paragraph 1 was adopted by 52 votes to none, with 2 abstentions.*

#### *Paragraph 2*

11. Mr. HOOGWATER (Netherlands) said that sub-paragraph (b) needed to be made more specific.

12. Mr. BEEDLE (United Kingdom), supported by Mr. SHEEN (Australia), expressed his delegation's opposition to the second Austrian amendment, namely to delete the words "and if such offender has not already been prosecuted and judgement given" in paragraph 2 (a) (iv), since the effect of deleting those words, which were in the corresponding article of the 1961 Single Convention on Narcotic Drugs, would be that an offender would run the risk of being prosecuted and punished twice for the same offence. The third Austrian amendment, that to replace the words "extradition crimes" in sub-paragraph (b) by the words "extraditable offences", was a purely drafting amendment and could be referred to the Drafting Committee.

13. With regard to the new sub-paragraph (c) proposed by France (E/CONF.58/L.8), it was incompatible with sub-paragraph (b), and his delegation would therefore vote against it. It would not, however, be opposed to another amendment which reflected the French del-

egation's desire that the Protocol should include provisions equivalent to those in article 44, paragraph 2, of the Single Convention.

14. Mr. KOCH (Denmark) said that his delegation likewise would vote against the substantive amendments to paragraph 2. It was regrettable that Governments which had comments to make on the draft Protocol had not offered them earlier, for their competent departments had had ample time since 1969 to examine the draft exhaustively. The text of the draft Protocol was comparable to that of the Single Convention, which had already stood the test. A further point was that if the amendments in question were adopted, a trafficker would be treated differently according to whether his actions related to substances covered by the Single Convention or to substances covered by the Protocol; the situation would be even more complicated if his activities concerned both categories of substances simultaneously. Moreover, the adoption of the amendments would oblige countries which applied the same rules to both categories, as Denmark did, to call on their legislatures to enact separate laws for each.

15. Mrs. LINGENS (Austria) cited the case of a country like her own, which, in applying the optional provision laid down in the second sentence of paragraph 1, would subject abusers of psychotropic substances who had committed an offence to measures of treatment, and which was bound by an extradition treaty with a country in which the optional provision was not applied. If that treaty provided that an offender could not be punished more severely in the country to which he was extradited than in the country from which he was extradited, it might in some cases be difficult to determine which was the more severe punishment, for example four weeks' imprisonment with a suspended sentence or treatment measures consisting of hospitalization for six months or one year. The offender might regard the measures of treatment as more severe than the sentence. Her delegation therefore thought it necessary to specify which measures were the most severe.

16. Dr. BABAIA (Union of Soviet Socialist Republics) had not originally intended to intervene in the discussion, his attitude being very close to that of the representatives of Denmark and Yugoslavia. However, he felt obliged to do so because of the support given by several speakers to the Secretariat view that the third Austrian amendment (i.e., the amendments to sub-paragraph (b) (E/CONF.58/L.2, para. 3)), would not affect the Russian text. Actually, the change it was proposed to make in the English text would be bound to affect the Russian text, for the word "crimes" had a narrower meaning than the word "offences" and the scope of the paragraph would thus be considerably enlarged. In the absence of a Conference decision in that connexion, the Drafting Committee would have great difficulty in harmonizing the two versions.

17. Dr. AZARAKHCH (Iran) supported the Austrian delegation's second amendment, which ensured that no offender could be punished twice for the same offence.

18. As to the French delegation's amendment, he was at a loss to understand what it would add to the provisions



of paragraph 2 (b). Perhaps it would be useful for the Conference to be given some clarification on that point before proceeding to vote.

19. Mr. McCARTHY (Canada) agreed with the United Kingdom representative that the Austrian delegation's third amendment did not affect the substance of the matter.

20. With regard to the other Austrian amendments and the French amendment, although he was not one of those who regarded the 1961 Single Convention as infallible, he wished to stress, bearing in mind the Danish representative's remarks, that article 36 of that Convention had been drafted with the utmost care, so as to preclude any difficulties with regard to extradition. It would be better, therefore, to keep to that text.

21. Miss BALENCIE (France) explained that the difference between the new sub-paragraph proposed by her delegation and paragraph 2 (b) was that the latter merely considered it "desirable" that the offences concerned should be regarded as extradition crimes in the circumstances mentioned, whereas that would be mandatory under the new text in the case of parties which regarded those offences *ipso facto* as extradition crimes.

22. In answer to those who might be surprised that the new text had not repeated the actual terms of either article 44, paragraph 2, of the Single Convention or article 9 of the Convention of 1936, she explained that the French delegation had wished to leave a way open for States which were not parties to the 1936 Convention; all they would need to do would be to make the notification to the Secretary-General.

23. Mr. KIRCA (Turkey) said that he regarded the introductory proviso in paragraph 2 as adequate and would vote against the Austrian delegation's second amendment.

24. The French proposal, on the other hand, seemed to him extremely sensible and well calculated to express the intentions of those who sought the utmost possible concordance between the Protocol and the Single Convention.

25. Mr. MILLER (United States of America) criticized the weakness of the present wording of paragraph 2 (b); paragraph 2 began by formulating a reservation and went on, in sub-paragraph (b), to affirm that it was "desirable", etc.

26. The French proposal was attractive but appeared, on analysis, to lack balance, since it placed heavier obligations on parties which made extradition conditional on a treaty. It also appeared to render sub-paragraph (b) entirely meaningless. His delegation would therefore be unable to support it.

27. With regard to the Austrian amendments, his delegation, like the United Kingdom and Canadian delegations, would be unable to accept other than minor drafting changes to the present text.

*The second Austrian amendment (E/CONF.58/L.2, para. 2) was rejected by 48 votes to 1, with 5 abstentions.*

*The third Austrian amendment (E/CONF.58/L.2, para. 3) was rejected by 22 votes to 1, with 29 abstentions.*

*The French amendment (E/CONF.58/L.8) was rejected by 32 votes to 6, with 12 abstentions.*

*Paragraph 2 of article 18 as set forth in the draft Protocol, was adopted by 52 votes to none, with 2 abstentions.*

#### *New paragraph 3*

28. Dr. BABAIAN (Union of Soviet Socialist Republics) regarded the inclusion of the new paragraph proposed by Austria (E/CONF.58/L.2, para. 4), which incidentally reproduced the terms of article 37 of the Single Convention, as highly desirable.

29. Dr. AZARAKHCH (Iran) and Mr. NIKOLIĆ (Yugoslavia) endorsed the Soviet Union representative's opinion.

30. Mr. KIRCA (Turkey) was whole-heartedly in favour of the inclusion of the new paragraph, but noted certain differences, undoubtedly purely of a drafting nature, between the text proposed by the Austrian delegation and that of article 37 of the Single Convention. The Drafting Committee might perhaps be asked to eliminate any divergences.

31. Mr. ANAND (India) supported the Austrian amendment but submitted that the word "equipment" used in the Single Convention was much broader in scope than the word "instruments" in the Austrian proposal, and that the Single Convention had provided for the seizure, not of things "intended for the commission" of any of the offences referred to but of things "used in or intended for the commission of any of the offences". He suggested that the Austrian delegation should itself revise its amendment.

32. Dr. BERTSCHINGER (Switzerland) supported the Indian representative's suggestion.

33. The PRESIDENT asked whether the Austrian delegation would be prepared to revise its amendment in order to take account of the suggestions made.

34. Mr. LINKE (Austria) replied that his delegation would be most happy to take the Indian representative's comments into account. The text might then read:

Any psychotropic substance as well as any equipment used in or intended for the commission of any of the offences referred to in paragraphs 1 and 2 shall be liable to seizure and confiscation.

35. Mr. KIRCA (Turkey) asked whether it would not be wiser simply to reproduce the text of article 37 of the Single Convention, replacing the words "Any drugs" by "Any psychotropic substances".

36. Dr. OLGUÍN (Argentina) and Miss BALENCIE (France) supported the Turkish representative's suggestion.

37. Mr. MILLER (United States of America) expressed his readiness to accept the new text, amended to conform with article 37 of the Single Convention. He drew the Conference's attention, however, to the fact that, with the term "equipment" as used in the paragraph, his Government would consider itself authorized to seize and confiscate any vehicle, lorry, vessel or aircraft which had been used for the illicit transportation of psychotropic substances.

38. Mr. BARONA LOBATO (Mexico) would be prepared to vote for the inclusion of a new paragraph reproducing, *mutatis mutandis*, the text of article 37 of the



Single Convention. In that case, the word "substances", without any adjective, would also cover precursors; it might be as well to make that point, if only orally.

39. Mr. CALENDI (Italy) was in favour of the inclusion of the new paragraph but wondered whether it would not be as well to provide, as in Italian criminal law, for the confiscation of profits derived from the offences.

40. The PRESIDENT suggested that the Conference should vote without further delay, on the understanding that the Drafting Committee would take account of all the views expressed in the debate.

41. Mr. BARONA LOBATO (Mexico) suggested that it would be as well to specify initially whether the Conference was to vote on the amended Austrian text or on a text reproducing that of article 37 of the Single Convention but mentioning psychotropic substances in the first place, followed by a reference to "substances" and then to "equipment".

42. The PRESIDENT observed that no formal proposal to that effect had been made.

43. Mr. STEWART (United Kingdom) submitted that the Mexican representative had raised an important point which the Drafting Committee would not be competent to resolve. The Austrian representative might perhaps be willing to revise his text once more so as to include the term "substances".

44. Dr. OLGUÍN (Argentina) formally proposed that the word "substances" should be included in the text, the final version of which would be worked out by the Drafting Committee.

45. Mr. SHEEN (Australia) supported the Argentine representative's proposal.

46. Mr. NIKOLIĆ (Yugoslavia), Chairman of the Drafting Committee, said that it was his understanding that the text would now read:

Any psychotropic substances, any substances and any equipment used in or intended for the commission of any of the offences referred to in paragraphs 1 and 2 shall be liable to seizure and confiscation.

47. Dr. BÖLCS (Hungary) supported the Austrian amendment as it stood. In his view, the term "equipment" covered any substance, plant or the like which might be used in the manufacture of a psychotropic substance. He was not in favour of simply reproducing the text of article 37 of the Single Convention.

48. Mr. KOECK (Holy See) supported the amended text read out by the Chairman of the Drafting Committee, but felt it advisable to make it even more specific, to read: "Any psychotropic substances, any other substances and any equipment ...".

49. The PRESIDENT said that he was informed that the Austrian representative accepted the text thus amended, and would put that text to the vote.

*The proposal to insert in article 18 a new paragraph 3, worded in accordance with the suggestions by the Chairmen of the Drafting Committee and the representative of the Holy See, was adopted by 52 votes in favour and 2 against, on the understanding that the Drafting Committee would bring the various versions into line.*

### Paragraph 3

50. The PRESIDENT invited the Conference to consider article 18, paragraph 3, of the draft Protocol and the fifth Austrian amendment (E/CONF.58/L.2, para. 5).

51. Mr. KIRCA (Turkey), supported by Dr. BABAIAN (Union of Soviet Socialist Republics), pointed out that the existing text of the draft Protocol reproduced article 36, paragraph 3, of the Single Convention of 1961 word for word. Hence, the Austrian amendment was not merely a drafting amendment.

52. Mr. KOCH (Denmark) agreed. It would be dangerous to depart from the wording of the Single Convention, since it had been reached after lengthy discussions.

53. Mrs. LINGENS (Austria) explained that the Austrian delegation's intention in proposing the amendment had not been to amend the provisions of the Single Convention, but simply to make the text clearer. The proposed paragraph could be referred to the Drafting Committee, if the Conference so agreed.

54. Dr. BABAIAN (Union of Soviet Socialist Republics) submitted that the concept of national law brought in by the Austrian amendment might lead to protracted discussion, whereas the concept of a party's criminal law had already been accepted in the Single Convention.

55. Mr. KIRCA (Turkey) agreed with the Soviet Union representative. The Austrian text diverged from the traditional formulations used in international treaties in order to reserve the parties' sovereignty. It might be asked, for example, since all that was involved was excluding or limiting the exercise of criminal jurisdiction, whether the Austrian amendment might not prevent a party from setting up special courts for offences involving drugs.

56. Dr. JOHNSON-ROMUALD (Togo) said that, in view of the foregoing comments, he thought the original text of paragraph 3 preferable to that of the Austrian amendment.

57. Mr. NIKOLIĆ (Yugoslavia) formally moved the closure of the debate on the paragraph.

58. Mrs. LINGENS (Austria) said that the Austrian delegation preferred to withdraw its amendment.

59. The PRESIDENT put to the vote the original text of article 18, paragraph 3, of the draft Protocol.

*Paragraph 3 was adopted unanimously.*

### Paragraph 4

60. Mr. WATTLES (Legal Adviser to the Conference) drew the Conference's attention to the fact that the French text of article 18, paragraph 4, of the draft protocol like article 36, paragraph 4, of the Single Convention, bore no relation to the English text or to the other texts. It would be advisable to ask the Drafting Committee to ensure the conformity of the French text with the texts in the other languages.

61. The PRESIDENT said that the Chairman of the Drafting Committee would consider the question.

62. Mr. MILLER (United States of America) supported the Canadian amendment to paragraph 4 (E/CONF.58/

L.10), which he regarded as an improvement on the text of the draft Protocol.

63. Dr. JOHNSON-ROMUALD (Togo), supported by Mr. NIKOLIĆ (Yugoslavia), expressed satisfaction with the original text of paragraph 4.

64. Mr. KIRCA (Turkey) felt that the Canadian amendment might give rise to difficulties of interpretation. The expression "if created by the law of a Party" was not clear if it referred to offences. There might, for example, be offences which were not created by national law and which were subject to international law, and in such cases it might be questionable whether such offences could be defined, and their perpetrators prosecuted and punished. He was therefore against the Canadian amendment.

65. Dr. MÅRTENS (Sweden), Mr. BARONA LOBATO (Mexico) and Mr. KOECK (Holy See) shared the Turkish representative's misgivings.

66. Mr. McCARTHY (Canada) explained that the sole intention in his delegation's amendment was to make the text of paragraph 4 consistent with that of paragraphs 1 and 2, the introductory words of which were a reservation relating to the constitutional limitations of each party.

67. Dr. BABAIAN (Union of Soviet Socialist Republics) said that the Canadian amendment might have undesirable legal consequences, since the text seemed to allow of the possibility that a party might not have any provisions in force in its territory concerning offences connected with psychotropic substances and so authorize that party not to apply the Protocol, as far as that question was concerned. Moreover, the Canadian amendment might create the impression that a party which had no legislation in force in its territory would punish a violation of the Protocol directly on the basis of the Protocol itself. Therefore, the USSR delegation considered such a amendment unacceptable.

68. Mr. HOOGWATER (Netherlands) recognized the force of the Canadian representative's arguments in support of his amendment. However, since the terms of paragraph 1 would require parties to institute prosecutions in respect of offences, if need be by creating special laws, the Canadian amendment might be further amended by deleting the words "defined, prosecuted and punished" and replacing them by the word "tried".

69. Mr. McCARTHY (Canada) accepted the Netherlands representative's amendment.

70. Mr. KIRCA (Turkey) was unconvinced by the Canadian representative's explanations. In particular, he did not believe that paragraph 1 required parties to create offences contrary to their Constitution, since it contained the expression "subject to its constitutional limitations".

71. Mr. MANSOUR (Lebanon) said the problem did not involve future legislation so much as the competence of courts. In other words, when an offence concerned several countries it was necessary to know what court was competent to try it, regardless of the penalty to be imposed. He therefore preferred the existing text of the Protocol.

72. Mr. KOCH (Denmark) considered that article 18, paragraph 4, was consistent with the corresponding paragraph of article 36 of the Single Convention and

required no explanation; manifestly, no international instrument could modify a party's national law without its assent. He was therefore against the Canadian amendment.

73. Mr. VALDES BENEGAS (Paraguay) said that the Canadian proposal confused the juridical problem of competence and the administrative problem of criminal justice. The merit of the original text of paragraph 4 was that it strengthened the legal principle that only such offences as were defined by the law invoked by the court trying the case were subject to prosecution before it.

74. Mr. HOOGWATER (Netherlands) detected a misunderstanding. National authorities were certainly competent to legislate in their own country, but in accepting a protocol a party also accepted the obligations embodied in it, which were thenceforth integrated in its domestic law. In the case of article 18, the amendment to paragraph 4 introduced a concept of obligation, which was clear enough from the use of the mandatory word "shall" in the phrase "the offences... shall be defined, prosecuted and punished".

75. He would appreciate the views of the Legal Adviser to the Conference on that question.

76. Mr. WATTLES (Legal Adviser to the Conference), specifying that he was speaking in a purely personal capacity, said that the interpretation given by the Danish representative was correct, inasmuch as paragraph 4 must be seen in the context of the article as a whole and of paragraphs 1 and 2 in particular, both of which contained a reservation concerning the constitutional limitations of parties. The meaning of paragraph 4 in the original text was that the provisions of article 18 would be limited only by the law of each of the parties.

*The Canadian amendment (E/CONF.58/L.10), as amended by the Netherlands representative, was rejected by 32 votes to 3, with 19 abstentions.*

*Paragraph 4 was adopted by 49 votes to none, with 5 abstentions.*

*Article 18 as a whole, as amended, was adopted by 53 votes to none, with 1 abstention.*

The meeting rose at 1.15 p.m.

## TENTH PLENARY MEETING

Tuesday, 2 February 1971, at 3.5 p.m.

President: Mr. NETTEL (Austria)

### AGENDA ITEM 11

**Consideration of the revised draft Protocol on Psychotropic Substances adopted by the Commission on Narcotic Drugs, in accordance with Economic and Social Council resolution 1474 (XLVIII) of 24 March 1970 (continued)**  
(E/4785, chap. III)

#### ARTICLE 19

(APPLICATION OF STRICTER NATIONAL CONTROL MEASURES THAN THOSE REQUIRED BY THIS PROTOCOL)  
(E/CONF.58/L.17)

1. Mr. BARONA LOBATO (Mexico), introducing his delegation's redraft of article 19 (E/CONF.58/L.17), said

that the provisions of that article were, strictly speaking, not absolutely necessary, since it was a fundamental principle of law that whatever was not prohibited was permitted. Consequently, even in the absence of a provision on the lines of article 19, it would be open to a party to apply stricter national control measures than those required by the Protocol.

2. Since, however, it was felt desirable to retain article 19, his delegation had decided to propose a new version which did not affect the substance but which expressed it in more direct language. The proposed rewording avoided the double negative and the cumbersome formula "or be deemed to be". Lastly, it altered the order of the words "necessary or desirable" to "desirable or necessary", so as to place the stronger term last.

3. Dr. JOHNSON-ROMUALD (Togo) supported the Mexican amendment which replaced the negative formulation of article 19 by an affirmative one.

4. Mr. HOOGWATER (Netherlands) proposed, as a sub-amendment to the Mexican amendment, the deletion of the concluding words "if, in its opinion, such measures are desirable or necessary for the protection of public health and welfare". It was not desirable to specify the reasons a party might have for adopting stricter or more severe measures of control; indeed, those reasons might well not be connected with the protection of public health and welfare.

5. Dr. BABAIAN (Union of Soviet Socialist Republics) supported the Mexican amendment as it stood, because it did not affect the substance of article 19. He opposed, however, the Netherlands oral sub-amendment; it was essential that the stricter control measures that were adopted should be desirable or necessary for the protection of public health and welfare.

6. Mr. KIRCA (Turkey) supported the Mexican amendment without the Netherlands sub-amendment. If the concluding words were deleted, the resulting provision would conflict with those of other international conventions to which Turkey and other States were parties; those States, like Turkey, were likely to be also parties to the Protocol.

7. Dr. EL HAKIM (United Arab Republic) noted that article 19 followed the wording of the corresponding article 39 of the 1961 Single Convention on Narcotic Drugs. On the whole, it was desirable to retain that wording, but he would not oppose the Mexican amendment, though without the Netherlands oral sub-amendment.

8. Mr. WINKLER (Austria) agreed that it was desirable to adhere to the wording of the corresponding provision of the Single Convention. In the present case, however, the Mexican amendment represented a drafting improvement, and he would therefore support it.

9. Dr. MÅRTENS (Sweden) supported the Mexican amendment, without the Netherlands sub-amendment.

10. Mr. PORTERO IBÁÑEZ (Spain) supported the Mexican amendment as it stood, for the reason given by the Austrian representative.

11. Mr. MADULE (Democratic Republic of the Congo) said he had been prepared to accept article 19 in its original form, but had been convinced by the arguments of the Mexican representative and was prepared to support that representative's redraft, which introduced greater flexibility.

12. Dr. AZARAKHCH (Iran) said he fully supported the Mexican amendment, without the Netherlands sub-amendment.

13. Mr. MILLER (United States of America) said that his delegation entertained some doubts as to the need for article 19, particularly the concluding words. If, however, the majority of delegations felt it necessary to retain the article and the concluding passage, his delegation would support the Mexican rewording. In the earlier stages of the work on the draft Protocol, his delegation had accepted for article 19 a wording based on article 39 of the Single Convention, despite the clumsy language used.

14. He could support the Mexican redraft without the Netherlands sub-amendment, although he could not conceive of a Government acting capriciously and adopting stricter control measures for reasons other than the protection of public health and welfare.

15. Mr. McCARTHY (Canada) supported the Netherlands sub-amendment; the concluding words were restrictive and unnecessary from the drafting point of view.

16. Dr. MABILEAU (France) said that the Mexican redraft was acceptable to his delegation in its original form.

*The Netherlands oral sub-amendment was rejected by 33 votes to 3, with 16 abstentions.*

*The Mexican amendment (E/CONF.58/L.17) was adopted by 51 votes to none, with 4 abstentions.*

17. The PRESIDENT said that, since the Mexican amendment replaced the whole of article 19, the vote on it was tantamount to the adoption of the article as a whole, as amended.

18. Mr. ANAND (India), Vice-Chairman of the Drafting Committee, said that the Drafting Committee had now submitted two reports. The first contained the Committee's text for articles 5 and 6 (E/CONF.58/L.4); the second contained its text for articles 7, 8, 9, 10, 13 and 15 (E/CONF.58/L.4/Add.1).

19. In some of those articles, the Committee had kept the expression "retail distributors" in preference to "retailers". That practice was only provisional, however, because the Committee still had to take a final decision on the question whether the term "distribution" should be retained in the Protocol.

#### ARTICLE 5

(SPECIAL ADMINISTRATION)  
(E/CONF.58/L.4)

20. Dr. MABILEAU (France), Chairman of the Committee on Control Measures, said that article 5 had been approved by that Committee.

*Article 5 (E/CONF.58/L.4) was adopted by 56 votes to none.*

ARTICLE 6  
(SPECIAL PROVISIONS REGARDING SUBSTANCES  
IN SCHEDULE I)  
(E/CONF.58/L.4)

21. Dr. MABILEAU (France), Chairman of the Committee on Control Measures, said that the Committee had had no difficulty in approving article 6 as formulated by a working group under the chairmanship of the Netherlands representative.
22. Dr. DANNER (Federal Republic of Germany) said he would like to have an interpretation of the term "medical or scientific establishments" as used in sub-paragraph (a). He wished to know whether a private hospital operated by an individual physician could be deemed to constitute such an establishment.
23. Dr. MABILEAU (France), Chairman of the Committee on Control Measures, said that he, for one, was not prepared to give an interpretation of that term.
24. Dr. DANNER (Federal Republic of Germany) said that in his country an individual psychiatrist operating his own private hospital could obtain an authorization to use psychotropic substances for experimental purposes.
25. The PRESIDENT, giving his personal opinion as a lawyer, said that a private hospital could be considered as an establishment within the meaning of article 6.
26. Dr. THOMAS (Liberia) drew attention to the important words "duly authorized persons" which preceded the words "in medical or scientific establishments". He felt that there should be no difficulty in applying the provisions of article 6 (a).
27. U HLA OO (Burma) said that in his delegation's view a private hospital would be covered by the term "medical or scientific establishments", and the term "duly authorized persons" would include a doctor practising in a hospital, regardless of whether it was public or private.
28. Dr. EL HAKIM (United Arab Republic) said that the point raised by the representative of the Federal Republic of Germany would become clearer when the Conference adopted article 7 dealing with licences. Article 7, paragraph 2 (a), as adopted by the Drafting Committee (E/CONF.58/L.4/Add.1), specified that the parties to the Protocol had a duty to control "all duly authorized persons and enterprises".
29. Mr. ANAND (India) said he had participated in the formulation of article 6 by the working group which had dealt with that article, and it was his impression that sub-paragraph (a) was intended to cover the use of psychotropic substances by "duly authorized persons", who must be working "in medical or scientific establishments"; those establishments had to be directly under government control or should have received specific government approval. He did not believe that an individual physician doing his own research could be regarded as constituting a single-man "establishment", even if he had obtained government approval.
30. In view of the very dangerous nature of the substances in schedule I, even a "duly authorized" person had to be required to use those substances in an approved establishment; the establishment must constitute an

institution and be more than just an individual physician working in his room.

31. Dr. BABAIAN (Union of Soviet Socialist Republics) pointed out that article 6 (a) required the prohibition of all use of the dangerous substances in schedule I, except for scientific and very limited medical purposes and subject to strict conditions.
32. He drew attention to a contradiction between that prohibition and the provisions of article 3, paragraphs 2 and 3, as approved by the Committee on Control Measures (E/CONF.58/L.5/Add.2). Those two paragraphs enabled the parties to permit the use of "psychotropic substances" for industrial purposes and for the capture of animals respectively. In order to bring those provisions into line with those of article 6 as now submitted by the Drafting Committee, the words "other than those in schedule I" should be inserted after the words "psychotropic substances", as had already been done in article 3, paragraph 1, relating to the needs of international travellers.
33. The PRESIDENT said he had consulted the Legal Adviser to the Conference, whose opinion was that the general rule in article 6 should prevail over the provisions of article 3. Article 6 should not therefore be subordinated to article 3.
34. Dr. BABAIAN (Union of Soviet Socialist Republics) said he was glad to have the Legal Adviser's opinion on that point. He, too, considered that the provisions of article 6 should prevail over those of article 3. Article 6 did not provide for any other possible uses of the psychotropic substances in schedule I than those which it mentioned. If, therefore, article 6 was adopted by the Conference in its present form, none of the exceptions stated in article 3 could apply to psychotropic substances in schedule I. Consequently, when the Conference came to consider article 3, the words "other than those in schedule I" would have to be inserted after the words "psychotropic substances" in both paragraph 2 and paragraph 3, as had already been done in paragraph 1.
35. Mr. HOOGWATER (Netherlands) said that in the working group which had formulated article 6, it had been agreed that a private hospital was covered by the provisions of sub-paragraph (a). Of course, the hospital had to be either directly under government control or be specifically approved by the Government, which would thus exercise close supervision over the activities mentioned.
36. Mr. MILLER (United States of America) said that his delegation was firmly of the opinion that the term "establishment" referred to any place where medical and scientific work was being done. There was no need to specify its size, the type of installation or the number of staff employed. The establishment must be directly under the control of the Government or specifically approved by it. Governments could be depended upon to interpret the clause judiciously and were not likely to abuse it. The wording of the article was flexible enough to cover future research techniques and establishments which might later be regarded as appropriate and it would be unwise to restrict it to the types of institutions recognized at the present time as suitable. No more detailed definition of the term "establishment" should be attempted.



37. Dr. DANNER (Federal Republic of Germany) said he took note of the United States representative's interpretation of the term "establishment".
38. Mr. MILLER (United States of America) said that his delegation was unable to accept the word "production" as used in article 6. The Technical Committee's view had been that no definition of the term "production" should appear in article 1, and there had been a consensus that it was not worth attempting to impose controls on biological substances from which psychotropic substances could be obtained.
39. The American Indians in the United States and Mexico used peyote in religious rites, and the abuse of the substance was regarded as a sacrilege. If the process of gathering peyote were to be regarded as production, his delegation would have to vote against article 6 (b). He therefore asked that the term should be put to the vote separately, unless the article were voted on provisionally pending a decision on article 1.
40. Mr. BARONA LOBATO (Mexico) said he had the same reservation regarding article 6, and he proposed that the word "production" in sub-paragraph (b) should be deleted.
41. Dr. THOMAS (Liberia) said that production did not apply only to plants but must also cover the manufacture of synthetic substances, and consequently the word could not be omitted.
42. Dr. MABILEAU (France) said that the word "production", which applied to substances derived from cultivated plants, must be retained. It could not refer to peyote plants and hallucinogenic mushrooms growing wild.
43. Mr. ANAND (India) said that a number of representatives in the Drafting Committee had reserved their position concerning the word "production", pending a decision as to whether or not a definition of it should be included in article 1.
44. The Technical Committee had discussed the problem in connexion with the tetrahydrocannabinols, derived from the cannabis plant. If "production" meant planting, cultivation and harvesting, then cannabis would have to be treated as a psychotropic substance. The Technical Committee had suggested that the Conference should consider omitting the word "production" from the article on definitions.
45. Dr. WALSH (Australia) said that the term "production" in article 6 (b) was unnecessary. No attempt should be made to control biological products; for the purposes of the Convention, it was the process of extraction which was important, and that was covered by the term "manufacture". That term would also comprise the synthetic substances that the Liberian representative had mentioned.
46. Perhaps a provisional vote might be taken on article 6 on the understanding that the word "production" might be deleted at a later stage.
47. Mr. MILLER (United States of America) said he had not proposed the deletion of the word "production", but only wished for a separate vote on it. His delegation was most anxious that no attempt should be made to restrict the production of substances used in religious ceremonies.
48. Dr. JOHNSON-ROMUALD (Togo) said that the omission of the word "production" would cause serious difficulties for delegations using the French text, because many substances were not the result of manufacture and would then escape the application of the article.
49. The PRESIDENT suggested that the Conference might vote on article 6 on the understanding that a final decision on the inclusion of the word "production" would be taken when article 1 was discussed.
50. Mr. KOCH (Denmark) pointed out that all the provisions of the draft were closely interlinked and it might be necessary to make all votes provisional, lest a decision on one article should affect the fate of another. It was difficult to see, for example, how the Conference could vote on article 6 (f) before dealing with article 11.
51. The PRESIDENT observed that the votes in the Conference would have to be final, for otherwise the proceedings would take too long.
52. Dr. URANOVICZ (Hungary) suggested that the Conference might vote on article 6 without taking any decision on the inclusion of the word "production".
53. Dr. BABAIAN (Union of Soviet Socialist Republics) said that representatives would wish to know whether the word "production" was to be understood in the sense assigned to it in article 1 or whether it was to be defined later.
54. The PRESIDENT put to the vote the Drafting Committee's text for article 6, with the term "production" included provisionally, on the understanding that the definition of it would be discussed in connexion with article 1.
- On that understanding, article 6 (E/CONF.58/L.4) was adopted by 51 votes to 1, with 3 abstentions.*

## ARTICLE 7 (LICENCES)

(E/CONF.58/L.4/Add.1, E/CONF.58/L.13)

55. Dr. DANNER (Federal Republic of Germany) said that, in his delegation's view, as he had stated at the 3rd meeting, the extensive measures of control that would be imposed by the Protocol were not justified in the case of the substances in schedule IV. Those substances had a low dependence-producing capacity, and their abuse potential was also rated low. His delegation had therefore submitted an amendment (E/CONF.58/L.13), to apply to a whole series of articles. Since he had been told, however, that an amendment in that form might give rise to procedural difficulties, he would withdraw it and move his amendment to each article separately, as it was taken up.
56. Mr. ANAND (India) said that the use of the word "distribution" had given rise to difficulties and it should be regarded as provisional pending a discussion on article 1. The working group on article 7 had understood it in the sense in which it was used in the Single Convention and not in the sense attributed to it in article 1 of the draft Protocol.



57. Dr. BABAIAN (Union of Soviet Socialist Republics) pointed out that, whereas article 7 used the expression "export and import trade", article 1 referred merely to "import" and "export".

58. The PRESIDENT said that the Drafting Committee might be requested to bring the two texts into line.

59. Mr. BARONA LOBATO (Mexico), Dr. WALSHE (Australia) and U HLA OO (Burma) said they hoped that the word "production" in article 7 would be given the same status as it had been given in article 6.

60. The PRESIDENT said he thought it could be assumed that the word would have the status of "provisional inclusion" in any article in which it at present appeared, pending a decision on its definition. All other words defined in article 1, including the word "distribution", to which the Indian representative had referred, would of course have a similar status.

61. Dr. ALAN (Turkey) said that the position with regard to the word "distribution" was somewhat different from the position with regard to "production". The suggestion had been made that no definition of "distribution" should be included in article 1, and that the word as used in article 7 should have the same meaning as in the Single Convention. If that suggestion was acceptable to the Conference, there would be no need to give the word "provisional" status when adopting article 7 at the present juncture.

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

63. Turning to paragraph 2, he said he understood that the English word "premises" used in sub-paragraphs (b) and (c) had a wider connotation than the corresponding word used in the French and Russian versions. It was important that the terminology employed in all languages should have the same meaning.

64. Mr. WATTLES (Legal Adviser to the Conference) said he was no expert in such matters, but he would take the English word "premises" to mean buildings and grounds or even an open field.

65. The PRESIDENT observed that it was clear that the Russian and French versions would have to be brought into line with the English version.

66. There seemed to be no support for the suggestion that the word "distribution" should be given the same provisional status in article 7 as the word "production". In the absence of any objection, he would accordingly assume that adoption of the article by the Conference would be subject to review of the word "production" only, and to any necessary drafting and linguistic alignment changes.

*It was so agreed.*

67. Dr. DANNEK (Federal Republic of Germany) requested that a vote should be taken on whether the words "and IV" in paragraph 1 should be retained.

*By 26 votes to 12, with 4 abstentions, it was decided to retain the words "and IV" in paragraph 1.*

*Subject to subsequent review of the word "production" in paragraph 1 and in paragraph 2 (a) and (b), article 7 (E/CONF.58/L.4/Add.1) as a whole was adopted by 45 votes to none, with 5 abstentions.*

#### ARTICLE 8 (PRESCRIPTIONS) (E/CONF.58/L.4/Add.1)

68. Mr. ANAND (India), Vice-Chairman of the Drafting Committee, drew attention to the fact that the term "retail distributors" in paragraph 3 had been used on a provisional basis only. Its retention or replacement would depend on what definition, if any, was given in article 1 of the word "distribution".

69. Dr. MABILEAU (France), Chairman of the Committee on Control Measures, informed the Conference that the text of article 8 had been approved by the Committee (18th meeting) by 37 to none, with 4 abstentions.

*Article 8 (E/CONF.58/L.4/Add.1) was adopted by 48 votes to none, with 4 abstentions.*

#### ARTICLE 9 (WARNINGS ON PACKAGES, AND ADVERTISING) (E/CONF.58/L.4/Add.1)

70. Dr. MABILEAU (France), Chairman of the Committee on Control Measures, informed the Conference that the text before it had been prepared by a working group and unanimously approved by the Committee (8th meeting).

71. Mr. ZETTERQVIST (Sweden) said his delegation had some difficulty with the provision in paragraph 2, which might be in conflict with the Swedish legislation on the freedom of the Press. In the circumstances, his delegation would abstain in the vote on article 9, and when the Conference came to article 27 (Reservations) it would request the inclusion of article 9, paragraph 2, amongst the provisions with respect to which States could make reservations.

72. Mr. HOOGWATER (Netherlands) said that for constitutional reasons, his delegation had similar difficulty with the provision in paragraph 2. Other delegations might be faced with the same problem, which could perhaps be solved by inserting the words "if its Constitution so permits" after the words "Each Party shall" at the beginning of paragraph 2.

73. The PRESIDENT pointed out that the insertion of those words would make it possible for any party to change its Constitution so as not to comply with the provision.

74. Mr. CHENG (China)\* said it had been his understanding that the word "any" had been inserted between the words "taking into account" and "relevant regulations" in paragraph 1. That word was in the Chinese version, although not in the English.

75. The PRESIDENT confirmed that the word "any" should appear before the words "relevant regulations" in paragraph 1.

76. Mr. ANAND (India) said he had drawn attention in the Committee on Control Measures (8th meeting) to the need for warnings always to be indicated on accompanying leaflets. He thought it had been the Committee's intention to make such a provision and it was due to an oversight that the necessary drafting changes had not been made to the article by the Drafting Committee. Since it was basically a matter of drafting, he hoped the Conference would agree to make the necessary change.

\* See introductory note.

77. Dr. OLGUÍN (Argentina) said he agreed with the representative of India about the intention of the provision, and he hoped the Drafting Committee would make the necessary drafting changes.

78. Dr. EL HAKIM (United Arab Republic) said that, while he agreed in principle that cautions and warnings should be indicated both on labels and on accompanying leaflets, he saw great practical difficulties in putting them on labels, which were very small and had to give so many other details. It was the accompanying leaflet, after all, that was the main source of information for the physician.

79. The PRESIDENT observed that there was no formal proposal for amending article 9 before the Conference.

80. Mr. ANAND (India) said he would like to propose that the words "or, when this is not practicable" in paragraph 1 should be replaced by "where practicable, and".

81. Dr. OLGUÍN (Argentina) said he could support the amendment, but would like to have the word "always" added after the word "and" in the new wording proposed.

82. Dr. BABAIAN (Union of Soviet Socialist Republics) said he would be unable to vote on the amendment and the sub-amendment until he had seen them in writing.

83. The PRESIDENT said that, since one delegation wished to have the texts of the amendment and the sub-amendment circulated in writing, the only course open to him was to adjourn consideration of article 9 until those texts were available in all working languages.

The meeting rose at 6 p.m.

## ELEVENTH PLENARY MEETING

Monday, 8 February 1971, at 10.15 a.m.

President: Mr. NETTEL (Austria)

### AGENDA ITEM 11

**Consideration of the revised draft Protocol on Psychotropic Substances adopted by the Commission on Narcotic Drugs, in accordance with Economic and Social Council resolution 1474 (XLVIII) of 24 March 1970 (continued) (E/4785, chap. III)**

#### ARTICLE 9

(WARNINGS ON PACKAGES, AND ADVERTISING) (concluded) (E/CONF.58/L.4/Add.1, E/CONF.58/L.21 and L.22)

1. The PRESIDENT invited the Conference to continue its consideration of article 9 as prepared by the Drafting Committee (E/CONF.58/L.4/Add.1) and the amendments thereto submitted at the 10th meeting by the Netherlands (E/CONF.58/L.21) and by India and Argentina (E/CONF.58/L.22).

2. Mr. HOOGWATER (Netherlands) asked that a separate vote be taken on each of the two paragraphs of article 9.

3. Dr. JOHNSON-ROMUALD (Togo) saw no need to separate the two paragraphs of article 9, as they formed a single whole, and he opposed the Netherlands representative's request in consequence.

4. Mr. NIKOLIĆ (Yugoslavia) expressed his opposition to the motion for division.

5. Dr. BABAIAN (Union of Soviet Socialist Republics) said that, while he saw no difficulty about taking a separate vote on each paragraph, he would support the views of representatives who were against the motion.

*The Netherlands motion was adopted by 26 votes to 5, with 10 abstentions.*

*The joint Indian and Argentine amendment to paragraph 1 (E/CONF.58/L.22) was adopted by 31 votes to 10, with 5 abstentions.*

*Paragraph 1, as amended, was adopted by 40 votes to 6, with 2 abstentions.*

*The Netherlands amendment to paragraph 2 (E/CONF.58/L.21) was adopted by 30 votes to none, with 18 abstentions.*

*Paragraph 2, as amended, was adopted by 44 votes to none, with 5 abstentions.*

*Article 9 (E/CONF.58/L.4/Add.1), as a whole and as amended, was adopted by 48 votes to none, with 3 abstentions.*

6. Dr. GRANDE (Argentina) drew attention to his delegation's request that the secretariat correct the Spanish version of the text of article 9.

7. The PRESIDENT assured the Argentine representative that the requisite steps would be taken.

#### ARTICLE 10 (RECORDS)

(E/CONF.58/L.4/Add.1, E/CONF.58/L.24)

8. The PRESIDENT invited the Conference to consider article 10 as prepared by the Drafting Committee (E/CONF.58/L.4/Add.1). The Netherlands delegation had submitted an amendment (E/CONF.58/L.24).

9. Mr. HOOGWATER (Netherlands) announced the withdrawal of his amendment and asked that a separate vote be taken on paragraphs 4 and 5. The point, so far as paragraph 2 was concerned, was whether the Conference wished to retain the reference to schedule III, and hence all that was needed was a vote on the words "and III".

10. Mr. NIKOLIĆ (Yugoslavia) opposed the Netherlands motion.

11. Mr. MABILEAU (France), supported by Mr. KIRCA (Turkey), observed that decisions of the Conference on matters of substance were taken by a two-thirds majority and that abstentions were not counted. The purpose of the Netherlands request was to obtain the deletion of the reference to schedule III in paragraph 2 and the deletion of paragraphs 4 and 5, and the effect would be to narrow the scope of the Protocol. Accordingly, if the Netherlands motion was adopted, he would request that the vote be taken by roll-call.

*The Netherlands motion was rejected by 19 votes to 16, with 16 abstentions.*

12. Dr. MABILEAU (France) said that, since the Netherlands motion had been rejected, he would withdraw his proposal for a vote by roll-call.

13. Dr. BABAIAN (Union of Soviet Socialist Republics) asked whether the term "retail distributors" in paragraph 3 introduced a new shade of meaning, since other delegations had proposed the words "wholesalers or retailers".

14. Mr. KIRCA (Turkey) explained that it was purely a drafting change which the Drafting Committee had considered advisable.

*Article 10 (E/CONF.58/L.4/Add.1) was adopted by 43 votes to 10, with 2 abstentions.*

ARTICLE 13 (INSPECTION)  
(E/CONF.58/L.4/Add.1)

15. Dr. BABAIAN (Union of Soviet Socialist Republics) was uncertain as to the precise meaning of the term "premises", and would be glad of clarification by the Legal Adviser to the Conference on the matter.

16. Mr. WATTLES (Legal Adviser to the Conference) recalled that he had already had occasion to explain the term and said that it was not restricted to an enclosed and covered space surrounded by walls but might denote any place at which the activities referred to in article 13 took place. Thus, it could apply to an open space.

17. Mr. INGERSOLL (United States of America) wished it to be made clear that scientific researchers and medical practitioners were not required by the provisions of that article to disclose privileged communications protected by the laws of many countries. As construed by the United States, none of the provisions of article 13 or any other provisions of the Protocol would prevent a party from authorizing or requiring scientific researchers and medical practitioners to withhold the names and other identifying characteristics of persons who were the subjects of treatment or research.

*Article 13 (E/CONF.58/L.4/Add.1) was adopted unanimously.*

ARTICLE 15 (REPORTS OF THE BOARD)  
(E/CONF.58/L.4/Add.1, E/CONF.58/L.27)

18. The PRESIDENT invited the Conference to consider article 15 as revised by the Drafting Committee (E/CONF.58/L.4/Add.1), and drew attention to the amendment of the United Kingdom (E/CONF.58/L.27).

19. Mr. BEEDLE (United Kingdom), introducing his delegation's amendment, said that its scope was limited: its sole purpose was to ensure that the existing machinery functioned as effectively as possible, a situation that might be jeopardized if the Economic and Social Council was unable to consider the International Narcotics Control Board's reports until the Commission on Narcotic Drugs had transmitted them to the Council with its comments and if the Commission's meetings were infrequent. Since the question of the frequency of the Commission's meetings was outside the competence of the present Conference, his delegation had deemed it advisable that the Protocol allow for the possibility of the Board's reporting directly to the Council when necessary, leaving the Commission free at all times to furnish the Board and the Council with such comments as it saw fit.

20. In addition, bearing in mind the fact that article 14 had not yet been discussed, he would like to know the exact meaning of the words "or required of" in the first sentence of paragraph 1 of article 15.

21. Dr. MABILEAU (France) pointed out that article 15 had been adopted unanimously by the Committee on Control Measures (16th meeting). He was afraid that the last-minute amendment submitted by the United Kingdom might have serious practical repercussions on the functioning of the machinery set up under the 1961 Single Convention on Narcotic Drugs.

22. Mr. CERECEDA ARANCIBIA (Chile), supported by Mr. VALDES BENEGAS (Paraguay), endorsed the views expressed by the United Kingdom representative and said that article 15 and 14 were certainly interrelated.

23. Dr. BABAIAN (Union of Soviet Socialist Republics) recalling that his delegation had repeatedly stressed that it was the Economic and Social Council's place to settle the question of the frequency of Commission meetings, regretted his inability to accept the United Kingdom amendment. The Conference had no authority to amend Council resolution 9 (I) of 16 February 1946, whereby the Commission was to "advise the Council on all matters pertaining to the control of narcotic drugs"—a provision which could not conceivably be claimed not to apply equally to psychotropic substances. The fact that the Commission at present met only biennially doubtless caused difficulties, but that did not justify departure from such a fundamental principle.

24. Dr. JOHNSON-ROMUALD (Togo) pointed out that if the United Kingdom amendment was adopted the effect would be to have two procedures, one for narcotic drugs and another for psychotropic substances; that would be contrary to the spirit of the Conference and also, in practice, deprive the Commission of one of its basic prerogatives. He would therefore have no option but to vote against the amendment.

25. Mr. ANAND (India) thought it would be wiser to keep to the text which had been approved by the Committee on Control Measures and revised by the Drafting Committee. There would be nothing to prevent the Secretariat, in the years in which the Commission did not meet, from transmitting the Board's report to Governments and communicating their comments to the Council. Moreover, as the Togolese representative had pointed out, it would definitely be undesirable to have one procedure for narcotic drugs and another for psychotropic substances.

26. Mr. NIKOLIĆ (Yugoslavia), Chairman of the Drafting Committee, said that the United Kingdom representative had introduced his amendment as being a purely drafting change. He himself did not regard it as such and would therefore be obliged to vote against it.

27. The PRESIDENT, speaking in a personal capacity, endorsed the view expressed by the Chairman of the Drafting Committee.

28. Mr. INGERSOLL (United States of America) submitted that the effect of the United Kingdom proposal was to obviate difficulties caused by the present periodicity

of Commission meetings. The proposal in no way affected the prerogatives of the Commission, which could always transmit its comments to the Council even without holding a meeting; the important point was that the Board's report be examined by the Council each year. The best solution, obviously, would be for the Commission to revert to its former practice of meeting once a year.

29. Mr. KIRCA (Turkey), while appreciating the United Kingdom delegation's concern, likewise felt the only solution would be for the Commission to revert to its former practice as regards holding meetings.

30. He found no difficulty with the term "*demandeur*" which he took as implying the imposition of an obligation on the parties in the same way as in the Single Convention.

31. Dr. BABAIAN (Union of Soviet Socialist Republics) was at a loss to understand how the Commission would be able to furnish the Council with comments on the Board's reports if the reports were transmitted directly to the Council, i.e. without Governments having an opportunity to take cognizance of them; to him, that represented an impossibility and a contradiction in terms. Furthermore, the functions of the Commission, as specified in article 8 (b) of the Single Convention, would be considerably curtailed. The amendment proposed by the United Kingdom could moreover have serious legal implications.

32. Mr. BARONA LOBATO (Mexico) was opposed to the United Kingdom amendment for the reasons advanced by previous speakers.

33. Mr. BEEDLE (United Kingdom) said that his intention had not been to propose a purely drafting amendment but to remove an inflexibility in the procedural provision of article 15 which might be found to be obstructive to sensible collaboration between the Board, the Commission and the Council in the future. He noted that many delegations with experience of the application of the Single Convention opposed his proposal, which he would therefore withdraw.

34. At the same time, he would like to know what interpretation the Legal Adviser gave to the word "required".

35. Mr. WATTLES (Legal Adviser to the Conference) did not think the Committee on Control Measures had intended the words "request" and "required" to have the same force. The former appeared in article 14, paragraph 5, in connexion with supplementary information on exports and imports of substances in schedules III and IV, and not in connexion with explanations. Moreover, an amendment to make the communication of that information mandatory had been rejected (21st meeting of the Committee), from which it could be concluded that the implication of the term "request" was that the party concerned remained free to comply or not with the request. The word "required", on the other hand, undoubtedly imposed an obligation on the person subjected to the "requirement".

36. Mr. KIRCA (Turkey) had derived quite a different impression from the discussion in the Committee on Control Measures, namely that under article 14 the

parties would be under an obligation to furnish the information requested of them, just as they were under the Single Convention.

37. The PRESIDENT pointed out that the Legal Adviser had given his personal opinion, and that States were always free to interpret a particular term as they saw fit.

38. Dr. BABAIAN (Union of Soviet Socialist Republics) would have preferred article 15 to reproduce the exact terms of the corresponding article of the Single Convention.

39. In addition, he would like to know what construction the Board put on the first sentence of paragraph 2 and what happened in practice.

40. Mr. STEINIG (International Narcotics Control Board) said in the first place, under article 15 of the Single Convention, to which the Soviet Union representative had referred, it was not only the Commission but also the Council which, in appropriate cases, was to have cognizance of any explanations "given by or required of Governments". Furthermore, the unrestricted distribution of the reports meant that WHO and public opinion were informed of their contents in the same way as the Commission.

41. Mr. DITTERT (International Narcotics Control Board), replying to the second point raised by the Soviet Union representative, explained that the procedure was for the Board to forward its reports to Governments with an embargo on their use by the Press or other non-governmental circles for approximately one month.

42. Mr. KOCH (Denmark) said that his delegation had no objections to the retention of the words "or required of" in article 15 so long as their being interpreted in the same way as in article 15 of the Single Convention, where in his opinion they did not imply an obligation. He did not think that the interpretation of the words should cause difficulties, but if it did, the problem could be settled by the International Court of Justice.

43. Mr. HOOGWATER (Netherlands) said that his delegation could accept either the words "or required of" or the words "or requested of". He did not share the Danish representative's view and thought it would be unnecessary to apply to the International Court of Justice for an interpretation of the former expression. He felt certain that the Court would hold that the words implied an obligation. It was therefore for the Conference to decide whether it wished the provision to be mandatory, and if it did not, it should use the words "or requested of".

44. Mr. BARONA LOBATO (Mexico) said that, while it was true that the interpretation of the words "or required of" in the Single Convention had caused no difficulties in practice, it would nevertheless be better to employ the verb "request", thus using a more diplomatic style which was preferable for the kind of provision concerned and at the same time would not weaken the text.

*Article 15 (E/CONF.58/L.4/Add.1) was adopted by 51 votes to none, with 1 abstention.*

45. Mr. KIRCA (Turkey), explaining his vote, said that his delegation regarded the verb "*demandeur*", when



it corresponded to the verbs "request" or "require" as having the same meaning both in articles 14 and 15 of the draft Protocol and in the corresponding articles of the Single Convention, and as implying an obligation for a party to which the request was made to furnish the information requested. His delegation was nevertheless prepared to be guided by international practice and jurisprudence in that connexion. However, his Government reserved the right, if the words were given a different construction in the application of the Protocol, to interpret them in the corresponding articles of the Single Convention in the same sense as they were interpreted in international practice and international jurisprudence in the application of the Protocol.

46. Mr. INGERSOLL (United States of America), explaining his delegation's vote in favour said that it was completely satisfied, in the first place, with the current interpretation of the word "require" in the Single Convention. In addition, it interpreted the second sentence in paragraph 1, adopted from the Single Convention, as providing for the submission of the Board's report to the Council on an annual basis. That was despite the fact that the Commission at present met only biennially. That procedure would be in consonance, moreover, with the precedent established under the Single Convention.

47. Mr. BEEDLE (United Kingdom), explaining his delegation's vote in favour, said that the United Kingdom delegation did not interpret the words "or required of" in the light of article 15 of the Single Convention; in its opinion, the interpretation would depend on what text was finally adopted for article 14.

48. Dr. BABAIAN (Union of Soviet Socialist Republics) said that his delegation had voted in favour of article 15 on the understanding that the words "or required of" were used in the same sense as in article 15 of the Single Convention, quite apart from article 14 of the draft Protocol. With regard to the distribution of the Board's reports, his delegation took it that the reports must first be transmitted to the Board by the parties, together with their comments, and could not be published until after the comments had been taken into consideration. Furthermore, it was the duty of the Commission to transmit the reports to the Council in accordance with the procedure laid down for it by the latter.

49. Mr. CHENG (China)\* explained that his delegation had voted in favour of article 15 on the understanding that the words "or required of" were to be interpreted solely in accordance with the meaning to be given to them in other articles of the Protocol, in particular article 14, and not in the light of another international instrument not concerned with psychotropic substances.

50. Mr. ANAND (India) said that his delegation interpreted the verb "require" in the same way as in article 15 of the Single Convention. In its opinion, the phrase had no connexion whatsoever with article 14 of the draft Protocol.

**ARTICLE 16 (MEASURES AGAINST THE ABUSE OF PSYCHOTROPIC SUBSTANCES)** (*resumed from the 6th meeting and concluded*) (E/CONF.58/L.4/Add.2)

*Article 16 (E/CONF.58/L.4/Add.2) was adopted unanimously.*

\* See introductory note.

## ARTICLE 17

(ACTION AGAINST THE ILLICIT TRAFFIC)  
(*resumed from the 8th meeting and concluded*)  
(E/CONF.58/L.4/Add.2)

51. Mr. NIKOLIĆ (Yugoslavia), Chairman of the Drafting Committee, drew the Conference's attention to the foot-note to sub-paragraph (b) of article 17 stating that the Drafting Committee had reserved its opinion regarding the placement of the part of the sub-paragraph beginning with "and in particular" until it had considered the text of article 14.

52. Dr. BABAIAN (Union of Soviet Socialist Republics) informed the Conference that his delegation would be handing the Secretariat various drafting amendments which affected only the Russian text of article 17.

*Article 17 (E/CONF.58/L.4/Add.2) was adopted unanimously, subject to the reservation made by the Drafting Committee.*

## ARTICLE 18

(PENAL PROVISIONS)  
(*resumed from the 9th meeting*)  
(E/CONF.58/L.4/Add.2)

53. Mr. SHEEN (Australia) requested that consideration of article 18 be deferred until the afternoon meeting so as to give the delegations time to study the rather large number of drafting changes made by the Drafting Committee.

*The proposal for the adjournment of the debate was adopted by 21 votes to 10, with 18 abstentions.*

The meeting rose at 12.20 p.m.

## TWELFTH PLENARY MEETING

*Monday, 8 February 1971, at 2.40 p.m.*

*President: Mr. NETTEL (Austria)*

## AGENDA ITEM 11

**Consideration of the revised draft Protocol on Psychotropic Substances adopted by the Commission on Narcotic Drugs, in accordance with Economic and Social Council resolution 1474 (XLVIII) of 24 March 1970** (*continued*)  
(E/4785, chap. III)

## ARTICLE 18

(PENAL PROVISIONS) (*concluded*)  
(E/CONF.58/L.4/Add.2)

1. Mr. SHEEN (Australia), reverting to a point he had raised at the 11th meeting, requested some explanation



of the new text of paragraph 1 (a) to reassure his delegation that the substance of the original sub-paragraph had not been changed.

2. Mr. NIKOLIĆ (Yugoslavia), Chairman of the Drafting Committee, explained that the original text of paragraph 1 had been based on the corresponding paragraph of article 36 of the 1961 Single Convention on Narcotic Drugs. The text in question, however, had been criticized as unnecessarily cumbersome; the Yugoslav delegation itself, although in principle it favoured adherence to the text of the Single Convention, had shared that view. The Drafting Committee had therefore requested the Legal Adviser to the Conference to assist it in preparing an improved drafting which would not in any way change the substance. The Committee had been unanimous in accepting the text now submitted (E/CONF.58/L.4/Add.2).

3. Mr. TORRES GONZALEZ (Spain) said that, in order to bring the Spanish text into line with the English, it was necessary in paragraph 1 (a) to replace the words "*hecho punible*" by the word "*delito*". In paragraph 2 (a) (ii), the word "*delitos*", which appeared in three places, should be replaced by the words "*hechos punibles*" in the first two places only.

4. The PRESIDENT said that the Secretariat would take note of those changes in the Spanish text.

5. Mr. CERECEDA ARANCIBIA (Chile) expressed agreement with the drafting changes suggested by the representative of Spain, which did not affect the substance. In addition, he drew attention to the vicious circle created by the attempt to adopt article 18, which dealt with penal provisions, at a time when neither the text of article 4 nor the composition of the various schedules had been finally settled. Provision was being made for the treatment as offences of acts which were not yet clearly defined, and for penalties in respect of infractions.

6. Mr. KIRCA (Turkey) suggested that in paragraph 1 (a) the words "contrary to a law or regulation" should be replaced by "contrary to its domestic law". In his own country, there would be some difficulty in acknowledging as punishable an act which infringed only a regulation. He felt that in many countries the suggested change would facilitate parliamentary acceptance of article 18.

7. Mr. SHEEN (Australia) said that he would still like to have some explanation from the Legal Adviser. He could not see how the new text provided for the punishability of such acts as offering for sale or brokerage, which were mentioned in the original text of paragraph 1.

8. Mr. WATTLES (Legal Adviser to the Conference) said that the Drafting Committee had felt that the long enumeration of acts contained in the original version of paragraph 1 was not likely to prove very useful to Governments. The list was not exhaustive, since it was followed by the formula "and any other action which in the opinion of such Party may be contrary to the provisions of this Protocol". It could therefore be dispensed with without any great loss. Moreover, a party was required to make the acts in question criminal

offences only if, in its opinion, they were "contrary to the provision of this Protocol".

9. Offering for sale would seem to be covered by the provisions of paragraph 2 (a) (ii) on the subject of "attempts to commit any of such offences, and preparatory acts". Offering for sale, if contrary to the provisions of the Protocol, would at least constitute an attempt to commit an offence.

10. Another change had been made in the wording of article 18. The original text, which followed in that respect the corresponding provision of the Single Convention, used the formula "contrary to the provisions of this Protocol". In fact, the provisions of the Protocol had never been intended to be self-executing, and that point was made clear by paragraph 5, which stated that the offences in question "shall be defined, prosecuted and punished" in conformity with the domestic law of the party concerned. For that reason, the Drafting Committee had replaced the formula "contrary to the provisions of this Protocol" by the wording "contrary to a law or regulation adopted in pursuance of its obligations under this Protocol".

11. Mr. SHEEN (Australia) thanked the Legal Adviser for his explanation. Though admittedly somewhat elaborate, the original list could nevertheless, his delegation had felt, provide useful guidance.

12. Mr. BARONA LOBATO (Mexico) said that he, too, had at first had misgivings about the departure from the wording of the Single Convention; but after careful reading, he felt that the new text was an improvement.

13. The important proviso at the beginning of paragraph 2, "Subject to the constitutional limitations of a Party, its legal system and domestic law", implied that the national legislation to be enacted in pursuance of article 18 would be conditioned by the provisions of the Constitution of the party concerned.

14. The essentially territorial character of criminal law was well brought out by the provisions of article 18, paragraph 5, which made it clear that it was for the domestic law of the party concerned to define each offence, to lay down the procedure for prosecution and to specify the punishment applicable.

15. The Spanish version of article 18 required some adjustments in order to bring it into line with the English, and he suggested that the Spanish-speaking delegations should establish the final Spanish text in consultation with the Secretariat.

16. The PRESIDENT said that the suggested procedure was acceptable.

17. Dr. BABAIAN (Union of Soviet Socialist Republics) pointed out that, in the Russian text of paragraph 2 (a) (iv), the word "Party" had been rendered as "country". He suggested that the Russian text should be brought into line with the English.

18. In addition, he suggested that, in all the language versions, the cross-references to paragraphs 1 and 2 contained in article 18 should be made clearer by inserting the words "of this article" as had been done in paragraph 3.

19. The PRESIDENT pointed out that, in modern legal drafting, it was no longer customary to insert those words; the mention of paragraph 1 (or 2) would be taken as a clear reference to paragraph 1 (or 2) of the present article.
20. The Secretariat would consult with the USSR delegation on all points of language relating to the Russian text.
21. Mr. ANAND (India) said that paragraph 1 (b) seemed to draw a distinction between "conviction" and "punishment". He therefore suggested that, in that subparagraph, the words "or in addition to punishment" should be expanded to read "or in addition to conviction or punishment". It would thus be made clear that, in cases of conviction also it was possible to make provision for measures of treatment, education, after-care, rehabilitation and social integration. With the text as it stood, it appeared that such measures could be resorted to as an alternative to or in addition to punishment but could not be resorted to where the offender had been convicted but no other punishment had been imposed.
22. Mr. NIKOLIĆ (Yugoslavia), Chairman of the Drafting Committee, said he believed there was no mistake in the text adopted by the Drafting Committee.
23. Mr. WATTLES (Legal Adviser to the Conference) agreed.
24. Dr. BABAIAN (Union of Soviet Socialist Republics) pointed out that the term "offence" was used throughout article 18, except in paragraph 2 (b), the second line of which referred to "extradition crimes". It would perhaps be preferable to use the term "crime" throughout.
25. The PRESIDENT pointed out that a specific decision had been taken to use in paragraph 2 (b) the expression "extradition crime" because it already appeared in the Single Convention, although the more usual expression was "extraditable offence". No specific decision had been taken regarding the terminology to be used elsewhere.
26. Mr. WATTLES (Legal Adviser to the Conference) said that the decision to use the term "extradition crimes" in paragraph 2 (b) had been taken for special reasons, since extradition was usually possibly only for serious matters, and the word "crimes" was used in order to assimilate the offences in question to those serious matters. Elsewhere, the term "offence" had been used because it corresponded to the normal English terminology. The term "offence" was broader than "crime", which in many legal systems applied only to the most serious breaches of criminal law.
27. The use of the term "offence" was in keeping with the wording of the corresponding article 36 of the Single Convention. It was most important that the same word should be used in each language throughout article 18, at least elsewhere than in paragraph 2 (b), since otherwise its provisions would be very difficult to apply.
28. Dr. JENNINGS (Ireland) said that the expression "any action" used in paragraph 1 (a), which was more comprehensive than the wording in the original draft, might prove too wide. There was, he hoped, no intention of impairing freedom of speech, for example.
29. He suggested that the point raised by the Indian representative should be met by replacing the words "in addition to punishment" by the words "in addition thereto".
30. Mr. ANAND (India) accepted that suggestion.
31. The PRESIDENT said that, if that were to be considered as a purely drafting suggestion, it could be referred to the Drafting Committee.
32. Mr. NIKOLIĆ (Yugoslavia), Chairman of the Drafting Committee, said that the Drafting Committee had already taken a decision on article 18; it was now for the Conference to consider any amendments that might be proposed.
33. Mr. SEMKEN (United Kingdom) said that, speaking as a member of the Drafting Committee, in his opinion the suggested change did not constitute an improvement.
34. The PRESIDENT noted that no formal amendment had been proposed to article 18. He therefore put to the vote the text of that article as proposed by the Drafting Committee.
- Article 18 (E/CONF.58/L.4/Add.2) was adopted by 50 votes to none, with 2 abstentions.*
35. Mr. NIKOLIĆ (Yugoslavia), Chairman of the Drafting Committee, drew attention to the two foot-notes relating to paragraphs 4 and 5 of article 18.
36. The PRESIDENT explained that the Conference had just adopted article 18 with the words "domestic law", used as indicated in those foot-notes.
- ARTICLE 19 (APPLICATION OF STRICTER NATIONAL CONTROL MEASURES THAN THOSE REQUIRED BY THIS PROTOCOL) (resumed from the 10th meeting and concluded) (E/CONF.58/L.4/Add.2)**
37. The PRESIDENT said that the Conference had already adopted article 19 at its 10th meeting; it now had before it the Drafting Committee's text prepared in accordance with that decision (E/CONF.58/L.4/Add.2).
38. Mr. BARONA LOBATO (Mexico) reminded the Conference that it had adopted the present text of article 19 almost unanimously. He did not believe there was any need to add to that text the words "subject to paragraph 1 of article 3", as proposed by some delegations—a proposal to which the Drafting Committee had drawn attention in a foot-note. The various provisions of any legal instrument were always interpreted in relation to each other and not in isolation. The suggested proviso was therefore superfluous. If it was desired to include it, it should be placed at the end of the paragraph and not at the beginning.
39. Dr. BABAIAN (Union of Soviet Socialist Republics) said that his delegation did not favour the inclusion of those additional words, which could be taken to limit the freedom of a party to adopt stricter measures of control. In his view, it was rather the provisions of

article 3 which should be made subject to those of article 19.

40. He noted that, in the English version, the word "Party" was in the singular, whereas in the Russian version it was in the plural.

41. Mr. WATTLES (Legal Adviser to the Conference) said that the word was in the singular in the corresponding article of the Single Convention, article 39. In English there was no difference of substance, whether the singular or the plural was used.

42. Mr. SEMKEN (United Kingdom) said he preferred the Drafting Committee's text. If the word "Party" were in the plural, it might be misconstrued as meaning that the parties must combine together in some way; actually, the intention was that each party should be free to adopt stricter measures.

43. The proposed addition of the words "subject to paragraph 1 of article 3", would not make any difference in law; it was purely a drafting matter. Article 19 must necessarily be subject to the mandatory provisions of paragraph 1 of article 3. According to the elementary principles of interpretation, it would be inferred that the provisions of article 19 were subject to those of paragraph 1 of article 3.

44. Dr. MABILEAU (France) suggested that, in the French text, the words "*Les Parties pourront*" should be replaced by "*Une Partie pourra*", in order to bring that text into line with the English.

45. The PRESIDENT said that the Secretariat would bear that point in mind.

46. Dr. BABAIAN (Union of Soviet Socialist Republics) said that if the Conference were now to adopt article 19 as it stood, that decision would require the consequential amendment of paragraph 1 of article 3 so as to make the provisions of that paragraph subject to those of article 19.

47. The PRESIDENT suggested that the Conference should vote on the text of article 19 as it stood, without the additional words referred to in the foot-note.

*It was so agreed.*

*Article 19 (E/CONF.58/L.4/Add.2) was adopted unanimously.*

#### ARTICLE 3

(OTHER SPECIAL PROVISIONS REGARDING THE SCOPE OF CONTROL)

(E/CONF.58/L.4/Add.2, E/CONF.58/L.19)

48. Mr. TALIANI (Italy) said that the purpose of his delegation's amendment (E/CONF.58/L.19) was to close an important loop-hole in the present text of article 3, paragraph 3, which did not specify that psychotropic substances should only be used for the capture of animals and that they should not be administered to animals intended for human consumption during their collection and transport to the slaughter-house. The matter was not theoretical; large amounts of barbiturates and meprobamates were mixed into cattle feed and, if the text of paragraph 3 were left unchanged, considerable quantities of psychotropic substances would be used by persons

who might be experts in cattle breeding but knew little about the dangers of such substances to public health. Controls in the case of such practices would be practically unworkable.

49. Psychotropic substances normally used in animal feeding-stuffs were often easily recoverable and had not even been chemically amalgamated with the feed.

50. Mr. ASHFORTH (New Zealand) said he fully agreed with the principle behind the Italian amendment, but it did not go far enough. Any animal to which psychotropic substances had been administered should be held back, and possibly subjected to veterinary examination, before it was slaughtered, so as to make sure that there was no danger of its containing psychotropic substances. Milk was liable to contamination as well as meat.

51. Perhaps a detailed provision on the matter could not appropriately be included in the draft Protocol. The FAO/WHO *Codex Alimentarius* Commission would be the right body to draw up a statement of intent.

52. Mr. NIKOLIĆ (Yugoslavia), Chairman of the Drafting Committee, said that the Drafting Committee had been informed by the United Kingdom representative that the word "animals" which it had finally been decided to use in paragraph 3 would cover domestic and wild animals, but not fish or birds.

53. Mr. GATTI (Holy See) said that, speaking as a technician, he supported the Italian amendment. It would be extremely dangerous for human beings if certain psychotropic substances were administered to animals slaughtered for human consumption.

54. Dr. MABILEAU (France) said that it would be an improvement if the word "animals" in paragraph 3 were qualified by the word "wild".

55. Dr. BABAIAN (Union of Soviet Socialist Republics) said that, following the adoption of article 19, he wished to propose a drafting amendment to article 3, paragraph 1, whereby the words "Notwithstanding the provisions of this Protocol" would be replaced by the words "Taking into account the provisions of article 19 of this Protocol".

56. The PRESIDENT suggested that, as the amendment was quite clear, the 24-hour rule for the submission of amendments might be waived.

*It was so agreed.*

57. Dr. JOHNSON-ROMUALD (Togo) said he supported the Italian amendment. No gap should be left in the Protocol that could lead to the ingestion of psychotropic substances through contaminated meat.

58. The USSR amendment was certainly acceptable, because parties undoubtedly had the right to apply stricter measures of control.

59. Dr. BERTSCHINGER (Switzerland) drew attention to the provisions of article 4; paragraph 3 of article 3 seemed to contemplate a use of psychotropic substances which was neither medical nor scientific.

60. Mr. BARONA LOBATO (Mexico) said that both the USSR and Italian amendments were acceptable.

61. He proposed the deletion of the words "abused or" in the first sentence of paragraph 2. Those words were redundant because if a substance could not be recovered it could not be abused.
62. The PRESIDENT suggested that, as the Mexican amendment was simple, it should be considered as admissible.
63. Mr. KIRCA (Turkey) said he had no objection to the USSR amendment, but considered that the opening phrase "Notwithstanding the provisions of this Protocol" in paragraph 1 should also be retained.
64. Dr. BABAIAN (Union of Soviet Socialist Republics) said he was opposed to the Mexican amendment because there could be instances when a psychotropic substance could not be recovered but was nevertheless liable to abuse.
65. He had no objection to the Italian amendment.
66. Mr. STEWART (United Kingdom) suggested that the purpose of the USSR amendment could be achieved by substituting the word "may" for the word "shall" in the first line of paragraph 1. It would then be open to any party to apply a stricter régime to international travellers and not to allow them to carry small quantities of preparations containing psychotropic substances.
67. Dr. MABILEAU (France) said that the wording of the first sentence of paragraph 2 had been carefully considered by the Drafting Committee and should be left unchanged.
68. He preferred the United Kingdom amendment to that proposed by the USSR representative.
69. Referring to the foot-note to paragraph 3, he said that the addition of the words "other than those in schedule I" would certainly be a change of substance.
70. Mr. ANAND (India) said he was not certain what was the real purpose of the Italian amendment. Perhaps the question of food contamination should be tackled by individual Governments as they thought fit.
71. Mr. CHAPMAN (Canada) said that, in his view, the words "Notwithstanding the provisions of this Protocol" were comprehensive and no further proviso concerning the need to take account of article 19 was necessary.
72. He could not support the United Kingdom amendment, because paragraph 1 had been made mandatory on purpose.
73. He agreed with the USSR representative that the words "abused or" in paragraph 2 should be retained, because although a substance might not be recovered, it was liable to abuse if mixed with other substances.
74. Referring to the Italian amendment, he said that meat, milk, eggs or other food-stuffs should not be allowed to contain residues of psychotropic substances or any other drug. The health authorities of many countries were aware of the problem and were trying to reduce it to a minimum. As the New Zealand representative had indicated, animals to which psychotropic substances had been fed should be kept long enough for the substances to disappear. It was a matter for the health authorities; there was no need to be more specific than the wording of paragraph 3 of the Drafting Committee's text.
75. Mr. TALIANI (Italy) considered that paragraph 1 should remain unchanged; if the provision were made permissive instead of mandatory, there would be confusion and international travellers would not know whether or not they were entitled to carry small quantities of preparations containing psychotropic substances. If the USSR amendment were adopted and paragraph 1 made subject to article 19, that paragraph might just as well be omitted altogether.
76. His delegation's main reason for submitting its amendment was not so much the possibility of food contamination as the danger of allowing considerable quantities of psychotropic substances to be distributed to cattle breeders. Such action would be anomalous, in view of the strict controls imposed upon their distribution to pharmacists. Moreover, it would be extremely difficult to impose effective controls in the case of cattle breeders in distant regions, because inspection would not be easy.
77. Mr. KOCH (Denmark) said he was unable to accept the Italian delegation's amendment to paragraph 3, for three reasons. In the first place, the wording was very vague and it was difficult to see what would be the practical consequences and the implications of the proposal. Secondly, the provision might be construed as an attempt to prevent the contamination of food, even if that was not its purpose, and the prevention of food contamination was outside the scope of the present Conference. Thirdly, the provision might infringe the right of veterinary surgeons to use psychotropic substances in whatever manner they considered necessary. The Conference had taken care to avoid infringing the right of medical practitioners to use those substances in the treatment of patients, and it should not adopt any measures that would infringe the right of veterinary surgeons to do likewise.
78. Dr. OLGUÍN (Argentina) said he supported the amendment to paragraph 1 proposed by the United Kingdom representative. He was not in favour of making it obligatory for Governments to permit international travellers to carry small quantities of preparations containing psychotropic substances in all circumstances; the individual's actual state of health, the duration of his journey and the distance he must travel to reach the country to which he was going were all factors that should be taken into account before such permission was given.
79. He agreed that care should be taken to ensure that meat or milk intended for human consumption should not contain residues of psychotropic substances. But much more important than that possibility was the question of the quantities of substances which would be made available to those who were to use them for the stated purposes, and the diversion from such purposes which might be facilitated. The absence of any provision relating to that problem might provide a loop-hole for abuse.
80. Mr. GATTI (Holy See) said that, while it was true that the contamination of food by drug residues was a matter for national health authorities, it should be borne



in mind that the dosage of drugs for animals was calculated in grammes, whereas that for human beings was calculated in milligrammes. It was a question of large quantities of substances which might be used by persons unaware of their dangers; and those persons might in all innocence allow the substances to pass into the illicit traffic. Unless some provision on the lines of the Italian proposal was included in the protocol, a loophole would be left in the control of psychotropic substances.

81. Mr. INGERSOLL (United States of America) said that, in general, he agreed with the USSR amendment to paragraph 1, which would enable parties to establish stricter controls for travellers than those at present provided for. His Government wished to have the right to prohibit the carrying of even small quantities of any psychotropic substance if that substance was considered a danger to public health in the United States. He thought there was some inconsistency between the present opening phrase of paragraph 1 and the substitute wording proposed by the USSR representative, and he could not therefore agree to the retention of both phrases, as the Turkish representative had proposed. He had no particular objection to the replacement of the word "shall" by "may".

82. He agreed with the French representative that the words "abused or" in paragraph 2 should be retained.

83. He could not accept the Italian amendment to paragraph 3. If its purpose was to prevent diversion, it would not be effective, since diversion took place before use. If, on the other hand, it was intended to prevent food contamination, then it dealt with a matter outside the scope of the present Conference, as the Danish representative had said.

84. Mr. HUYGHE (Luxembourg) said he supported the text of paragraph 1 as it stood; it should be accepted that some travellers might require to carry medicaments with them. He also supported the text of paragraph 2 as it stood. With regard to paragraph 3, he thought that the Italian representative's fears were groundless; permission to use psychotropic substances would be granted only to "persons specifically authorized to do so by the competent authorities", and the question of abuse should not arise. The use of psychotropic substances before the slaughtering of animals for human consumption was a matter to be covered by food regulations.

85. Dr. THOMAS (Liberia) said he could accept article 3 as it stood. As to paragraph 3, he was sure that national health authorities would ensure that the use of psychotropic substances would be controlled in accordance with the provisions of the Protocol.

86. U HLA OO (Burma) said he supported the USSR amendment and also the replacement of the word "shall" by "may" proposed by the United Kingdom representative. Although the purpose of the provision was to make matters easier for travellers, care must be taken to prevent leakages of substances into the illicit traffic as a result.

87. Mr. SHEEN (Australia) said he preferred the United Kingdom amendment to paragraph 1 to that proposed by the USSR, because it was simpler. He could

not accept the Mexican representative's amendment to paragraph 2. He appreciated the motives underlying the Italian representative's amendment to paragraph 3, but thought that it went too far.

88. Mr. KIRCA (Turkey) said he would withdraw the suggestion he had made earlier in connexion with the wording of paragraph 1. He supported the USSR amendment to that paragraph and also the replacement of the word "shall" by "may".

89. Dr. BABAIAN (Union of Soviet Socialist Republics) said that provided the words he had proposed were included at the beginning of paragraph 1, he could accept the replacement of "shall" by "may". He thought that a definition should be given of the expression "international traveller", which included persons travelling on duty, persons travelling on private business and tourists.

90. Mr. BARONA LOBATO (Mexico) said that in a spirit of co-operation and in order to facilitate the work of the Conference, he would withdraw the amendment he had proposed to paragraph 2.

91. Mr. OBERMAYER (Austria) said he was in favour of maintaining paragraph 1 as it stood. It must be made clear that parties should permit international travellers to carry small quantities of preparations containing psychotropic substances if they required them for personal use.

92. The PRESIDENT said that he would now put the amendments to the vote. He suggested that the United Kingdom amendment should be regarded as being an amendment independent of the USSR proposal.

*It was so agreed.*

93. Dr. BERTSCHINGER (Switzerland) drew attention to the foot-note relating to paragraph 3, which required a decision by the Conference.

94. The PRESIDENT said that foot-notes were included in reports for consideration by the Conference, but no proposal had been made to add the words mentioned in the foot-note to paragraph 3, and it was now too late for any amendment to be admitted.

*The USSR proposal to replace the opening phrase in paragraph 1 by the words "Taking into account the provisions of article 19 of this Protocol" was adopted by 32 votes to 16, with 7 abstentions.*

*The United Kingdom proposal to replace the word "shall" by the word "may" in paragraph 1 was adopted by 35 votes to 13, with 7 abstentions.*

*The Italian amendment to paragraph 3 (E/CONF.58/L.19) was rejected by 23 votes to 15, with 16 abstentions.*

*Article 3 (E/CONF.58/L.4/Add.2) as a whole, as amended, was adopted by 49 votes to none, with 6 abstentions.*

95. The PRESIDENT said that article 3 would be referred back to the Drafting Committee. It would be resubmitted to the plenary Conference for final adoption.

The meeting rose at 5.55 p.m.



**THIRTEENTH PLENARY MEETING***Wednesday, 10 February 1971, at 5.30 p.m.**President: Mr. NETTEL (Austria)***AGENDA ITEM 11**

**Consideration of the revised draft Protocol on Psychotropic Substances adopted by the Commission on Narcotic Drugs, in accordance with Economic and Social Council resolution 1474 (XLVIII) of 24 March 1970 (continued)**  
(E/4785, chap. III)

**ARTICLE 3**

(OTHER SPECIAL PROVISIONS REGARDING THE SCOPE OF CONTROL) (*concluded*)  
(E/CONF.58/L.4/Add.3)

1. The PRESIDENT said that the Conference had already adopted article 3 at its 12th meeting; it now had before it the Drafting Committee's text prepared in accordance with that decision (E/CONF.58/L.4/Add.3).
2. Mr NIKOLIĆ (Yugoslavia), Chairman of the Drafting Committee, recalled that the Conference, at its 12th meeting, had adopted the proposal to replace the original opening phrase "Notwithstanding the provisions of this Protocol" by the words "Taking into account the provisions of article 19 of this Protocol". At the same meeting, however, the Conference had also adopted the proposal to replace in the first sentence the words "the Parties shall" by the words "the Parties may".
3. The Drafting Committee had arrived unanimously at the conclusion that the change of wording from "the Parties shall" to "the Parties may" rendered superfluous the reference to article 19. It had therefore decided to begin article 3 with the governing sentence: "In respect of psychotropic substances other than those in schedule I, the Parties may permit:". That sentence was followed by the three sub-paragraphs (a), (b) and (c), containing the substance of paragraphs 1, 2 and 3 in the earlier version of article 3 (E/CONF.58/L.4/Add.2).
4. In sub-paragraph (c), the former concluding words "authorized to do so by the competent authorities" had been replaced by the longer and more explicit phrase "authorized by the competent authorities to use such substances for that purpose".
5. Dr. BABAIAN (Union of Soviet Socialist Republics) said that the new text submitted by the Drafting Committee represented a great improvement on the earlier one and could be accepted by his delegation without difficulty.
6. UHLA OO (Burma) suggested that, in sub-paragraph (a), the word "carriage" should be replaced by a more suitable one.
7. Mr. BEEDLE (United Kingdom) said that the point might perhaps be met by replacing the word "carriage" by the word "carrying".
8. Mr. NIKOLIĆ (Yugoslavia), Chairman of the Drafting Committee, said that there had been no discussion in the Drafting Committee on that question; none of the English-speaking delegations represented on that Committee had raised the problem.

9. The PRESIDENT said that the Secretariat would take into account that question of wording when drawing up the final text.

10. Dr. THOMAS (Liberia) said that his delegation fully supported the text of article 3 now submitted by the Drafting Committee.

*Article 3 (E/CONF.58/L.4/Add.3) was adopted by 56 votes to 1.*

**ARTICLE 4**

(LIMITATION OF USE TO MEDICAL AND SCIENTIFIC PURPOSES)  
(E/CONF.58/L.4/Add.3)

11. Mr. NIKOLIĆ (Yugoslavia), Chairman of the Drafting Committee, explained that only drafting changes had been made to article 4.
12. Dr. BABAIAN (Union of Soviet Socialist Republics) pointed out that, in the Russian text at least, the concluding proviso of paragraph 3 "except under legal authority" differed from the formula used in the 1961 Single Convention on Narcotic Drugs for the same purpose.
13. Mr. BEEDLE (United Kingdom) requested a separate vote on the concluding words of paragraph 2: "having regard to the requirements of the normal course of business to the extent that trade in these substances is permitted". His delegation had arrived at the conclusion that those words were really meaningless.
14. Dr. DANNER (Federal Republic of Germany) moved that a separate vote be taken on the words "and IV" in paragraphs 2 and 3. For the reasons already stated in the course of the previous discussions, his delegation believed that the Protocol should not cover substances in schedule IV.
15. Dr. MABILEAU (France) said that the delegation of the Federal Republic of Germany would no doubt request a separate vote on all references to schedule IV throughout the Protocol. The purpose was clearly to weaken the Protocol by making use of the two-thirds majority rule. If the motion for division was upheld, he would ask for a roll-call vote on the words to be voted on separately.
16. Dr. JOHNSON-ROMUALD (Togo) said that the separate vote in question would mean that if one-third of the delegations plus one wished to delete the reference to schedule IV, they could impose their views on the majority. He therefore raised formal objection to the motion for division.
17. Mr. KIRCA (Turkey) and Mr. NIKOLIĆ (Yugoslavia) opposed the motion.

*The motion of the Federal Republic of Germany was rejected by 25 votes to 18, with 16 abstentions.*

18. The PRESIDENT said that, since no objection had been made to the United Kingdom motion for division, he would put to the vote separately the concluding words of paragraph 2.

*By 30 votes to 14, with 11 abstentions, it was decided to delete the concluding words of paragraph 2, "having regard to the requirements of the normal course of business to the extent that trade in these substances is permitted".*

*Article 4 (E/CONF.58/L.4/Add.3) as a whole, as amended, was adopted by 51 votes to none, with 6 abstentions.*

#### ARTICLE 12

(PROHIBITION OF AND RESTRICTIONS ON THE EXPORT AND IMPORT OF PSYCHOTROPIC SUBSTANCES)  
(E/CONF.58/L.4/Add.3)

19. The PRESIDENT invited the Conference to consider the text of article 12 submitted by the Drafting Committee (E/CONF.58/L.4/Add.3) following the adoption of that article by the Committee on Control Measures (23rd meeting).
20. Mr. NIKOLIĆ (Yugoslavia), Chairman of the Drafting Committee, explained that only drafting problems had arisen in connexion with article 12.
21. Mr. INGERSOLL (United States of America) said that he wished to refer to a hidden feature of article 12, which he had not so far mentioned during the discussions on that article.
22. His delegation had voted in favour of article 12 in the Committee on Control Measures on the understanding that its provisions would not be used in a discriminatory manner. The provisions of paragraph 1 of article 12 enabled a party to prohibit the importation of a substance listed in schedule II, III or IV. The party was required to specify the substance in question in its notification to the other parties, to be made through the Secretary-General.
23. It had been his delegation's understanding that a party taking action under paragraph 1 would have to specify the prohibited substance by referring not to its trade name but to its non-proprietary name. Since the approval of article 12 by the Committee on Control Measures, however, his delegation had been informed of the belief in some quarters that a party could refer to the trade name of a substance when prohibiting its importation, thereby discriminating in favour of other trade names for the same substance.
24. If the provisions of paragraph 1 could be used in that way, the result would be that the importation of the same substance would be prohibited under one trade name but permitted under any other name, thus favouring some manufacturers against a competitor, possibly in one and the same exporting country. He would be glad to have the views of the Legal Adviser to the Conference on that point. If there was any possibility that the provisions of paragraph 1 could be used in that discriminatory manner, his delegation would have to submit an amendment to the effect that a party prohibiting, under paragraph 1, the importation of a substance must, in its notification, describe the substance by using the name under which it appeared in the appropriate schedule.
25. Mr. CHENG (China)\* pointed out that the fourth word in the English version of paragraph 1 should be "notify", not "inform".
26. The PRESIDENT said that error would be noted.
27. Dr. BABAIAN (Union of Soviet Socialist Republics) said his delegation shared the United States delegation's concern that the provision in paragraph 1 might give rise to discriminatory practices. In voting for the paragraph, his delegation's understanding would be that all parties to the Protocol would be notified that the importation into a country of any of the substances in question was prohibited, that the prohibition of importation would be total and that the provision would not be used for purposes of discrimination.
28. Perhaps it would be possible to insert the word "generally" before the words "prohibits the import" in paragraph 1.
29. Dr. BÖLCS (Hungary) said that the interests of countries wishing to import substances must be protected, but his delegation had the same difficulty with the provision in paragraph 1 as that experienced by the United States and USSR delegations. It would be wise to change the text.
30. His delegation also considered that the provisions of article 12 should not be applicable to exempted preparations; the matter could, however, be dealt with under article 2 *bis*.
31. Mr. OBERMAYER (Austria) said his delegation did not consider that the provisions of the article should be applied to substances in schedules III and IV. In the case of those substances, it should be left to Governments to inform their importers and Customs authorities of any import prohibition and to impose penalties for non-compliance; the measures of control should not be imposed on the exporting countries.
32. Dr. DANNER (Federal Republic of Germany) said his delegation considered that the provision in paragraph 2 would be impossible to carry out and, consequently, it could not accept it.
33. He asked for a separate vote on the words "or IV" in paragraph 1.
34. Mr. KIRCA (Turkey) said he agreed with the views of the United States and USSR representatives. He suggested, to clarify the text, that the word "all" should be inserted before "the other Parties" in paragraph 1.
35. He opposed a separate vote on the words "or IV" in paragraph 1.
36. Dr. MABILEAU (France) and Mr. NIKOLIĆ (Yugoslavia) said that they too opposed a separate vote on those words.
37. Dr. BERTSCHINGER (Switzerland) said that his delegation did not interpret the phrase "shall take measures to ensure ..." in paragraph 2 as meaning that the Customs authorities of a country would necessarily be obliged to hold back packages containing the substances in question that were being despatched to a country where there was an import prohibition. It was only on that understanding that his delegation could vote for the provision in paragraph 2.
38. Mr. KOCH (Denmark) said that his Government would interpret the provision in paragraph 2 in the same way as it interpreted the provision in article 8, paragraph 2.
39. Mr. WINKLER (Austria) said that his delegation could only accept the provision in paragraph 2 on the understanding that the expression "shall take measures to ensure" did not place any obligation on Customs authorities to stop the despatch of consignments of

\* See introductory note.

psychotropic substances to countries which had notified an import prohibition in respect of those substances. In his view, it should be left to individual countries to decide how they could best comply with the provision.

40. Mr. BEEDLE (United Kingdom) said he shared the concern of the United States and USSR representatives. Moreover, there appeared to be a possibility that discrimination would arise under the provisions of paragraph 3. If no assurance could be given that discrimination could not take place under that provision, his delegation would propose adjournment of the debate on article 12 to enable an additional paragraph to be drafted that would prohibit discrimination.

41. Mr. WATTLES (Legal Adviser to the Conference) said that the questions raised by the United States and United Kingdom representatives were very complicated, and he was unfortunately unable to provide an answer to them. If commercial discrimination was not to be allowed under the provisions of the article, he thought it would be wise to say so specifically.

42. Mr. ANAND (India) said that, in general, he supported the views of the United States, USSR and United Kingdom representatives. He did not consider that the intention of paragraph 1 was that discrimination should be allowed.

43. If in the normal course of their duties Customs officials found packages addressed to a country where the import of the contents was prohibited, surely they would stop despatch in the interest of the exporters of their own countries.

44. He opposed a separate vote on the words "or IV" in paragraph 1.

45. Mr. NIKOLIĆ (Yugoslavia) said he agreed that the provisions in paragraphs 1 and 3 lent themselves to discriminatory practices.

46. With regard to paragraph 1, he thought it might be better to change the provision so that parties could inform other countries of the substances they were prepared to import during a given year.

47. The PRESIDENT said that such a change would be a change of substance.

48. Mr. TALIANI (Italy) said that there was another possible danger: countries could use the provision in paragraph 1 to protect their own pharmaceutical industries against foreign competition by prohibiting the importation of substances while allowing them to be manufactured locally. His delegation was ready to propose an amendment which would oblige any country prohibiting the importation of a given substance to prohibit its manufacture in its own territory.

49. Mr. KUŠEVIĆ (Executive Secretary to the Conference) said that paragraph 1, as he understood it, enabled countries to state which substances they wished to import. In other words, countries could state that they wished to import no substances except those appearing on a particular list.

50. Dr. BÖLCS (Hungary) formally proposed the adjournment of the debate on article 12 to enable an amendment to be prepared along the lines suggested by the United Kingdom representative.

51. The PRESIDENT said that, in the absence of any opposition to that proposal, he would assume that the Conference was in favour of adjourning the debate on article 12. He would consider that the procedure for opposing the motion for a separate vote on the words "or IV" in paragraph 1 was complete and would put the motion to the vote when the debate on the article was resumed. Any amendments to article 12 should be submitted by 11.30 on the following morning.

*It was so agreed.*

ARTICLE 12 *bis* (SPECIAL PROVISIONS CONCERNING THE CARRIAGE OF PSYCHOTROPIC SUBSTANCES IN FIRST-AID KITS OF SHIPS, AIRCRAFT OR OTHER FORMS OF PUBLIC TRANSPORT ENGAGED IN INTERNATIONAL TRAFFIC) (E/CONF.58/L.4/Add.3)

52. Mr. NIKOLIĆ (Yugoslavia), Chairman of the Drafting Committee, said that, apart from purely drafting improvements, the only change was in the title, where a reference had been added to other forms of public transport.

*Article 12 bis (E/CONF.58/L.4/Add.3) was adopted by 56 votes to none, with 2 abstentions.*

#### ARTICLE 14

(REPORTS TO BE FURNISHED BY THE PARTIES)  
(E/CONF.58/L.4/Add.3, E/CONF.58/L.29,  
E/CONF.58/L.34)

53. Mr. NIKOLIĆ (Yugoslavia), Chairman of the Drafting Committee, introducing the Drafting Committee's text for article 14 (E/CONF.58/L.4/Add.3), said that the only changes made were of a drafting character.

54. Mr. KOCH (Denmark), introducing his delegation's amendment (E/CONF.58/L.34), said that there was very little difference between the control measures envisaged for substances in schedule III and those for substances in schedule IV. But there was a strong argument for distinguishing between substances in schedules III and IV in regard to the international trade statistics to be furnished to the International Narcotics Control Board.

55. His Government had always been in favour of strict controls but considered that they must serve a useful purpose and that the results obtained must justify the burden imposed on administrations, manufacturers and producers.

56. Article 11 would establish a complex and onerous system of export declarations for substances in schedules III and IV. Schedule IV substances might easily include a wide range of valuable medical remedies in which there would be an extensive international trade that might be hindered by an elaborate system of export declarations.

57. He seriously doubted whether there was any point in Governments providing statistics of total manufactures, imports and exports and even of imports and exports according to destination for such substances. Was it the intention that the Board should use those figures in the execution of its function as an international control organ and in order to provide information about total consumption? Presumably the only interest in following general trends in consumption was to note any warning signals that would necessitate initiating the procedure

for the transfer of a substance to another schedule subject to stricter controls. For that purpose, figures on total quantities manufactured would surely suffice.

58. His amendment would make for greater flexibility, would eliminate controls that imposed too great a burden and would render the Protocol more acceptable to Governments.

59. If the amendment were adopted, article 14 and article 11, paragraph 2, would impose a graduated control régime. The substances in schedule IV would be kept under observation and would be controlled at the national level.

60. Mr. ANAND (India) said that the purpose of his amendment (E/CONF.58/L.29) was to eliminate certain ambiguities in the text of article 14 which had become apparent during the discussion in the Committee on Control Measures. There had been some doubt whether the words "request" in paragraph 5 was mandatory or not. The Turkish representative had contended that the words used in the French text were mandatory. The Indian amendment followed the wording of article 18 of the Single Convention, according to which parties were required to furnish the Board with supplementary information at its request.

61. The Yugoslav representative had asked whether such a request was likely to be directed only to one party or to several parties. That would have been discriminatory and therefore the Indian amendment made it clear that the request would be addressed to all parties. Again, the wording followed that of article 18 of the Single Convention.

62. To avoid misapprehension, the Indian amendment made it clear that the information would relate to future periods and to individual substances. It would therefore be limited in volume.

63. The amendment to paragraph 6 was intended to ensure that the requirement in paragraph 5 was not overlooked.

The meeting rose at 7.35 p.m.

#### FOURTEENTH PLENARY MEETING

Thursday, 11 February 1971, at 9.40 a.m.

President: Mr. NETTEL (Austria)

#### AGENDA ITEM 11

**Consideration of the revised draft Protocol on Psychotropic Substances adopted by the Commission on Narcotic Drugs, in accordance with Economic and Social Council resolution 1474 (XLVIII) of 24 March 1970 (continued)**  
(E/4785, chap. III)

#### ARTICLE 14

(REPORTS TO BE FURNISHED BY THE PARTIES) (continued)  
(E/CONF.58/L.4/Add.3, E/CONF.58/L.29,  
E/CONF.58/L.34)

1. Mr. SHEEN (Australia) said he considered the text of article 14 proposed by the Drafting Committee (E/CONF.58/L.4/Add.3) satisfactory on the whole,

though it would have been preferable, in his opinion, to retain the reference to the quantities of substances in schedules I and II held in stock by wholesalers. In any case, he hoped that the existing text would not be weakened any further, and he was therefore opposed to the Danish amendment (E/CONF.58/L.34). Referring to the Danish representative's argument (13th meeting) that a distinction should be drawn between the measures of control applicable to substances in schedule IV and those in the other schedules, he said it would be more appropriate to make that distinction in the schedules themselves than in the information and statistical reports to be furnished by the parties, which were extremely useful. The information should not give rise to any difficulties, since all persons engaged in the import and export of those substances necessarily kept a record of their transactions. He was in favour of the Indian amendment (E/CONF.58/L.29).

2. Sir Harry GREENFIELD (International Narcotics Control Board) said that, if it was to perform its functions fully within the system to be set up by the Protocol, the Board must have sufficient information. For the substances in schedule IV, information on the total quantity manufactured alone would be insufficient. The Board needed to know at least the total quantities exported and imported, so as to be in a position to detect an unjustified increase. As he had already stated at the 13th meeting of the Committee on Control Measures those were minimum requirements. The Board welcomed the Indian amendment, for it had the merit of dispelling the ambiguity surrounding the word "request" ("demande"). The Board would not necessarily, of course, request all parties to furnish additional statistical information, and it would give the reasons for which it wished to have the information. To sum up, the Board was in favour of the text for article 14 proposed by the Drafting Committee, amended according to the Indian proposal.

3. Dr. OLGUÍN (Argentina), Dr. JOHNSON-ROMUALD (Togo) and Dr. AZARAKHCH (Iran) said they were in favour of the text for article 14 proposed by the Drafting Committee and the Indian amendment thereto. They were opposed to the Danish amendment and they stressed the desirability of information on the quantities of substances in schedule IV exported and imported.

4. Dr. SHIMOMURA (Japan) said he supported the Danish amendment, because he did not believe the International Narcotics Control Board would find statistical information on the quantities of substances in schedule IV exported and imported of any particular use, and because compiling that information would saddle the parties with heavy administrative burdens.

5. Dr. MABILEAU (France) observed that the Drafting Committee's text was the result of arduous negotiation and represented a limit of compromise beyond which the French delegation could not go. He was therefore opposed to the Danish amendment and welcomed the Indian amendment, especially paragraph 1.

6. Mr. HOOGWATER (Netherlands) said he supported the Danish amendment. If schedule IV was retained,



many countries would have the greatest difficulty in getting the Protocol ratified by their parliaments. The difficulty would be even greater for countries which were members of the European Economic Community because, under the Treaty of Rome, they had to reach a common position before submitting the Protocol to their parliaments.

7. Dr. THOMAS (Liberia) said he was in favour of the text of article 14 as proposed by the Drafting Committee and without amendment.

8. Mr. KIRCA (Turkey) drew attention to the considerable possibilities of abuse that existed in the case of substances in schedule IV and to the need for placing those substances under at least a minimum of control. He was not convinced by the argument advanced by some delegations that article 12 gave adequate protection to importing countries, and especially to developing countries whose administrative machinery was not sufficiently evolved to enable them to set up their own system of control. In point of fact, articles 11 and 12 enabled countries to supervise the licit traffic, but not to protect themselves against the illicit traffic; article 14, on the other hand, was designed to protect countries, particularly developing countries, against the effects of the illicit traffic.

9. As to the Danish amendment, information relating only to the total quantity manufactured would be quite pointless where substances in schedule IV were concerned, the Board could not detect the existence of an illicit traffic unless it could compare the total quantity manufactured with the total quantities exported and imported.

10. With reference to the statement by the Netherlands representative, he said the suggestion seemed to be that it would be difficult for the six member countries of the European Economic Community, which had abolished Customs frontiers among themselves, to obtain statistical information on trade in the territories covered by the Rome Treaty. If that were so, he thought it would suffice for those countries merely to make a joint statement to the effect that they regarded themselves, in accordance with article 23 *bis*, paragraph 2, of the draft Protocol, as constituting a single territory for the purposes of articles 6, 11, 12 and 14. In any case, France, which was a member of the Community, had seen no objection to article 14 as proposed by the Drafting Committee. Moreover, it would be wrong to exaggerate the difficulties that might arise in connexion with the ratification of the Protocol; his delegation took the view that the collective conscience of the international community would sooner or later oblige all countries to ratify it.

11. Dr. BERTSCHINGER (Switzerland), supported by Dr. DANNER (Federal Republic of Germany), spoke of the need to provide for a graduated system of control which differentiated between substances in schedules III and IV; many delegations had pointed that out in their general statements at the beginning of the Conference. Switzerland and the Federal Republic of Germany therefore supported the Danish amendment.

12. Mr. INGERSOLL (United States of America) said he sympathized with the desire of some delegations to

distinguish between substances in schedule III and IV as far as the applicable measures of control were concerned, and he agreed that parties should not have an unjustifiable burden of work imposed on them. Nevertheless, the information called for under article 14 as proposed by the Drafting Committee was considered essential to the Board for the discharge of its functions. Consequently, and bearing in mind the possibility of the diversion of substances in schedule IV into the illicit traffic, his delegation could accept the Drafting Committee's text. It would also accept the Indian amendment, since it referred only to future periods.

13. Mr. BEEDLE (United Kingdom), commenting on the argument of some delegations that export and import statistics already existed, said that the processing of that information was a complicated operation involving a considerable expenditure of effort, manpower and funds. In that connexion, he would appeal to the International Narcotics Control Board to keep a careful eye on the whole question of statistical reports and to ensure that none of the statistical information referred to in paragraphs 4 and 5 was asked for unless it had been found to be of practical value. All the same, it would be wise, for safety reasons, to retain the obligation to supply such information for substances in schedule IV. His delegation therefore opposed the Danish amendment.

14. So far as the Indian proposal was concerned, he assumed, in view of what the Board's representative had said, that the use of the word "Parties" meant that the Board would request one party, or perhaps two or three, or even, in exceptional cases, all parties, to furnish supplementary statistical information, and that it would offer explanations which would encourage parties to comply with its request. He would be prepared to support the amendment if he had some assurance that his interpretation was correct. He would like to know what construction the Board would place on the second sentence of paragraph 5 in the event of the first sentence of the paragraph being replaced by the sentence proposed by India; he wondered whether a party could require the Board to treat as confidential the information the parties were to furnish under the terms of that version of the paragraph. If it could, his delegation would be able to support the Indian proposal for paragraph 5.

15. Mr. HUYGHE (Luxembourg) observed that, his country being an importer of psychotropic substances, his attitude was not dictated by commercial considerations. Schedule IV should be a waiting list, for otherwise it had no *raison d'être*. He fully endorsed the view of the Netherlands representative, and he supported the Danish amendment.

16. Mr. OVTCHAROV (Bulgaria) said that, in his opinion, the Drafting Committee had submitted an extremely well-balanced and sensible text. He was opposed to the Danish amendment, the effect of which would be to weaken the system of control measures in general and to jeopardize the effectiveness of the Protocol.

17. Mr. CHAPMAN (Canada) said he regarded the measures contemplated in the Drafting Committee's text as an irreducible minimum; he would therefore be



unable to support the Danish amendment. As to the Indian proposal, he thought the first part represented an improvement on the existing wording of paragraph 5, but, like the United Kingdom representative, he would like to know how the Board would interpret the second sentence of the paragraph.

18. Sir Harry GREENFIELD (International Narcotics Control Board) said that the Board would observe the usual diplomatic courtesies and treat any "request" from a party as though it meant "require".

19. Mr. KOCH (Denmark) said that, if it was true that the Board would not derive any benefit from statistical information that was limited, as far as schedule IV was concerned, to quantities manufactured, he found it difficult to understand what use it could make of any of the information called for in article 14 as at present proposed, particularly since paragraph 4 (c) referred to quantities of substances in schedules II and III used in the manufacture of exempt preparations. Besides, the Conference had not yet decided on the apportionment of substances among the four schedules; for the time being, it was a question of establishing nothing more than a structure—the structure, in fact, on which that apportionment would be based. Consequently, his delegation would not withdraw its proposal even if it was asked to do so.

20. Dr. JOHNSON-ROMUALD (Togo) said that, since nothing new seemed to be emerging from the debate, the list of speakers might perhaps be declared closed.

21. The PRESIDENT declared the list of speakers closed and said that only the United Kingdom and Turkey remained on it.

22. Mr. BEEDLE (United Kingdom) said he was sorry not to have had the explanation he had been hoping for from the Indian representative. He proposed that the first part of the Indian proposal should be amended to read: "A Party shall furnish the Board, on its request, with supplementary statistical information...", with the rest of the sentence unchanged.

23. Mr. KIRCA (Turkey) supported the United Kingdom proposal.

*The Danish amendment (E/CONF.58/L.34) was rejected by 26 votes to 22, with 8 abstentions.*

*The United Kingdom sub-amendment to the Indian amendment was adopted by 41 votes to 1, with 17 abstentions.*

24. Dr. DANNER (Federal Republic of Germany) asked that the words "and IV" in the Indian amendment should be voted on separately, in view of the fact that the Danish amendment had been rejected.

25. The PRESIDENT pointed out that paragraphs 4 (b) and 5 of the text submitted by the Drafting Committee contained the same words.

26. Dr. MABILEAU (France), supported by Mr. KIRCA (Turkey) and Mr. NIKOLIĆ (Yugoslavia), opposed the motion of the representative of the Federal Republic of Germany.

*At the request of the Netherlands representative, the vote on the motion of the Federal Republic of Germany was taken by roll-call.*

*Canada, having been drawn by lot by the President, was called upon to vote first.*

*In favour:* Chile, Congo (Democratic Republic of), Costa Rica, Denmark, Dominican Republic, El Salvador, Federal Republic of Germany, Guatemala, Hungary, Italy, Japan, Luxembourg, Netherlands, Nicaragua, Paraguay, Republic of Korea, Rwanda, Spain, Switzerland, United Kingdom of Great Britain and Northern Ireland, Austria, Belgium.

*Against:* Canada, Czechoslovakia, France, India, Iran, Iraq, Lebanon, Liberia, Mexico, Monaco, New Zealand, Pakistan, Sweden, Thailand, Togo, Tunisia, Turkey, United States of America, Venezuela, Yugoslavia, Algeria, Argentina, Australia, Bulgaria, Burma.

*Abstaining:* China,\* Finland, Holy See, Ireland, Norway, Poland, South Africa, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, United Arab Republic, Brazil, Byelorussian Soviet Socialist Republic, Cameroon.

*The motion of the Federal Republic of Germany was rejected by 25 votes to 22, with 13 abstentions.*

*The Indian proposal (E/CONF.58/L.29), as amended, was adopted by 33 votes to 11, with 12 abstentions.*

*Article 14 (E/CONF.58/L.4/Add.3), as amended, was adopted by 38 votes to 8, with 12 abstentions.*

#### ARTICLE 20

(EXPENSES OF INTERNATIONAL ORGANS INCURRED IN ADMINISTERING THE PROVISIONS OF THE PROTOCOL)  
(E/CONF.58/L.6, E/CONF.58/L.9,  
E/CONF.58/L.11/Rev.1)

27. Dr. BABAIAN (Union of Soviet Socialist Republics), introducing the amendment of which his delegation was one of the sponsors (E/CONF.58/L.6), explained that the intention was to replace article 20 of the draft Protocol by a text reproducing the corresponding provisions of the 1961 Single Convention on Narcotic Drugs. For the purposes of the Protocol, WHO and the United Nations organs had the same functions as they had in the Single Convention, and there was therefore no need to make any financial provisions other than those in article 6 of the Single Convention.

28. It would be remembered that the original text of the draft Protocol,<sup>11</sup> in particular articles 2, 2 (a) and 9, had vested very broad powers in WHO, and had consequently included provisions relating both to the WHO budget and to that of the United Nations. Nevertheless, the draft subsequently prepared, and now before the Conference (E/4785, chap. III), had greatly diminished those powers without changing the provisions relating to finance. It should not be forgotten that the activities of the WHO specialized services which might be concerned with the application of the Protocol formed part of the routine

\* See introductory note.

<sup>11</sup> E/CN. 7/519.

work laid down for WHO by its Constitution, particularly that relating to the protection of public health and of the mental health of individuals, problems concerning the safety of drugs, and efforts to eliminate the side-effects. Those tasks were in fact specifically defined in article 2 of the WHO Constitution, which stated that the functions of the organization were to propose regulations and make recommendations with respect to international health matters and to foster activities in the field of mental health with a view to promoting the harmony of human relations. Similarly, under article 21 of the Constitution, the World Health Assembly had authority to adopt regulations concerning (a) standards with respect to the safety, purity and potency of biological, pharmaceutical and similar products moving in international commerce, and (b) the advertising and labelling of those products. Other documents, such as resolution WHA5.76 of the World Health Assembly, stressed the desirability of adopting appropriate measures to ensure that publicity for certain drugs did not result in jeopardizing the health of human beings. Furthermore, the World Health Assembly in its resolution WHA15.41 had requested WHO, in view of the increase in the number of new pharmaceutical preparations appearing on the market and the serious side-effects they might have, to secure prompt transmission to national health authorities of new information on serious side-effects of pharmaceutical preparations. At the beginning of 1963, the WHO Executive Board had adopted resolution EB31.R6, in which it emphasized the need for early action in regard to the rapid dissemination of information on adverse drug reactions and, considering that international co-operation was essential, had recommended to the sixteenth World Health Assembly that States should be invited to make available to WHO information on any action taken to prohibit or limit the use of any drug likely to constitute a hazard to public health. In accordance with that recommendation, resolution WHA 16.36 requested the member States of WHO to communicate information on any decision to prohibit or limit the availability of certain drugs and on any decision to approve, or to refuse approval of, a new drug, and to arrange for a systematic collection of information on serious adverse drug reactions observed during the development of a drug and after its release for general use. In later resolutions, the WHO Executive Board and the World Health Assembly asked Governments to continue the systematic collection and analysis of information on the harmful effects of drugs pursuant to resolution WHA 16.36. Those documents manifestly showed that the normal activities of WHO embraced all problems of mental health and, consequently, the prophylaxis and treatment of drug addiction. The competence of WHO also extended to the study of the side-effects of pharmaceutical substances, including drugs liable to produce dependence, the possibilities of prophylaxis, programmes and standards to determine the degree of toxicity of drugs, labelling procedures and the collection and dissemination of information and material by the countries members of WHO and other organizations responsible for public health. Drugs obviously included psychotropic preparations. Thus, even if the Protocol did not exist, WHO would perform the work laid down in its Con-

stitution and would communicate the necessary information to Governments. Consequently, the provisions of the Protocol did not constitute an additional and unduly heavy burden on WHO, and there was no need to lay down special provisions relating to the expenses of that Organization in article 20.

29. Furthermore, none of the previous international treaties regulating narcotic drugs contained any clause concerning the financing of the expenses of WHO. He did not see, therefore, why the Conference should create a precedent.

30. Mr. KIRCA (Turkey) expressed agreement with the representative of the USSR, and further observed that the original text of article 20 in the draft Protocol conflicted with Article 17 (paragraph 3), of the United Nations Charter, under which the General Assembly was authorized to make recommendations to the specialized agencies on budgetary matters, but not to determine the methods by which the agencies were to bear their expenses. That text should therefore be discarded. Nevertheless, the position of States which were not members of WHO, yet benefited from its services, must be taken into account. It was only fair that such States should participate in the financing of the expenses incurred by WHO in administering the provisions of the Protocol, and it was for that reason that his delegation had submitted its amendment (E/CONF.58/L.11/Rev.1).

31. Dr. MABILEAU (France) withdrew his amendment (E/CONF.58/L.9) and said he would support the amendment introduced by the USSR representative.

32. Mr. KUŠEVIĆ (Executive Secretary of the Conference) observed that performance of the functions set out in the Protocol would entail additional expense for the secretariats of the Commission on Narcotic Drugs and the International Narcotics Control Board, and he asked whether those expenses would be included in the budgets of the two bodies.

33. Mr. WATTLES (Legal Adviser to the Conference) said that in practice the provisions of article 6 of the Single Convention were regarded as applying also to the expenses of the Commission and Board secretariats.

34. Mr. BROWN (Australia) raised the question whether a provision on expenses was required, since article 6 of the Single Convention, which provided for the expenses of the Commission and the Board, did not appear to be limited only to expenses incurred under the Single Convention. Those bodies already had responsibility for the administration of some other international agreements, and it was debatable whether it would be sound administrative practice to introduce separate accounting systems for every agreement administered by the Board and the Commission.

35. He agreed with the USSR representative that the activities of WHO envisaged under the Protocol were within its constitutional authority, and the World Health Assembly had power to decide on the method of financing costs. Those costs were not likely to be great, since the Protocol provided for a procedure whereby WHO could make available its expertise on questions of drug abuse to the Commission and to parties.

36. While doubtful whether any new provision was needed in the Protocol, Australia could support the amendment introduced by the representative of the USSR. It did not favour reference to parties to the Protocol which were not members of WHO, because of the wide membership of that Organization, and the technical complications caused by the existence of "inactive" members of WHO.
37. Dr. REXED (Sweden) said that, though recognizing that WHO should be given all the resources it needed to perform its functions effectively, he considered that in the particular case at issue there was no need to mention the financing of its activities, since, as the USSR representative had pointed out, its functions with respect to information and research under the Protocol formed part of its ordinary work. The purpose of the Protocol was not to give instructions to WHO but to establish a useful collaboration between that agency and the Commission on Narcotic Drugs. Consequently, he would support the amendment introduced by the USSR representative. The Turkish amendment dealt only with a theoretical possibility, in view of the large number of States which were members of WHO. As to the suggestion by the Australian representative that article 20 should be deleted, the Conference should know the views of the Secretary-General before it took a decision.
38. Mr. KIRCA (Turkey) acknowledged the force of the Australian representative's argument that the existence of inactive members of WHO might create practical difficulties if the financing system proposed in the Turkish amendment was adopted. He therefore withdrew that amendment.
39. However, he pointed out that the position of the inactive members of WHO was a *de facto* one and that legally they were obliged to meet all their obligations to WHO. If, for example, they refused to pay their contribution to the WHO budget, the World Health Assembly could decide to apply sanctions against them. That had not happened up to the present, because the Assembly had not thought fit to exercise its discretionary powers against them in that connexion. On the other hand, the difficulties referred to were partly the consequence of that situation.
40. Mr. CHAPMAN (Canada) and Mr. BEB a DON (Cameroon) said that, since the budget of WHO must be fixed by that Organization itself, they supported the amendment introduced by the USSR representative.
41. Dr. JOHNSON-ROMUALD (Togo) said he would be glad to hear the views of the WHO representative before taking a final position.
42. Dr. FATTORUSSO (World Health Organization) said it was hard to estimate the financial implications of the functions which would be attributed to WHO under the Protocol, as it all depended on the amount of information to be compiled. The procedure would be that the Protocol, together with a report by the Director-General, would be laid before the World Health Assembly, which would take a decision in the light of the estimate for the proposed programmes.
43. Dr. OLGUÍN (Argentina), supported by Dr. JOHNSON-ROMUALD (Togo), Dr. AZARAKHCH (Iran) and Mrs. NOWICKA (Poland), said that WHO was competent to take the necessary financial decisions within the framework of its own programmes, and he was therefore in favour of the amendment introduced by the representative of the USSR.
44. Dr. THOMAS (Liberia) said he was in favour of the deletion of article 20, as proposed by the Australian representative.
45. Mr. CHENG (China)\* observed that the provisions of the Protocol relating to financing ought to be similar to those of the Single Convention. Any unnecessary increase in expense owing to duplication should be avoided; there was an inter-agency advisory body which could ensure co-ordination on budgetary matters of concern to the United Nations and WHO. In view of those considerations, it would be better to delete article 20.
46. Mr. KIRCA (Turkey) drew the Conference's attention to the danger inherent in the deletion of the whole of article 20 as set out in the amendment introduced by the USSR representative. Though the first sentence, might well be deleted in view of Article 17, paragraph 1, of the Charter, that was not true of the second sentence concerning parties which were not Members of the United Nations, since no provision was made for their case in any other international instrument.
47. Mr. INGERSOLL (United States of America) said that he attributed great importance to the role of WHO under the Protocol. Nevertheless, it was clear from the comments of the representative of the USSR that it was not necessary to include a clause in the Protocol relating to the expenses of WHO. If he could be assured that article 6 of the Single Convention covered the expenses of the secretariats of the Commission on Narcotic Drugs and the International Narcotics Control Board, he could accept the amendment introduced by the USSR representative.
48. Mr. WATTLES (Legal Adviser to the Conference) said that article 6 of the Single Convention, which was general in scope, might be interpreted to mean that all the expenses of the Commission and the Board would be borne by the United Nations. It might perhaps be possible, however, to obtain a more precise idea of the implications from the preparatory work for that article.
49. Mr. TALIANI (Italy) said he wondered, in view of the explanations given by the Legal Adviser to the Conference, whether it would not be wise to defer the decision on article 20 pending more exhaustive study.
50. Dr. BABAIAN (Union of Soviet Socialist Republics), Mr. NIKOLIĆ (Yugoslavia) and Dr. JOHNSON-ROMUALD (Togo) said that they were opposed to an adjournment of the vote on article 20.

*Article 20, as amended (E/CONF.58/L.6), was adopted by 46 votes to none, with 6 abstentions.*

The meeting rose at 12.45 p.m.

\* See introductory note.

**FIFTEENTH PLENARY MEETING***Friday, 12 February 1971, at 10.15 a.m.**President: Mr. NETTEL (Austria)***AGENDA ITEM 11**

**Consideration of the revised draft Protocol on Psychotropic Substances adopted by the Commission on Narcotic Drugs, in accordance with Economic and Social Council resolution 1474 (XLVIII) of 24 March 1970 (continued) (E/4785, chap. III)**

**ARTICLE 11**

**(PROVISIONS RELATING TO INTERNATIONAL TRADE)  
(E/CONF.58/L.4/Add.4, E/CONF.58/L.36)**

1. Mr. KOCH (Denmark), introducing his delegation's amendment (E/CONF.58/L.36), said that he had pleaded in vain at the 13th meeting, in connexion with article 14, for the establishment of a fourfold system of control measures which would take account of the different degrees of harmfulness of the substances listed in the four schedules. He had pointed out that such a procedure would facilitate the adoption of the Protocol by the largest possible number of Governments.
2. In a spirit of co-operation, his delegation was now prepared to withdraw its amendment; at the same time, it was most anxious to ensure that the Protocol would be ratified as widely as possible. He therefore moved that a separate vote be taken on the words "and IV" and "or IV" in sub-paragraphs (a) and (c) respectively of paragraph 2.
3. Since some representatives would presumably oppose his motion, he wished to point out that in his view the real reason for any such opposition would not be to speed up the work of the Conference, as would be most desirable, but the fear that a separate vote would reveal all too clearly that the retention of the reference to substances in schedule IV would not secure a two-thirds majority. The purpose of the Danish motion was precisely to show whether such a majority existed.
4. Article 42 of the rules of procedure, which provided for a two-thirds majority on all matters of substance, had never been questioned, yet there now seemed to be an attempt to get round it by passing off something which was a matter of substance as a matter of procedure. The fact, however, that the number of Governments participating in the Conference was rather limited made it absolutely essential that important decisions should be taken by a really large majority, so that States not represented could ratify the Protocol without hesitation.
5. If his motion for a separate vote was opposed, he would be obliged to ask for the vote on it to be taken by roll-call.
6. Dr. JOHNSON-ROMUALD (Togo), said that, while he appreciated the eloquence with which the Danish representative had argued his point of view, he regretted he could not agree to a separate vote on the question of substances in schedule IV. That was an important matter which had already been debated at length both in the

Commission on Narcotic Drugs and in the Conference and its Committees, working groups and informal meetings, and the results had shown that there had been no question of a minority trying to impose its wishes by devious means.

7. Furthermore, if all the developing countries could have been represented at the Conference, they would have clearly expressed from the outset their wish to be protected by the Protocol from the risks to which the substances in schedule IV might expose them in the future.

8. Mr. BEB a DON (Cameroon) expressed whole-hearted agreement with the Togolese representative.

9. Mr. ANAND (India) said that the Togolese representative had made his point extremely well. He himself would add that the Conference had already decided to retain references to substances in schedule IV in other articles of the Protocol, which had to form a composite whole. He could therefore see no point in a separate vote on the retention of the words "and IV" and "or IV" simply in article 11.

*At the request of the Danish representative, the vote on his motion for a separate vote was taken by roll-call.*

*The Ukrainian Soviet Socialist Republic, having been drawn by lot by the President, was called upon to vote first.*

*In favour:* Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, United Arab Republic, United Kingdom of Great Britain and Northern Ireland, United States of America, Venezuela, Yugoslavia, Austria, Belgium, Byelorussian Soviet Socialist Republic, Canada, Chile, Costa Rica, Denmark, El Salvador, Federal Republic of Germany, Guatemala, Hungary, Iraq, Ireland, Italy, Japan, Luxembourg, Mexico, Netherlands, Nicaragua, Paraguay, Poland, Republic of Korea, South Africa, Spain, Switzerland.

*Against:* Argentina, Australia, Burma, Cameroon, Congo (Democratic Republic of), India, Iran, Lebanon, Togo, Tunisia.

*Abstaining:* Brazil, Bulgaria, China,\* Finland, France, Ghana, Holy See, New Zealand, Rwanda, Sweden, Thailand, Turkey.

*The Danish motion was adopted by 32 votes to 10, with 12 abstentions.*

10. Dr. MABLEAU (France) requested that the vote on the retention of the words "and IV" and "or IV" should be taken by roll-call; that would show quite clearly which delegations were trying to weaken the Protocol. It was no secret that some of them had set their minds on that, and in his view it was preferable for the final decision to be taken by a simple majority rather than blocked by one third.

11. Mr. VALDES BENEGAS (Paraguay) said that he could not accept such a sweeping statement as the French representative had just made.

12. Mr. BEEDLE (United Kingdom) observed that the Protocol had not received such lengthy preparation as the 1961 Single Convention on Narcotic Drugs, and that the available scientific data did not provide precise

\* See introductory note.



information on the dangers that could arise from substances in schedule IV. The schedules drawn up by WHO in 1969 had been accepted by the Commission on Narcotic Drugs as no more than provisionally indicative. The evidence considered by the WHO Expert Committee on Drug Dependence in 1969 had not been circulated until a few days before the opening of the Conference, and future generations would find it hard to perceive in the publication or in the work of the Technical Committee that the Conference had had an adequate basis for adopting sensible measures with regard to international trade.

13. The Indian representative had maintained that the text of the Protocol formed a composite whole and could only be accepted or rejected as such. In that connexion, it seemed relevant to point out that a number of delegations had expressed the view from the beginning that a clearcut distinction had to be established between substances in schedule III and those in schedule IV, either by making declarations concerning substances in schedule IV optional or by automatically applying exemptions under article 2 *bis* to preparations of substances in schedule IV. Although those suggestions had not been accepted, the report of the WHO Expert Committee showed that it was more important to differentiate between substances in schedule III and substances in schedule IV than between those in schedule I and those in schedule II; yet the measures of control proposed for substances in schedules III and IV differed so minimally that countries desirous of ratifying the Protocol in the future might well fail to grasp what the Conference had been aiming at. What was more, international co-operation would not be weakened merely by the adoption of a more flexible instrument.

14. In the light of the considerations he had advanced, his delegation would welcome the Danish amendment.

15. The PRESIDENT remarked that the Danish representative had withdrawn his amendment.

16. Dr. JOHNSON-ROMUALD (Togo) said he could discern new forces at work in the Conference, which had previously seemed to sympathize with the weak, impoverished and under-developed countries. Admittedly, the producing countries, which were industrialized nations, had to consider their own needs, which their representatives were entitled and obliged to take into account, but there could be no question of international solidarity unless equal consideration was given to the requirements of the underprivileged countries. It seemed to him that the advanced nations, at a given stage in their evolution, had likewise been underdeveloped, and that some areas in the developed countries still justified that description.

17. International trade in substances in schedule IV was a major problem, since their therapeutic value must not be a cover for unnecessarily introducing them into consumer countries where they might degrade human dignity. The argument that it was necessary to ensure the widest possible ratification of the Protocol did not apply, because many developing countries would be prepared to ratify it if it guaranteed them against being forced to accept psychotropic substances.

18. Dr. BABAIAN (Union of Soviet Socialist Republics) said that the provisions of the Drafting Committee's text would not give rise to any difficulties for his Government, which had in fact been one of the first to request that dangerous substances other than narcotic drugs should be subjected to very strict control.

19. He would draw the Conference's attention, however, to the fact that the obligations imposed on importing countries could in no way bind countries which did not ratify the Protocol.

20. Dr. REXED (Sweden), Chairman of the Technical Committee, said he must protest against the United Kingdom representative's assertion that the Conference did not have a firm basis for its decision regarding the substances in schedule IV. National health authorities had reported a very large number of cases of abuse of those substances, and several members of the Technical Committee had concluded for that reason that they should be regarded as really dangerous; furthermore, they met the criteria for substances in group (c) laid down by the WHO Expert Committee on Drug Dependence in its seventeenth report, that they were "drugs recommended for control whose liability to abuse constitutes a smaller but still significant risk to public health".<sup>12</sup> It could not therefore be asserted that the Conference had not had at its disposal sufficient scientific and medical information to enable it to decide with all the facts before it on the control measures to be applied to those substances.

21. The Swedish delegation, for the reasons explained by several delegations, and in particular by the delegation of Togo, would vote in favour of maintaining the reference to schedule IV in article 11, convinced as it was that public health everywhere was at stake—in the developing countries just as much as in the developed countries—and that commercial and industrial interests should not weight the balance against the vital interests of human beings. He was quite sure that the industrialized countries would assume the heavy responsibility incumbent upon them in that regard.

22. Dr. CORRÊA da CUNHA (Brazil) observed that, burdensome though they were, the expenses entailed by the measures of control laid down for the substances in schedule IV in article 11 were not so very great in comparison with the expenses involved in any case in applying the Protocol. In any event, not only countries but also WHO would have to make provision for additional expenses. Those difficulties were, however, inconsiderable in relation to the danger to public health which the substances represented, a danger which had been clearly established by the WHO experts. Out of consideration for those experts and national public health authorities, the Conference was bound to provide for adequate control measures for the substances in schedule IV. The Brazilian delegation would therefore vote for the retention of the reference to that schedule in article 11, paragraph 2.

23. Mr. KIRCA (Turkey) said he endorsed the views expressed by the representative of Togo, and hoped that

<sup>12</sup> World Health Organization, *Technical Report Series, 1970, No. 437, sect. 4.4, p. 16.*



the scientific arguments put forward by the Swedish representative would convince all delegations. Any countries which had any doubts about the substances in schedule IV and the rules to be applied to them should raise their objections during the consideration, not of article 11, but article 27, concerning reservations.

24. Mr. SHEEN (Australia) said he supported the Swedish representative's statement and considered that an international control system must certainly be set up for the substances in schedule IV. He would therefore vote for the retention of the reference to that schedule in article 11, paragraph 2.

25. U HLA OO (Burma) said that the arguments advanced by the Swedish representative had convinced him of the need to retain the text of article 11 as it stood.

26. Mr. KOCH (Denmark) said he must protest against the interpretation which implied that countries opposed to the retention of the reference to schedule IV were hostile to the developing countries. Any such view was wholly incorrect. What had to be done was not to form hostile groups, but to find a way of striking a balance between article 11 and article 12. The Conference's purpose was to adopt a Protocol that would provide protection for all countries and could be accepted in practice by the producing countries.

27. Dr. AZARAKHCH (Iran) said he warmly supported the Togolese and Swedish representatives.

28. Mr. ANAND (India) said that the statements by the Togolese and Swedish representatives should leave no one in any doubt about the importance of retaining the reference to schedule IV in article 11, paragraph 2.

29. Although the developing countries had not as yet been confronted with any serious problems caused by the abuse of the psychotropic substances in schedule IV, that did not mean that they took no interest in the matter. Even if the risk of the abuse of those drugs was slight as yet in the case of certain countries, the situation might change in the future, for experience showed that addicts might very well change from one substance to another. In India, for instance, although the barbiturates in schedule III were the only substances at present representing a danger to public health, there was no guarantee that addicts would not in the near future resort also to substances in schedule IV. That was all the more likely because, owing to the strict control over amphetamines, the manufacturers were trying to produce preparations which were not subject to any control. Consequently, every country was menaced, though to a different degree, by the spread of addiction, and the developing countries did not wish measures introduced in the interests of the developed countries to be taken at their expense.

30. It had been objected that the control measures over schedule IV substances provided for in article 11 would lead to additional expenditure. But it should be borne in mind in that connexion that the provisions of the Single Convention had also led to considerable expenditure, much of which had been borne by the developing countries. India, for example, had spent a great deal of money on limiting the cultivation of the opium poppy and on export control; but it had had no hesitation in

doing so, because it considered that the welfare of mankind was more important than money.

31. The present text of article 11 was a compromise arrived at after lengthy discussion, and it should therefore be maintained.

32. Dr. OLGUÍN (Argentina) said that it was not a question of taking measures that were appropriate to the situation of particular developed or developing countries which were importers or exporters of pharmaceutical products; the aim was to draw up an instrument which could be of value to the whole world and would contribute effectively to the welfare of mankind by preventing a further spread of drug abuse. In the present text of article 11, an attempt had been made to establish a balance between the obligations to be complied with, the provisions to be drafted and the measures that should be taken, and that balance would be jeopardized if the Conference were to delete provisions of fundamental importance such as those dealing with the control of imports and exports. The harmful nature of the substances in all the schedules had been amply demonstrated and there was scientific evidence in that connexion, as the Swedish representative had already stated. The substances in schedule IV were no less dangerous than the others, in view of the less rigorous control measures applied to them and the fact that they could be so easily acquired and used.

33. Too much importance should not be ascribed to the financial aspect of the question. The money spent on effective control measures in fact represented an investment in public health and social welfare which would yield results more especially in the long term. Burdens accepted now would bring benefits to future generations, and that was the purpose which the Conference was seeking to achieve. In the light of those considerations, he considered that the reference to schedule IV should be retained in article 11 and in all the other provisions of the Protocol.

34. Dr. DANNER (Federal Republic of Germany) reminded the Conference that the WHO Expert Committee on Drug Dependence had classified psychotropic substances in five groups on the basis of the following criteria: (a) the danger to public health presented by abuse of the substance in question; (b) the possibility that it would induce dependence; (c) its therapeutic value.<sup>13</sup> Group (c), which corresponded to schedule IV of the draft protocol, included "drugs whose liability to abuse constitutes a smaller but still significant risk to public health, and having a therapeutic usefulness ranging from little to great". What had to be established was whether the risk represented by those substances was sufficiently serious to justify the administrative burdens imposed by the control measures provided for in article 11. Experience in his country showed that the reply to that question was in the negative. The statistics which countries at present collected were adequate for an appreciation of the situation, and there was no justification for the measures provided for in article 11.

<sup>13</sup> *Ibid.*

35. In his view, the article had nothing to do with the stage of development reached by a country; the two issues should not be confused.
36. Mr. INGERSOLL (United States of America) said he too thought that a distinction should be made between the control measures applicable to schedule III substances and those applicable to schedule IV. But article 11 was concerned only with international control and it did not seem to him to be the right place for making that distinction. He was in favour of the Drafting Committee's text of the article.
37. Mrs. NOWICKA (Poland) said that, although control measures should be introduced to prevent the abuse of psychotropic substances, those measures must not make it difficult to obtain those substances for medical purposes. Her delegation had no objection to the international control measures prescribed in the draft Protocol for the substances in schedules I, II and III, because those substances did in fact lead to drug dependence, and there was illicit traffic in them, and illicit manufacture.
38. In the case of the schedule IV substances, it had been established in Poland, as a result of several years of experience, that strict control of the manufacture of those products, of the trade in them and of their distribution against medical prescription could in practice prevent their being abused and diverted into the illicit traffic. In any case, if one of those substances did give rise to drug dependence and illicit traffic, it could be transferred to schedule III or schedule II. Moreover, adequate international control could be exercised under article 12. For those reasons, Poland considered that the provisions relating to international trade should be applied to schedule IV substances, without too strict a control.
39. Dr. BÖLCS (Hungary) pointed out that his delegation had always taken the view that international control was not a substitute for strict national control. He was sorry to see that there was a tendency to weaken some of the provisions of the draft Protocol concerning national control—for instance, the right of non-acceptance could apply even to substances in schedules I and II—and at the same time to strengthen unduly international control measures of doubtful value. His delegation was convinced that, by applying a reasonable degree of national control, abuse of schedule IV substances could be prevented; moreover, considerable use had been made of those substances for many years in therapy. The question of protecting the developing countries was covered by article 12.
40. Mr. HUYGHE (Luxembourg) said that his delegation had at all times affirmed that it was necessary to draw a clear distinction between the control measures applicable to schedule III substances and those applicable to schedule IV substances, and that if the same control measures were applied to the substances in both schedules, the two schedules might as well be replaced by a single one. Since that principle had not been accepted, he objected to the inclusion of a reference to schedule IV in article 11, because in his view the best way of preventing abuse of those substances was to apply strict control at the national level.
41. His country fully understood the difficulties of the developing countries, and it would not fail to help those countries, through the measures provided for in article 12.
42. Dr. JOHNSON-ROMUALD (Togo) said he appreciated the difficulties that would be created by the application of the control measures to schedule IV substances, but would point out that those difficulties were not peculiar to the producing countries. He would remind those representatives who seemed to be mainly concerned with their own interests that it was to the advantage of every country to protect the health of the inhabitants of other countries, especially when they were consuming countries; expenses incurred in that connexion were in fact a long-term productive investment.
43. It had been frequently argued by certain delegations that it was desirable to produce a Protocol which every country could ratify. His reply to them was that the Protocol would also have to be ratified by the developing countries, and they too could only do that if they considered it satisfactory.
44. Mr. NIKOLIĆ (Yugoslavia) and Mr. KOFI-DAVIES (Ghana) said they supported the views expressed by the Togolese and Swedish representatives.
45. Mr. BEEDLE (United Kingdom) observed that there was not much difference between the control measures laid down for the substances in schedules I-IV; in particular, those for substances in schedules III and IV were practically identical, apart from a few provisions dealing with records (article 10) and the reports to be furnished by parties (article 14). That being so, it did not seem to him to be realistic to require a declaration in the case of schedule IV substances as well. He found it difficult to see how the parties or WHO or the Commission on Narcotic Drugs could be expected to apply the complicated procedure outlined in article 2 for transferring a substance from schedule IV to schedule III, when the control measures applicable to those two schedules differed only in two relatively minor respects.
46. Dr. BERTSCHINGER (Switzerland) said that the Conference should act in accordance with the views expressed by the WHO Expert Committee on Drug Dependence. That Committee had deemed it necessary to establish a clear distinction between two groups of substances: group (b), corresponding to schedule III, and group (c), corresponding to schedule IV.<sup>14</sup> The question before the Conference was not an administrative one, but a scientific and technical question, with regard to which the Conference would be well advised to follow the opinion of WHO.
47. Mr. HOOGWATER (Netherlands) said that his delegation's position was very similar to that of the Danish delegation. He himself was convinced that if the principal producing countries ratified the Protocol, the Netherlands Government and Parliament would be able to ratify it also, even if schedule IV were retained in it, for his country had always had a high sense of international discipline. But it was no good trying to achieve the impossible; on the contrary, an effort should be made to find out what was possible and to bear in

<sup>14</sup> *Ibid.*

mind the genuine difficulties experienced by certain countries. He cited examples to show that his delegation had taken into account the difficulties and objections of other delegations and accepted compromises. His country had always had a great admiration for the work done by WHO, and it had always supported that Organization. After the unfortunate decision on article 14 taken at the 14th meeting, however—a decision which in his view should be reconsidered—he would in future comply strictly with his Government's instructions.

*At the request of the French representative, the vote on the retention of the words "and IV" in paragraph 2 (a) and of the words "or IV" in paragraph 2 (c), on which the Danish representative had asked for a separate vote, was taken by roll-call.*

*Chile, having been drawn by lot by the President, was called upon to vote first.*

*In favour:* China,\* Congo (Democratic Republic of), Finland, France, Ghana, India, Iran, Lebanon, Mexico, New Zealand, Republic of Korea, Rwanda, Sweden, Thailand, Togo, Tunisia, Turkey, United States of America, Venezuela, Yugoslavia, Argentina, Australia, Brazil, Burma, Cameroon, Canada.

*Against:* Chile, Costa Rica, Denmark, El Salvador, Federal Republic of Germany, Guatemala, Hungary, Iraq, Ireland, Italy, Japan, Luxembourg, Netherlands, Nicaragua, Paraguay, Poland, South Africa, Spain, Switzerland, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, United Arab Republic, United Kingdom of Great Britain and Northern Ireland, Austria, Belgium, Byelorussian Soviet Socialist Republic.

*Abstaining:* Holy See, Bulgaria.

*The result of the vote was 26 in favour and 26 against, with 2 abstentions.*

*The words "and IV" in paragraph 2 (a) and "or IV" in paragraph 2 (c) were therefore deleted.*

*Article 11 (E/CONF.58/L.4/Add.4), as amended, was adopted by 47 votes to 1, with 6 abstentions.*

The meeting rose at 1 p.m.

## SIXTEENTH PLENARY MEETING

*Friday, 12 February 1971, at 8.45 p.m.*

*President:* Mr. NETTEL (Austria)

### AGENDA ITEM 11

**Consideration of the revised draft Protocol on Psychotropic Substances adopted by the Commission on Narcotic Drugs, in accordance with Economic and Social Council resolution 1474 (XLVIII) of 24 March 1970 (continued)**  
(E/4785, chap. III)

#### ARTICLE 11

(PROVISIONS RELATING TO INTERNATIONAL TRADE)  
(concluded) (E.CONF.58/L.4/Add.4)

1. Mr. KIRCA (Turkey), speaking in explanation of his vote, said that his delegation had voted at the 15th

\* See introductory note.

meeting for article 11, as amended, but it wished expressly to reserve the right of the Turkish Government to require, by unilateral decision, the importer of a substance in schedule IV, or of a preparation containing one of those substances, to furnish to the competent authorities in Turkey, as a condition for the issue of an import licence, a declaration by the exporter containing the information mentioned in paragraph 2 (a) of article 11 of the Protocol. That was entirely in conformity, as far as parties to the Protocol who were bound by the General Agreement on Tariffs and Trade were concerned, with the safeguard clause relating to the protection of public health in article XX of that Agreement.<sup>15</sup> Such a measure would, moreover, be entirely in conformity with article 19 of the Protocol as finally adopted by the Conference.

2. Mr. ANAND (India), explaining his vote, said that his delegation's abstention in the vote on article 11 had had nothing to do with its views on the merits of the article. It had willingly taken part in the work of the committees, working groups and sub-working groups which had spent so many hours preparing the draft, because it had believed that it was worth spending time to arrive at a compromise which could be accepted by all. The deletion of schedule IV substances from the article had caused considerable sorrow and disappointment to his delegation, not because India had any problem with those substances—actually India itself was an exporter of certain substances in schedule IV—but because of the methods that had been employed to obtain the deletion. He wondered if all the long hours spent at the Conference had not merely been a waste of time. If all the careful balances that had been achieved were now going to disappear, it might have been better if, from the outset, delegations had merely stated their views and an immediate vote had been taken.

3. Dr. JOHNSON-ROMUALD (Togo) associated himself with the remarks of the Indian representative. He was grateful to those representatives who had supported his delegation's views and who had defended the rights of new States. It was heartening to know that some industrialized countries put the welfare of mankind before material interests.

ARTICLE 12 (PROHIBITION OF AND RESTRICTIONS ON THE EXPORT AND IMPORT OF PSYCHOTROPIC SUBSTANCES)  
(resumed from the 13th meeting and concluded) (E/CONF.58/L.4/Add.3, E/CONF.58/L.37-L.40)

4. Mr. TALIANI (Italy) said that his delegation's purpose in submitting its amendment (E/CONF.58/L.39) to the text prepared by the Drafting Committee for article 12 (E/CONF.58/L.4/Add.3) had been to draw attention to the possible misuse by parties of the provision in paragraph 1 in order to protect their pharmaceutical industries against foreign competition. However, since the proposal submitted by Hungary, the United Kingdom the United States and the USSR for a new article 12 *ter* (E/CONF.58/L.38) was more comprehensive and partially allayed his delegation's misgivings, he would

<sup>15</sup> *General Agreement on Tariffs and Trade, Basic Instruments and selected documents*, vol. III, *Text of the General Agreement 1958*, pp. 43 and 44.

- withdraw his delegation's amendment and support the joint proposal.
5. Mr. HUYGHE (Luxembourg) said that his delegation had already stated on previous occasions that it would collaborate fully with any country wishing to apply the provisions of article 12. It had two difficulties with the text submitted by the Drafting Committee, however. In the first place, it considered that before asking other countries to implement the provisions of the article in respect of any substance, the requesting country should take steps to protect its own population against that substance. Secondly, it considered that the wording of paragraph 1 should leave no room for possible discrimination. The delegations of Belgium and Luxembourg had therefore submitted an amendment (E/CONF.58/L.37) which not only dealt with those two points, but also met the views expressed during the discussion of article 12 in the Committee on Control Measures (11th and 23rd meetings).
6. Mr. BEVANS (United States of America), introducing the joint proposal for a new article 12 *ter* on behalf of the sponsors, said that the purpose was to make it clear that none of the provisions of article 12 could be used as a basis for discrimination.
7. Mr. HOOGWATER (Netherlands) said that, while his delegation was prepared to accept article 12 and even to strengthen it by calling on parties to take all appropriate measures to prohibit the export of any substances to countries which had notified that the importation of those substances into their territories was prohibited, it did not consider that the article would be of any value as a protection for importing countries. No exporting country could control the export of its products beyond the first destination, and it would be unfortunate if any importing country believed that the article would afford it full protection. The provisions of the article provided no safeguard against bad faith in the country of first destination.
8. Mr. KIRCA (Turkey) said he could accept the amendment to paragraph 1 submitted by Belgium and Luxembourg, but he hoped that those delegations would agree to withdraw their amendment to add a new paragraph 4 to article 12, in favour of the joint proposal to add a new article 12 *ter*, which he supported. He also supported the joint proposal by Hungary, the United Kingdom, the United States and the USSR (E/CONF.58/L.40) to add a sentence to paragraph 1.
9. Dr. JOHNSON-ROMUALD (Togo) said he hoped that the Netherlands representative's remarks were not a prelude to a request for the deletion of the article. His delegation strongly supported article 12 and was prepared to accept any amendment which would ensure that discrimination was avoided.
10. Mr. SHEEN (Australia) said that, in general, his delegation supported article 12 as it stood. With regard to the proposal of Belgium and Luxembourg, he could accept the insertion of the word "all" after "inform" in paragraph 1, but the addition of the word "totally" gave rise to certain difficulties. A restriction on imports need not necessarily be total; it might perhaps be based on limited therapeutic use.
11. The addition of a paragraph 4 proposed by Belgium and Luxembourg had the same objectives as the proposal to insert a new article 12 *ter*. He was prepared to accept either, but preferred the proposal by Belgium and Luxembourg because it was simpler. He was also prepared to accept the addition to paragraph 1 of the sentence proposed in the joint amendment to paragraph 1.
12. With reference to the remarks of the Netherlands representative, he felt bound to say that, in his view, it was necessary to include the provisions of article 12 in the Protocol.
13. Dr. BABAIAN (Union of Soviet Socialist Republics) said he thought the two amendments submitted jointly by the representatives of four countries, including his own, reflected the general view expressed in the Committee on Control Measures.
14. The value of article 12 should not be underrated. Its provisions would be particularly valuable now that the right of non-acceptance had been included in the Protocol.
15. Mr. KOCH (Denmark) said that his delegation fully supported the principles underlying article 12. The assumption that that article would be retained had governed his delegation's attitude towards article 11.
16. His views on the amendment of Belgium and Luxembourg were the same as those of the Turkish representative; he could accept the proposal regarding paragraph 1, but found the addition of a new article 12 *ter* preferable to the addition of a new paragraph 4 as proposed by Belgium and Luxembourg.
17. Mr. NIKOLIĆ (Yugoslavia) said he supported the amendment by Belgium and Luxembourg. He disagreed entirely with the views of the Netherlands representative.
18. Dr. AZARAKHCH (Iran) said he could not agree that an import prohibition on a substance must apply to all proprietary brands of products containing that substance, and that otherwise there would be discrimination. Nor could he agree that if a country had entirely prohibited the importation of a substance and wished to import a few milligrammes of it for scientific research, it would have to annul its total prohibition on imports of that substance or be accused of discrimination. The prohibition of the importation of a given substance was a matter of state sovereignty.
19. In Iran, pharmaceutical products could only be imported with the authorization of a technical committee established under national legislation. That committee was not under any obligation to authorize the importation of all preparations containing a given substance. No one knew all the trade names under which a substance was sold; persons applying for import authorizations gave the proprietary name of the preparation they wished to use. The same applied to prohibition; if there was evidence of abuse, it was the proprietary name of the substance being abused that was known. In practice, the committee would give no import licence for a substance it thought dangerous or which had no therapeutic value.



20. Paragraph 3 was concerned simply with international co-operation. He was in favour of article 12 as it stood.
21. Mr. CHAPMAN (Canada) said his delegation was not so pessimistic about the value of article 12 as the Netherlands representative; it supported the article.
22. With regard to paragraph 2, his delegation would like the words "shall take measures to ensure" to be retained. Canada would have constitutional difficulties in introducing legislation to prohibit the export of substances to a country on the basis of a notification of an import prohibition from that country if those substances were on sale in Canada. However, he could assure the Conference that if Canada ratified the Protocol, it would take measures to ensure that none of the substances notified to it by a party as prohibited imports would be exported from Canada to the country of that party, and he was sure that those measures would be effective.
23. He had no serious objection to the proposal to amend paragraph 1 contained in the amendment of Belgium and Luxembourg, but he doubted if the addition of the words in question would significantly change the meaning of the text. Indeed the addition of the word "totally" might lead to confusion. He supported the two joint amendments.
24. Dr. MABILEAU (France) said his delegation could accept article 12 as it stood. It could also accept the joint amendment to paragraph 1.
25. He considered article 12 to be extremely important because it recognized the right of each country to do what it could to ensure that it only received the quantities of psychotropic substances required to meet its needs for medical purposes. Recognition of that right was a great step forward. Countries which wanted to do so could protect themselves against an inflow of poisonous substances from factories engaging in what was considered legitimate trade. Times had indeed changed since Governments had even been prepared to go to war to protect the commercial interests of such factories, which used to flood the markets of distant countries with heroin, regardless of its effects on the local population. Amphetamines and barbiturates, which were even more dangerous, were at present being exported by the ton to those same distant countries, and that trade was legitimate. It was essential to give those distant lands the right to protect their people.
26. He agreed with the Netherlands representative that the provisions of article 12 would afford no protection against the unscrupulous or against the illicit traffic; but the provisions had been drawn up in good faith and were directed at people of good faith.
27. Dr. OLGUÍN (Argentina) said that article 12 was a very important element in the machinery of control and he was in general agreement with the Drafting Committee's text.
28. In the Spanish text of the first amendment by Belgium and Luxembourg, the words "*Una Parte*" should read "*Cada una de las Partes*". He did not favour that amendment, because each party must determine the scope of the prohibition, as it would vary according to national conditions. The Drafting Committee's text was preferable.
29. He supported the joint amendment to paragraph 1.
30. Mr. BEEDLE (United Kingdom) said that article 12 was important and effective. The fact that the article afforded a real safeguard had greatly contributed to his delegation's agreement to the removal of schedule IV from the application of article 11. He was opposed to the introduction of the word "prohibit" in paragraph 1 of article 12; it would impose an absolute obligation on Governments to give legislative effect to every change. The words "take measures to ensure" in paragraph 2 were appropriate, because they enabled Governments to take such legislative or administrative action as the situation demanded. He would emphasize that his Government was resolved to co-operate in any way required under article 12.
31. Mr. TALIANI (Italy) said that he was in favour of article 12 and all the amendments thereto.
32. Mr. OVTCHAROV (Bulgaria) said he supported article 12 and the joint amendment to paragraph 1, which would eliminate discrimination. International control must be based on good faith between the parties, each Government having the right to impose such national controls as it deemed necessary. The exchange of information between the parties about the substances which were regarded as dangerous at any given moment would be valuable.
33. Dr. SADEK (United Arab Republic) said that article 12 would be one of the most effective in the control system. He could accept the amendment of Belgium and Luxembourg, the joint amendment to paragraph 1 and the proposed article 12 *ter*.
34. He understood that it had been agreed to use the word "notify" instead of "inform" in paragraph 1.
35. The PRESIDENT confirmed that that was so; the word "notify" would be used in the final version.
36. Mr. MANSOUR (Lebanon) said that, during the discussion on article 11, some representatives had sought to allay the fears of developing countries by arguing that article 12 was a safeguard against illicit traffic, so the statement by the Netherlands representative had come as a surprise. If that representative were right, there was little purpose in their meeting at all, since his views about fraud could apply equally well to the whole Protocol.
37. Article 12 was important and he could support it. He also supported the amendment of Belgium and Luxembourg and the joint amendment to paragraph 1.
38. Mr. HUYGHE (Luxembourg) said that the sponsors of the Belgian and Luxembourg amendment wished to withdraw their proposal to add a new paragraph 4; its purpose was the same as that of the proposed new article 12 *ter*. They would like to join the sponsors of that proposal.
39. The sponsors also withdrew their proposal to insert the word "totally" in paragraph 1.
40. Mr. HOOGWATER (Netherlands) said he could assure the Yugoslav representative that his delegation's attitude to article 12 was a constructive one and he was willing for it to apply to all the schedules.
41. He had a long experience of foreign trade and he would urge the Conference not to be under any illusion



that it had achieved protection when it could only control exports and imports to countries of first destination. In fact, what was needed was a firm guarantee against re-exports; that did not exist in the 1961 Single Convention on Narcotic Drugs.

42. Dr. DANNER (Federal Republic of Germany) asked for a separate vote on the reference to schedule IV in paragraph 1.

*The motion of the representative of the Federal Republic of Germany was rejected by 25 votes to 19, with 8 abstentions.*

*The amendment of Belgium and Luxembourg (E/CONF.58/L.37) to insert the word "all" after the word "inform" in paragraph 1 was adopted by 43 votes to none, with 7 abstentions.*

*The joint amendment to paragraph 1 (E/CONF.58/L.40) was adopted by 47 votes to none, with 6 abstentions.*

*Article 12 (E/CONF.58/L.4/Add.3), as amended, was adopted by 47 votes to none, with 6 abstentions.*

PROPOSAL FOR NEW ARTICLE 12 *ter*  
(E/CONF.58/L.38)

43. Dr. AZARAKHCH (Iran) said that he could not vote on the proposal for a new article 12 *ter* at once, since it had not yet been discussed. Its content appeared to be contrary to the principle of sovereignty and would hamper the development of chemical industries in developing countries. He doubted whether Governments would be willing to ratify a Protocol containing such a clause. It would oblige a party to admit imports of any dangerous substance, including those manufactured for export only and it nullified article 11 and article 12, paragraph 1. The last phrase was certainly open to differing interpretations. If the proposal were adopted, either he would have to make a reservation or his Government might find itself unable to ratify the Protocol.

44. Mr. ANAND (India) said he understood the text to mean that under the Protocol parties should not exercise discrimination of the kind mentioned but would not be precluded from following the policy they regarded as appropriate in accordance with their national laws and regulations on export and import control.

45. Mr. KIRCA (Turkey) disagreed with the Iranian representative. The authors of the proposal had drafted it in such a way that even parties to the Protocol which were also members of the General Agreement on Tariffs and Trade might have recourse to the various safeguard clauses in that Agreement, in order to protect their infant industries or to cope with balance-of-payments difficulties. They could not do so on the basis of articles 11 and 12, but they could do so by relying on other rules of international law and on the grounds acknowledged as valid in those rules.

46. It would be better if the word "power" were translated by "droit" or "compétence" in the French text.

47. Mr. NIKOLIĆ (Yugoslavia) said he could support article 12 *ter*, provided it left his Government free to protect the interests of Yugoslav enterprises. From that point of view, the last phrase was unsatisfactory and

was certainly objectionable if it meant that a party was bound to choose the more expensive of two identical products.

48. Dr. JOHNSON-ROMUALD (Togo) asked whether the legal Adviser could elucidate the implications of the text.

49. Mr. LAVALLE-VALDES (Assistant Legal Adviser to the Conference) said that the text was very general in character and was in line with the other provisions of the Protocol, which was not intended to deal with commercial matters but with the protection of public health and the prevention of abuse.

50. Dr. JOHNSON-ROMUALD (Togo) said that though the text might be acceptable to industrialized countries, it was not acceptable to developing countries which might wish to protect their national industries against imports from abroad. Perhaps the words "or domestic" could be dropped.

51. Mr. ANAND (India) said he thought there was no need to refer to article 11 in sub-paragraph (b), since that article dealt with the procedure of import and export authorizations.

52. Mr. MANSOUR (Lebanon) moved the closure of the debate. During the discussion of article 12, representatives had expressed their views on the proposal for an article 12 *ter* and the Belgian and Luxembourg proposal to add a paragraph 4 to article 12 had been withdrawn in favour of that proposal.

53. Mr. NIKOLIĆ (Yugoslavia) opposed that motion. Many delegations, including his own, favoured the idea embodied in article 12 *ter*, but not the wording in the proposal before the Conference. If the debate continued it might be possible to arrive at a generally acceptable formulation.

54. Dr. BABAIAN (Union of Soviet Socialist Republics) also opposed the motion for the closure of the debate. As one of the sponsors of the proposed article 12 *ter*, he wished to have an opportunity of providing some explanations.

*The motion for the closure of the debate was rejected by 37 votes to 2, with 9 abstentions.*

55. Dr. BABAIAN (Union of Soviet Socialist Republics) said that he was surprised at the reaction of some representatives to the proposal for an article 12 *ter*, which was simply intended to ensure that the right given in paragraph 1 of article 12 was not used merely to discriminate and favour one manufacturer at the expense of another. During the discussion of article 12, it had been generally agreed that the purpose of the right set forth in paragraph 1 was to protect a country from a threat to its public health. The proposed article 12 *ter* made it clear that, where such a threat existed, the country concerned could prohibit imports from all sources, but not selectively.

56. The wording could of course be improved. In order to allay the concern of some representatives who had referred to the need to protect national industries, the concluding words could be amended so as to drop the reference to "domestic" enterprises. It would also be possible to bring the wording closer to the text of the new

paragraph 4 which Belgium and Luxembourg had proposed should be added to article 12.

57. Mr. HOOGWATER (Netherlands) said that he had at first viewed with favour both the proposal for an article 12 *ter* and the amendment to article 12 proposed by Belgium and Luxembourg. On reflection, however, he had come to the conclusion that the proposed article 12 *ter* was really concerned with international trade and had no place in the Protocol. Developing countries were entitled to protect their newly-established industries, and could go so far as to prohibit certain imports altogether.

58. Mr. KIRCA (Turkey) pointed out that a developing country which was a Contracting Party to the General Agreement on Tariffs and Trade could invoke sections B, C and D of article XVIII<sup>16</sup> of that Agreement to impose such quantitative restrictions of imports as might be necessary to create a new branch of production or to cope with balance-of-payments difficulties. Also, article XXIV of that Agreement relating to Customs unions and free-trade areas and article XXV of the same Agreement concerning waivers should be cited in that connexion.<sup>17</sup>

59. In the case of a country which was not a Contracting Party to GATT, measures of the same kind could be taken in the normal exercise of its sovereign rights.

60. There was nothing in the proposed article 12 *ter* to prevent a country from imposing such import restrictions or prohibitions for such reasons. All that the new article sought to achieve was to preclude the use of the machinery of articles 11 and 12 of the Protocol for those purposes. The text had been carefully drafted so as to make that intention clear and he therefore supported it.

61. Mr. KOCH (Denmark) said that, having carefully considered the proposed article 12 *ter*, he no longer supported it, because it could give rise to confusion. The absence of a similar provision in the Single Convention had not caused any difficulty.

62. Mr. HUYGHE (Luxembourg) said that he was surprised at the course which the debate had taken. He now regretted having withdrawn the proposal to add a paragraph 4 to article 12 contained in the Belgian and Luxembourg amendment; that paragraph was clearly worded and had the same aim as the proposed article 12 *ter*.

63. The purpose of the Protocol was to enable the parties to protect public health and to deal with the social problems of drug abuse. His intention in submitting the proposal to add a new paragraph 4 had been to ensure that the Protocol was not used for commercial purposes. He would point out that he represented a country which did not have a pharmaceutical industry of any size and did not export pharmaceutical products.

64. Mr. NIKOLIĆ (Yugoslavia) said that he favoured the idea of non-discrimination but preferred the text of the Belgian and Luxembourg proposal to that of the proposed article 12 *ter*. A Government was fully entitled to impose import prohibitions to protect its

domestic industry or to safeguard the interests of consumers in its country.

65. Mr. SEMKEN (United Kingdom) pointed out that the provisions of the proposed article 12 *ter* concerned not the individual importer but the Government of the importing country. Of course, an importer exercised discrimination and decided what he would buy and at what price, and there was nothing in the proposed article to prevent him from doing so; its purpose was simply to preclude the Government of the importing country from using the machinery of articles 11 and 12 of the Protocol to interfere with the importer's freedom of choice.

66. Nor would the proposed article prevent a Government from enacting any import restrictions or prohibitions which it might choose to impose, provided that it did not invoke articles 11 and 12 of the Protocol. If a Government were to issue a notification under paragraph 1 of article 12 for purely commercial reasons, it would in effect be asking the exporting country concerned to make its own exporters liable to criminal prosecution. No exporting country could be expected to take such action in order to help the importing country to confer some commercial advantage upon a particular enterprise or class of enterprises.

67. Dr. BABAIAN (Union of Soviet Socialist Republics) thanked the Turkish representative for his clear analysis of the legal position, which had been somewhat obscured by the arguments brought forward during the discussion.

68. The adoption of the Belgian and Luxembourg proposal to insert the word "all" after the word "inform" in paragraph 1 of article 12 had given satisfaction to his delegation and, in the interests of simplifying the debate, his delegation would be prepared to withdraw its sponsorship from the proposal for an article 12 *ter*.

69. Dr. JOHNSON-ROMUALD (Togo) said that, in principle, it was unanimously agreed that the provisions of article 12 should not be used in a discriminatory manner. Difficulties had arisen because of the wording of the proposed article 12 *ter*; he preferred the text proposed by Belgium and Luxembourg and would be prepared to reintroduce it.

70. The PRESIDENT pointed out that the time-limit for the introduction of amendments had expired.

71. Mr. ANAND (India) noted that no explanation had been given of the relevance of the reference to article 11 in the proposed article 12 *ter*. His delegation favoured the idea of non-discrimination but had strong misgivings regarding the wording in which it was proposed to express that idea. Even in the text which had been proposed by Belgium and Luxembourg, the words "discriminatory measures in international trade" could lead to misunderstanding. In India, for example, because of the shortage of foreign exchange, it was simply not possible to allow an importer to import goods from whatever country he liked.

72. After a brief discussion in which Mr. KOCH (Denmark), Mr. NIKOLIĆ (Yugoslavia), Mr. KIRCA (Turkey), Dr. BÖLCS (Hungary) and Mr. SEMKEN (United Kingdom) took part, Mr. INGERSOLL (United

<sup>16</sup> *Ibid.*, pp. 35-41.

<sup>17</sup> *Ibid.*, pp. 47-51.

States of America), speaking as one of the sponsors of the proposed article 12 *ter*, said that a short suspension of the meeting might enable the sponsors to reword their proposal.

73. The PRESIDENT said that the expiry of the time-limit did not preclude the sponsors from reviewing the text of an existing proposal.

*The meeting was suspended at 11.50 p.m. and resumed at 12.10 a.m.*

74. Mr. INGERSOLL (United States of America), on behalf of the sponsors of the proposal for a new article 12 *ter* (E/CONF.58/L.38), said that they were prepared to withdraw it on the understanding that the rights enjoyed by a party under articles 11 and 12 would not be used for discriminatory purposes but would be exercised only for the purposes for which the Protocol was intended.

75. Mr. SEMKEN (United Kingdom) and Dr. BÖLCS (Hungary) confirmed that statement.

76. Dr. BABAIAN (Union of Soviet Socialist Republics) also confirmed it was understood that article 12 could not be used for discriminatory purposes against the parties or any other State, but only for the protection of public health.

77. Mr. HUYGHE (Luxembourg) said that when he had withdrawn the proposal submitted by Belgium and Luxembourg he had not expected the proposal for a new article 12 *ter* to be withdrawn.

The meeting rose at 12.20 a.m.  
on Saturday, 13 February 1971.

## SEVENTEENTH PLENARY MEETING

*Saturday, 13 February 1971, at 10.20 a.m.*

*President: Mr. NETTEL (Austria)*

### AGENDA ITEM 11

**Consideration of the revised draft Protocol on Psychotropic Substances adopted by the Commission on Narcotic Drugs, in accordance with Economic and Social Council resolution 1474 (XLVIII) of 24 March 1970 (continued)**  
(E/4785, chap. III)

#### ARTICLE 2

(SCOPE OF CONTROL OF SUBSTANCES)  
(E/CONF.58/L.5/Add.7)

1. The PRESIDENT invited the Conference to consider the text of article 2 proposed in the report of the Committee on Control Measures (E/CONF.58/L.5/Add.7). Two corrections of a purely drafting nature should be made in the English version of the document: the figure "1" should be inserted before the first para-

graph, immediately after the title, and article 2, paragraph 3, should not have a sub-paragraph (a), since there was no sub-paragraph (b).

2. Dr. MABILEAU (France), Chairman of the Committee on Control Measures, introduced the report of that Committee. He said that article 2 was one of the articles which had met with the most opposition in the Committee, and it had taken four weeks of discussion to establish the final text. The article could be divided into two sets of paragraphs, namely paragraphs 1-6 and paragraphs 7 and 8. The first three paragraphs had been adopted without much trouble. Paragraphs 4 and 5 had occasioned greater difficulty because of the important criteria they laid down as a basis for decisions by the Commission on Narcotic Drugs to place substances under control or to move them from one schedule to another. However, the conclusions reached by the working group which had examined those paragraphs had enabled the Committee on Control Measures to adopt them. Paragraphs 7 and 8 had been considered by a special working group but had not been formally adopted by the Committee, which had merely expressed the view that the text drawn up by the working group was the most satisfactory wording possible and had added foot-notes mentioning reservations by delegations (26th meeting). It was for the plenary Conference to take a final decision on those paragraphs. The same comments applied to article 15 *bis*.

3. The PRESIDENT suggested that the Conference should consider article 2 paragraph by paragraph.

4. Dr. MABILEAU (France) said he thought it might be possible, in the light of the statement he had just made, for the article to be dealt with in two parts, namely paragraphs 1-6 and paragraphs 7 and 8.

5. The PRESIDENT said that in his view it would be preferable to proceed paragraph by paragraph, for practical reasons.

*It was so agreed.*

#### Paragraph 1

6. Dr. BABAIAN (Union of Soviet Socialist Republics) said that, although he had had difficulty in accepting the paragraph earlier, he had decided, after consultation with the representative of WHO and in a spirit of conciliation, to support the text submitted by the Committee on Control Measures.

*Paragraph 1 was adopted.*

#### Paragraph 2

*Paragraph 2 was adopted.*

#### Paragraph 3

7. Mr. BEEDLE (United Kingdom) pointed out that the words "meets the criteria" had been taken from the original wording of the paragraph. He proposed that they should be replaced by the words "is suitable". That would be merely a drafting change and it would not alter the meaning of the paragraph.

8. Mr. NIKOLIĆ (Yugoslavia) disagreed; in his view, the Conference should take a decision on the United

Kingdom proposal, which was more than a purely drafting alteration.

9. Dr. BABAIAN (Union of Soviet Socialist Republics) said he could accept the United Kingdom proposal, which would not affect the substance as far as the Russian version was concerned.

10. Mr. CHAPMAN (Canada) supported the United Kingdom proposal.

11. The PRESIDENT suggested that the Drafting Committee should be asked to review the wording of the paragraph.

*It was so agreed.*

#### Paragraph 4

12. Dr. BABAIAN (Union of Soviet Socialist Republics) observed that he had already objected in a number of different bodies to the word "dependence", which had a very precise meaning in the Russian and was used only to describe the clinical symptoms of drug addiction and the changes it produced in the metabolism of the addict. For that reason he had preferred to keep the word "*narkomaniya*" in the Russian text of the document; there should be a foot-note to that effect to sub-paragraph (1) (a) (i).

13. The drafting of sub-paragraph (1) (a) (ii) gave the impression that the phenomena referred to took place simultaneously, whereas they could exist in isolation. It would therefore be better to replace the commas after the words "perception" and "thinking" by the word "or" in each case.

14. Mr. KUŠEVIĆ (Executive Secretary of the Conference) said that the point referred to by the USSR representative raised a linguistic problem for the Secretariat. It was desirable that the text in each of the five languages should be brought into line; perhaps the word "dependence" could be replaced by "drug addiction".

15. Dr. ALAN (Turkey) pointed out that the French text of sub-paragraph (1) (a) (ii) did not follow the English text. In order to translate the English words "resulting in", the word "*ou*" after the words "*système nerveux central*" should be replaced by the words "*donnant lieu à*".

16. Dr. MABILEAU (France) said he agreed with the Turkish representative.

17. Mr. NIKOLIĆ (Yugoslavia) said that as Serbo-Croat was a language akin to Russian, he would rely on the Russian text as finally adopted. He would prefer the expression "drug addiction", which was applicable to psychotropic substances, to the Russian word "*narkomaniya*", which suggested rather the abuse of narcotic drugs.

18. Dr. REXED (Sweden) said that, in his view, the text produced by the Committee on Control Measures was an improvement on the original. He had no difficulty with the word "dependence", which was commonly used in the Swedish medical and scientific world. He appreciated, however, that the word might have a different meaning in Russian and that the USSR representative might prefer "*narkomaniya*". But in any case that term must not be rendered in the other languages by the expression "drug

addiction", the meaning of which was very different from that of the word "dependence".

19. Mr. CHENG (China)\* said that the word "dependence" also caused difficulties in the Chinese version. The translation at present used was lacking in precision; it could mean economic dependence as well as medical dependence. Some other expression should be found, and he therefore suggested that the Drafting Committee should be authorized to seek a solution that would bring the five language versions of the Protocol into line. It might be useful to know what translation WHO used for the word "dependence" in its Chinese documents.

20. Dr. JOHNSON-ROMUALD (Togo) supported the Chinese representative's\* suggestion that the text of the paragraph should be referred to the Drafting Committee.

21. Dr. FATTORUSSO (World Health Organization) said that the word "dependence" was used in all the official documents of his Organization. He could provide information at the next plenary meeting about the translation officially used in Russian and Chinese documents.

22. Dr. OLGUÍN (Argentina) said he attached great importance to paragraph 4, which drew attention to the criteria determining the harmfulness of the substances in question and the public health and social problems to which they could give rise.

23. As to the word "dependence", the equivalent word used in the Spanish text was entirely appropriate; it described a condition that was well known to scientists and physicians, and it was moreover the term officially adopted in WHO's reports.

24. He did not think that the various symptoms enumerated in sub-paragraph (1) (a) (ii) should be separated by the insertion of the word "or", since they were phenomena which could exist concurrently; they should not be regarded as being independent.

25. Mr. CHAPMAN (Canada) said that his delegation considered the word "dependence" satisfactory. In any case, it would be better to keep to the terminology used in WHO reports.

26. Dr. BABAIAN (Union of Soviet Socialist Republics) explained that in Russian the word "*narkomaniya*", which had originally been used in a medical sense, had now acquired a more general meaning and had a medical, sociological and legal significance. As a solution that would be satisfactory to all, he would suggest using the expression "a state of dependence".

27. Mr. HUYGHE (Belgium), referring to the Turkish representative's suggestion that the word "*ou*" should be replaced by the words "*donnant lieu à*", pointed out that psychotropic substances were divided into three categories according to whether they were analeptic, cataleptic or dysleptic; it could not be said that all the effects referred to in the remainder of the sub-paragraph were caused by central-nervous-system stimulation or depression. From the scientific point of view, the text of the draft Protocol, which had been used in the French version of the new draft, was more accurate.

\* See introductory note.



28. He thought that the expression "a state of dependence" would be an excellent solution and would avoid any translation difficulties.

29. Mr. OVTCHAROV (Bulgaria) said that he unhesitatingly supported the use of the words "a state of dependence".

30. On the other hand, the replacement of the commas after the words "perception" and "thinking" by the conjunction "or" seemed unnecessary, since all the symptoms did not appear at once.

31. Mr. INGERSOLL (United States of America) said that he too fully concurred in the use of the expression "a state of dependence", which had undeniable advantages, even if only for translation purposes.

32. He had no objection to the insertion of the word "or" after the words "perception" and "thinking" in place of commas, and he could therefore accept the proposed text with those amendments.

33. Mr. BARONA LOBATO (Mexico) supported the Argentine representative's statement. He would be glad to accept the thoroughly constructive suggestion by the USSR representative.

34. Dr. FATTORUSSO (World Health Organization) said that the expression "a state of dependence" was perfectly clear technically.

35. Dr. OLGUÍN (Argentina) said that the words "a state of dependence" would be perfectly acceptable, though the term "dependence" was well established in scientific usage and had been used in all official documents so far.

36. Dr. WALSHE (Australia) said that paragraph 4 had been greatly improved by the working group of the Committee on Control Measures.

37. If the expression "a state of dependence" was not adopted by the Conference, she thought the word "a" should be deleted at the beginning of sub-paragraph (1) (a) (i).

38. The substitution of the word "or" for the commas after the words "perception" and "thinking" in sub-paragraph (1) (a) (ii) would not alter the meaning of the passage. However, her delegation would accept the majority view on that point.

39. Dr. CORRÊA da CUNHA (Brazil) said that he could accept paragraph 4 as amended by the Soviet Union representative's proposal.

40. The PRESIDENT suggested that paragraph 4 might be adopted, the words "a dependence" in sub-paragraph (1) (a) (i) being replaced by the words "a state of dependence". The Drafting Committee would be asked to decide whether the commas after the words "perception" and "thinking" in sub-paragraph (1) (a) (ii) should be replaced by the conjunction "or".

*Subject to that understanding, paragraph 4, as amended, was adopted.*

#### Paragraph 5

*Paragraph 5 was adopted.*

#### Paragraph 6

41. The PRESIDENT reminded the Conference that the Committee on Control Measures (25th meeting) had in principle adopted paragraph 6 as worded in the revised draft protocol and had sent that text to the Drafting Committee, with the request that it be brought into line with the provisions of the new text of paragraphs 4 and 5.

*On that understanding, paragraph 6 was adopted.*

#### Paragraph 7

42. Mr. SHEEN (Australia) said that, in the Committee on Control Measures, his delegation had been prepared to oppose the new wording proposed for paragraph 7. However, that opposition had been abandoned, in order that proper consideration might be given to the comments of the Indian and United States representatives.

43. After full consideration of the matter, the Australian delegation was unable to accept the new text. He referred to the dangers associated with the abuse of the substances, particularly those in schedule I, which had very limited therapeutic uses. There was a need for a strong Protocol with full obligations incumbent on the parties, in order that the problems of the future could be anticipated. Furthermore, the availability of substances in schedule IV without prescription could create a source of supply for the illicit market. The Australian delegation could not accept the new wording of paragraph 7, which would greatly weaken the Protocol, and it definitely favoured the retention of the original text.

44. Dr. BABAIAN (Union of Soviet Socialist Republics) said that his delegation might wish to comment later on points of detail. At the start, his delegation had been opposed to allowing a right of non-acceptance, but during the Conference it had become aware of the difficulties that the adoption of too strict a system would cause to some countries, and it had agreed that the right should be allowed in a few exceptional circumstances and within clearly defined limits.

45. He drew attention to foot-note 1, which reminded the Conference once again of his delegation's insistence that the Secretary-General should communicate the Commission's decisions to all States without any discrimination.

46. Dr. JOHNSON-ROMUALD (Togo) said that in the Commission on Narcotic Drugs he had strongly opposed the idea of a right of non-acceptance for substances in schedules I and II, but after hearing the statements in the working group he had eventually become a firm supporter of the idea and had fortunately been able to persuade his colleagues to make allowances for national pride and to permit the right in principle, subject to strict limitations on its exercise. As it stood, the new text might have its defects, but it seemed to provide adequate protection for the possible victims of any State's unconsidered conduct.

47. Mr. HUYGHE (Belgium) said that he had not participated in the discussions in the working group, but he was surprised to find that those very representatives who had shown themselves most hostile to a flexible attitude with regard to the substances in schedule IV were willing to contemplate a possibility of derogation



for the substances in schedules I and II, since that must inevitably weaken the Protocol very greatly. —How was it possible to be sure that a country which had refused to comply with the general rules for such dangerous substances would fulfil the obligations incumbent upon it under articles 9, 10, 13, 15, 16, 17 and 18?

48. The Belgian delegation therefore considered itself bound to express the strongest possible reservations about both the substance and the form of the new text of paragraph 7.

49. The PRESIDENT, concurring in a comment by Mr. HOOGWATER (Netherlands), said he wondered whether the new text of paragraph 7, which the Committee on Control Measures had transmitted without expressing any opinion on it, should not be regarded as an amendment to the original text. If that was so, it would of course have to be formally submitted as such.

50. Mr. INGERSOLL (United States of America) said that his delegation formally submitted the text proposed by the working group, as it appeared in the report of the Committee on Control Measures as an amendment to article 2, paragraph 7.

51. Mr. HOOGWATER (Netherlands) observed that the exercise of the right of non-acceptance would lead to a situation in which every country would not apply the same control measures and in which it would be necessary, if that inequality was to be removed, for all countries to follow the example of those which had exercised the right of non-acceptance. The Netherlands delegation could accept that situation with respect to the substances in schedules III and IV, but not with respect to the substances in schedules I and II.

52. Dr. ALAN (Turkey) said that his delegation had been opposed to the right of non-acceptance, but had, in a spirit of compromise, accepted the new text prepared by the working group, and now submitted by the United States delegation. It must, however, state clearly that it interpreted that right as applicable only in genuinely exceptional cases.

53. Mr. OVTCHAROV (Bulgaria) said that his delegation could not agree that the right of non-acceptance could apply to the substances in schedules I and II. It supported the USSR proposal in foot-note 1 of the report.

54. Dr. BERTSCHINGER (Switzerland) said that he had always held the view that the right of non-acceptance should apply only to the substances in schedules III and IV. Nevertheless, by way of compromise, he would have been able to accept the notion that that right should apply to the substances in all the schedules, but the new article 15 *bis* would give rise to great difficulties for his Government. The Swiss delegation, therefore, maintained that the right of non-acceptance should be restricted to the substances in schedules III and IV.

55. Dr. REXED (Sweden) said that the turn which the Conference's discussions were taking aroused his worst misgivings. No country had emphasized the danger of the substances in schedules I and II more strongly than Sweden or had fought more strongly to ensure that they were subjected to strict control. In the working group it had agreed that the right of non-acceptance should

also apply to the substances in schedules I and II—which remained subject to strict measures under the other provisions of paragraph 7 itself—only because it had realized, as a result of the working group's discussions, that the constitutional provisions of a number of countries made the right of non-acceptance clause essential to them. And those countries had given assurances that they would resort to the clause only in extremely rare cases.

56. It would be remembered that at the Conference's plenary meetings, in particular during the past few days, a number of countries had stated that since the control measures adopted for the substances in schedules III and IV were far less strict than those for the substances in schedules I and II, they would find great difficulty in accepting the Protocol. Now other countries were declaring, in connexion with paragraph 7, that if the control of the substances in schedules I and II was not strict enough, they could not accept the Protocol. He was surprised that countries which had at one time been favourable to looser control were now advocating stricter control. He feared that if the Conference rejected the compromise text for paragraph 7, any Protocol that was signed would be neither accepted nor ratified by important countries in both Europe and America. A Protocol of that kind would be valueless, and all the work done by the Commission and the Conference would have been in vain. He urgently appealed to all countries to accept the compromise text submitted by the United States.

57. Mr. BEEDLE (United Kingdom) said that he fully supported the text submitted by the United States. The right of non-acceptance, in his view, provided a useful safety-valve, over and above the right of resort to the Economic and Social Council. Unlike the treaties concerning narcotic drugs, the Protocol was to be a means of coping with urgent "epidemic" problems which required speedy decisions, and that virtually excluded the possibility of inserting transitional provisions.

58. The text proposed made it clear that the non-acceptance clause could be applied only in exceptional cases; furthermore, any party which wished to exercise that right must declare publicly that it was doing so. Moreover, the right of non-acceptance related only to very few measures of control. For all those reasons and, in view of the need to conclude a widely acceptable treaty as speedily as possible, the United Kingdom delegation would vote for the text submitted by the United States.

59. Dr. SHIMOMURA (Japan), Dr. DANNER (Federal Republic of Germany) and Mr. BARONA LOBATO (Mexico) said they were in favour of the text submitted by the United States.

60. Dr. OLGUÍN (Argentina) said that his delegation could accept the idea of the right of non-acceptance for the substances in schedules III and IV, but not for those in schedules I and II, because that would greatly weaken the Protocol.

61. Dr. AZARAKHCH (Iran) said that, although in principle he did not consider such a course desirable, he could, in a spirit of compromise, accept the right of non-acceptance for the substances in schedules III and

IV, but not for those in schedules I and II, for reasons similar to those given by the Argentine representative.

62. Mr. KOCH (Denmark) recalled that, like other delegations, the Danish delegation had been opposed in principle to the right of non-acceptance, but after hearing the cogent arguments of the countries which considered it essential to provide for that right in the Protocol, it had accepted the compromise text. The right of non-acceptance was formulated in such a way that parties had an assurance that it would be exercised only in exceptional cases and without prejudice to countries which did not invoke the clause. That was the purpose of the provisions of the new article 15 *bis*, which was an integral part of the United States amendment to article 2 paragraph 7, itself a compromise text. In view of the safeguards embodied in article 15 *bis* and convinced that the Board would exercise the powers vested in it under that article in the interests of all parties, the Danish delegation whole-heartedly supported the text submitted by the United States.

63. Referring to the statement by the Swiss representative, he said that his delegation would not have any objection to the idea that a party which could not accept the powers conferred on the International Narcotics Control Board by article 15 *bis* should make a reservation under article 27, on condition of course that that party would not be able to invoke the right of non-acceptance.

64. Mr. SHIK HA (Republic of Korea) said that his delegation too had considered that the right of non-acceptance ought to be restricted to the substances in schedules III and IV, but after hearing all the arguments put forward by the representatives who were in favour of the compromise text, particularly the Swedish representative, his delegation was prepared, in a spirit of compromise and co-operation, to support the text submitted by the United States. The right should be exercised only in exceptional cases and parties which availed themselves of the clause would have to enforce the strict national measures of control mentioned in the relevant articles of the Protocol.

65. Mr. OBERMAYER (Austria) said that his delegation was opposed in principle to the notion that the right of non-acceptance could be applied to the substances in schedules I and II, since the danger of their abuse was very great, but, in a spirit of co-operation and in view of the fact that the inclusion of that right was essential for certain delegations and would be applied only in exceptional cases, the Austrian delegation would confine itself to abstaining in the vote on the clause.

66. The Austrian delegation considered that the substances in schedules III and IV should be subject only to a minimum of control and that the control should be stricter only where the abuse of one of those substances raised a public health problem in a country. In its opinion, the provisions of articles 11 and 12 did not form part of the necessary minimum of control. The Austrian delegation was therefore opposed to sub-paragraph (b) (iii) and (iv) and to sub-paragraph (c) (ii) and (iii) of paragraph 7. On the other hand, it considered it essential to specify paragraph 7 (c) that the production of medical

prescriptions for schedule IV substances was obligatory, because that was one of the most effective means of preventing the abuse of those substances.

The meeting rose at 12.55 p.m.

## EIGHTEENTH PLENARY MEETING

Monday, 15 February 1971, at 9.45 a.m.

President: Mr. NETTEL (Austria)

### AGENDA ITEM 11

**Consideration of the revised draft Protocol on Psychotropic Substances adopted by the Commission on Narcotic Drugs, in accordance with Economic and Social Council resolution 1474 (XLVIII) of 24 March 1970 (continued)**  
(E/4785, chap. III)

#### ARTICLE 2

(SCOPE OF CONTROL OF SUBSTANCES) (continued)  
(E/CONF.58/L.5/Add.7)

*Paragraph 7 (continued)*

1. Mr. NIKOLIĆ (Yugoslavia) said that the Conference would remember that his delegation had been opposed to the principle of the right of non-acceptance, for the reasons it had given at length during the first special session of the Commission on Narcotic Drugs. Although it was still not convinced of the practical efficacy of the provisions of the new article 15 *bis* and although the arguments concerning constitutional difficulties put forward by the delegations in favour of the right of rejection had not fully convinced it, the Yugoslav delegation would, in a spirit of compromise, vote for the non-acceptance clause applying to the substances in schedules III and IV and would abstain from voting on the remainder.

2. Mr. CERECEDA ARANCIBIA (Chile) said he was in favour of the text proposed by the United States (17th meeting) for article 2, paragraph 7 (E/CONF.58/L.5/Add.7), since it clearly established that the right of non-acceptance could be exercised only in exceptional cases. He supported the USSR proposal that the Secretary-General should communicate the Council's decisions to "all States" without exception, not just to Member States and to the States parties to the Protocol, for its purpose was to protect the health of all human beings and not only those who lived in one or other particular State.

3. Mr. CHAPMAN (Canada) said that it was absolutely necessary to provide for a partial right of non-acceptance for the substances in all the schedules and, in particular, for previously uncontrolled substances which were subsequently added to schedule I. In Canada, for example, it might well happen that a new psychotropic

substance which had successfully undergone all the rigorous tests imposed on new drugs by Canadian law was placed on the market and was regarded by the medical profession as a powerful but useful drug giving good results under strict control. If, after the substance had been on the Canadian market for several years, a party informed the Secretary-General that, in its opinion, it should be placed under international control because it was being abused in that country and therefore gave rise to a public health and social problem and if, after thorough consideration, WHO and the Commission on Narcotic Drugs proposed that that substance should be added to schedule I, the Government of Canada would then, if the right of partial non-acceptance was not recognized, have to inform the Canadian medical profession that it was obliged to prohibit the general use of that substance except on the conditions laid down in article 6, though the substance in question did not constitute a public health problem or a social problem in Canada. It was because of exceptional cases of that kind that the Canadian Government considered it necessary to stipulate the right of partial non-acceptance. Canada would of course apply all the measures laid down in paragraph 7 (a) to protect the other parties; if they did not prove adequate, it would adopt any other measures that might be necessary.

4. He could give an assurance that in the circumstances he had just mentioned the Canadian Government would keep a very close watch on the situation, and if it found that the substance in question was being abused and was giving rise to a public health and social problem, it would immediately withdraw its notification and apply all the provisions of the Protocol, in accordance with the Commission's decision. That method would adequately protect the interests of the other parties to the Protocol without, however, obliging the Canadian Government to take domestic measures which it would find hard, if not impossible, to justify.

5. The Canadian delegation therefore supported the text of paragraph 7 as submitted by the United States, because it considered that text essential in order to achieve a Protocol which would be acceptable to a reasonably large number of countries and which would be an effective international instrument.

6. Mr. ANAND (India) said that his delegation had always been opposed to the principle of the right of non-acceptance. In his opinion, the matter should be left entirely to the World Health Organization, the Commission on Narcotic Drugs and the Economic and Social Council; there was no need for the parties to be apprehensive, for the system laid down in the Protocol required intervention by those three bodies before any decision became final. The Indian delegation had, however, stated at the 25th meeting of the Committee on Control Measures that if the right of non-acceptance was to be recognized, it could accept that, provided it applied only to the substances in schedules III and IV but not to the substances in schedules I and II, because they were far more dangerous. In respect of those substances, there should be no deviation from the decisions of the international community. The Indian delegation's position remained unchanged.

7. Nevertheless his delegation, like others, was anxious that, for the sake of the wide acceptance of the Protocol, a compromise solution should be arrived at. He explained how, if the right of non-acceptance was to extend to substances in schedules I and II also, the text of paragraph 7 of article 2 and of article 15 *bis*, evolved by the working group of which he was Chairman, constituted a reasonable compromise solution. It ensured that the right of non-acceptance could be resorted to only in exceptional circumstances, for reasons to be stated. It also ensured that such a decision remained before public opinion in that it could be scrutinized by the International Narcotics Control Board and corrective action could be taken where necessary.

8. Since the 17th meeting, his delegation had again carefully studied the new text of paragraph 7. It could perhaps be improved further; for instance, the wording of the introductory part of paragraph 7 could be amended so as to indicate clearly that the control measures listed represented not a maximum but the minimum of control that should be applied by the party exercising the right of non-acceptance. It could also be clearly spelled out there that that right could be exercised only in really exceptional circumstances.

9. It was his understanding that the delegations which wished to see the right of non-acceptance for substances in schedules I and II included in the Protocol were mainly concerned about the substances which would be placed in schedule I in the future because they felt that there could be some genuine differences of medical opinion about the utility of such substances for medical or industrial purposes. He could appreciate that attitude, in view of the phenomenally rapid and sometimes unpredictable advances in medical and scientific research. There could well be developments in substances which found use in medical therapy in one country and not in another. Even with respect to narcotic drugs, for example, heroin was a drug which was used in medicine in a few countries, even though its use in medicine was prohibited in most countries. He therefore appreciated the need to give the Protocol some degree of flexibility as far as the schedule I substances were concerned, but he himself did not believe that similar provisions were really necessary for the substances in schedule II. He therefore suggested that perhaps the introductory part of paragraph 7 could be amended in such a way as to specify that the right of non-acceptance could be invoked for substances in schedules I, III and IV, but not for substances in schedule II, and that the words "and II" could be deleted from paragraph 7 (a). The text thus amended would perhaps be more readily acceptable to countries which hesitated to recognize the right of non-acceptance for substances in schedules I and II. He was not submitting any formal amendment, because he would fall in with the general consensus of opinion in the matter. If he found, however, that his suggestions commanded fairly wide support, he would be prepared to submit a formal amendment later.

10. Dr. MABILEAU (France) said that the French delegation, which had also been against the right of non-acceptance, now supported the compromise text submitted by the United States. It was regrettable that

a delegation which had accepted a compromise should subsequently re-open the discussion.

11. Mr. INGERSOLL (United States of America) said that he wished once again to give an assurance that the right of non-acceptance would be exercised only in exceptional circumstances; in fact the right might perhaps be referred to as the "right of exceptional action", so as to emphasize its exceptional nature.

12. He agreed with the Indian representative that the introductory part of paragraph 7 should be improved.

13. He proposed that the second and third sentences in paragraph 7 should be amended to read:

Such decision shall become fully effective with respect to each Party 180 days after the date of such communication, except for any Party which, within that period, in respect of a decision adding a substance to a schedule, has transmitted to the Secretary-General a written notice that it is not in a position to accept all of the provisions of the Protocol applicable to that schedule. The notice must state the reasons for this exceptional action. Notwithstanding its notice, each Party shall apply, as a minimum, the control measures listed below:

The amendment could be referred to the Drafting Committee to be put into final form.

14. The Protocol should look to the future. It might happen that substances without therapeutic utility today might acquire it tomorrow, or that science might develop new substances which, though dangerous, might have a definite therapeutic utility. The decisions of the international organizations would certainly be soundly based, but delegations must be able to give their Governments and the medical and scientific community an assurance that, should that not be the case, they would still be able to make use of the substances in question, provided that they were made subject to the measures of control necessary to guarantee that their production and manufacture for medical and scientific purposes in one country would not give rise to abuse in other countries.

15. The United States delegation desired to make it clear that the exercise of that exceptional right concerned only the future and that the proposed paragraph did not create a right to reject any of the control measures applicable to the substances in the various schedules of the Protocol at the time of signing.

16. Dr. BABAIAN (Union of Soviet Socialist Republics) said that he noted that a change had occurred in the views of some delegations which, during the first special session of the Commission on Narcotic Drugs, had been in favour of a strict Protocol and had strongly opposed the right of rejection. The USSR had taken that position, not because psychotropic substances were a serious problem in that country, but because of the scientific information it had collected and of the situation which had been observed in some countries. At the Conference, however, those delegations had adopted a more flexible attitude towards the right of rejection and, after listening to the reasons they had given, he thought that he too could accept that right, provided that it was exercised only in exceptional circumstances to meet special situations and that the text explicitly stipulated that that was so.

17. In the case of the schedule IV substances, which were well known and in current use, the acceptance of the right of rejection did not seem to present any difficulty to most delegations; that was also true of the substances in schedule III. The situation was not so clear in the case of the substances in schedules II and I, with regard to which a working group had stated that it had not been possible to accept a compromise. But even in the case of those substances it was noteworthy that several delegations, such as those of Sweden, India and France, had become more conciliatory. In his own view, a clear distinction should be drawn between the substances in schedule I—really dangerous substances without therapeutic value—and the substances in schedule II, and there should be a graduated scale for them similar to that established in the paragraph under consideration between the substances in schedule III and those in schedule IV, based perhaps on the provisions of article 6 relating to the schedule I substances. If countries like Sweden, where the schedule II substances were a problem, were prepared to accept a compromise in the case of the first two schedules, the Soviet delegation could accept the compromise.

18. The USSR delegation, as the foot-note to the paragraph indicated, had proposed that the Secretary-General should communicate the Commission's decisions to all States, including those which were not parties to the Protocol.

19. He could accept the United States amendment, but, in view of earlier comments, he proposed that the words "in view of exceptional circumstances" should be inserted after the words "not in a position". With regard to the voting procedure, he proposed that a separate vote should be taken first on the introductory part, then on each of the references to schedule I and schedule II, and, thirdly, on the reference to schedules III and IV together.

20. Mr. INGERSOLL (United States of America) said he accepted the USSR representative's sub-amendment.

21. The PRESIDENT suggested that the Conference should vote by division as proposed by the USSR representative. The Drafting Committee could be asked to deal with any rewording that the text might subsequently require.

22. Mr. KIRCA (Turkey), speaking on a point of order, observed that, in view of the importance of the vote on paragraph 7, it would be desirable for delegations to agree on a definitive compromise text. He therefore proposed that the meeting should be suspended for the purpose for as long as the consultations required.

*The Turkish representative's motion was adopted by 37 votes to 1, with 17 abstentions.*

*The meeting was suspended at 11.10 a.m. and resumed at 12 noon.*

23. The PRESIDENT informed the Conference that, following the suspension of the meeting, he had received the text of a new amendment to paragraph 7, reading as follows:

7. Any decision of the Commission taken pursuant to this article shall be communicated by the Secretary-General to all States Members of the United Nations, to non-member States



Parties to this Protocol, to the World Health Organization and to the Board. Such decision shall become fully effective with respect to each Party 180 days after the date of such communication, except for any Party which, within that period, in respect of a decision adding a substance to a schedule, has transmitted to the Secretary-General a written notice that it is not in a position, in view of exceptional circumstances, to give effect to all of the provisions of the Protocol applicable to that schedule. The notice must state the reasons for this exceptional action. Notwithstanding its notice, each Party shall apply, as a minimum, the control measures listed below:

(a) A Party having made such notice with regard to a previously uncontrolled substance added to schedule I, and bearing in mind the special control measures enumerated in article 6, shall:

(i) to (vi) [Text unchanged.]

(a) *bis* A Party having made such notice with regard to a previously uncontrolled substance added to schedule II, and bearing in mind the special control measures enumerated in article 6, shall:

(i) to (vi) [Reproduces the corresponding text in sub-paragraph (a).]

[Sub-paragraphs (b), (c) and (d) remain unchanged.]

24. It would certainly be hard for some delegations to take a decision on such important changes submitted orally at the last moment; he hoped, however, that at that stage in the Conference's work, they would not insist on the new text being communicated to them in writing in the five working languages, in accordance with the rules of procedure. He hoped, too, that the Conference would take the view that, in essence, they were purely drafting amendments and that it would not wish to re-open the debate.

25. The USSR representative had asked for a separate vote on the introductory part of the paragraph, on sub-paragraph (a) and on sub-paragraph (a) *bis*, (b) (c) and (d) together.

26. Mr. NIKOLIĆ (Yugoslavia), speaking on a point of order, asked for a separate vote on the first sentence in the introductory part of the paragraph also. In the second sentence, it would be more accurate to say "exceptional motives" than "exceptional circumstances".

27. The PRESIDENT suggested that the Yugoslav representative's second point should be left to the Drafting Committee.

28. Mr. CHENG (China),\* speaking on a point of order, asked why in some paragraphs only the control of imports was mentioned and in others only the control of exports.

29. Mr. ANAND (India), speaking as the Chairman of the working group which had prepared the compromise text, replied that that was a mistake. Wherever the text referred to articles 11 and 12, it should read, "export and import" or "exports and imports", as the case might be.

30. The PRESIDENT took note of the Indian representative's explanation.

31. Dr. BABAIAN (Union of Soviet Socialist Republics), speaking on a point of order, asked that the first sentence of the paragraph should not be put to the vote before the Conference had taken a decision on article 21.

\* See introductory note.

32. The PRESIDENT said he was anxious not to complicate the procedure. He would suggest that a decision be taken forthwith on the whole of paragraph 7, on the understanding that the wording of the first sentence would be revised, if necessary, in accordance with whatever decision was taken on paragraph 21. The Conference would, however, remember that the Yugoslav representative had asked for a separate vote on the first sentence.

33. Mr. NIKOLIĆ (Yugoslavia) withdrew his motion.

34. Mr. BEEDLE (United Kingdom) said that the United Kingdom delegation was usually in favour of separate votes, but he regretted that he must formally oppose the proposal to vote first on sub-paragraph (a) and then on sub-paragraphs (a) *bis*, (b), (c) and (d). In his view, those sub-paragraphs formed a homogeneous whole, and a decision to take them separately might seriously jeopardize the success of the Conference.

35. Mr. INGERSOLL (United States of America) supported the United Kingdom representative. He too was opposed to a separate vote on sub-paragraph (a).

*The Soviet Union representative's motion for a separate vote was rejected by 31 votes to 13, with 16 abstentions.*

36. Mr. HOOGWATER (Netherlands), supported by Mr. KIRCA (Turkey) and Mr. HUYGHE (Belgium), said that the reference to article 11 in sub-paragraph (c) (ii) was unnecessary, since the Conference had decided that article 11 did not concern the substances in schedule IV.

37. The PRESIDENT said he noted that the discussion was tending to deal with matters of substance. He would like to know whether the Conference wished to re-open the debate. In the absence of any objection, he concluded that it did.

38. Dr. BABAIAN (Union of Soviet Socialist Republics) said he was in favour of the new sub-amendment to the introductory part of paragraph 7.

39. In his opinion, the separation of the measures concerning the substances in schedules I and II definitely improved the compromise solution, and the Soviet Union delegation could therefore support it. It maintained its request for a separate vote on sub-paragraph (a), however.

40. Mr. BEEDLE (United Kingdom), supported by Dr. MABILEAU (France), Mr. CHENG (China)\*\* and Mr. KOCH (Denmark), observed that sub-paragraph (a) (iv) was redundant, since the provisions of article 12 did not apply to the substances in schedule 1.

41. Mr. KIRCA (Turkey), supported by Mr. ANAND (India), Mr. INGERSOLL (United States of America) and Dr. BABAIAN (Union of Soviet Socialist Republics), said that the deletion of sub-paragraph (a) (iv) would not be a drafting amendment but a substantive amendment and would be likely to give rise to a false and dangerous situation. A party which did not agree to apply to a particular substance the treatment laid down for substances in schedule I ought at least to be required to apply to it the measures laid down in article 12.

42. Dr. JOHNSON-ROMUALD (Togo) proposed that the President should ascertain the feeling of the Con-

\*\* See introductory note.



ference on that matter by taking a vote. The text could then be referred to the Drafting Committee.

43. The PRESIDENT said that, in any case, the whole text would be submitted to the Drafting Committee. It would be better if the Conference took a definite decision forthwith.

44. Dr. BABAIAN (Union of Soviet Socialist Republics) observed that he had formally requested a separate vote on sub-paragraph (a).

45. The PRESIDENT reminded the Soviet Union representative that that motion had been rejected a few minutes earlier by 31 votes to 13, with 16 abstentions.

46. Dr. BABAIAN (Union of Soviet Socialist Republics) said that that vote had been on the previous motion he had submitted for a separate vote on each sub-paragraph.

47. The PRESIDENT said that he regretted the misunderstanding.

*The Soviet Union representative's motion was rejected by 32 votes to 13, with 14 abstentions.*

*The introductory part of paragraph 7 was adopted by 58 votes to none, with 3 abstentions, on the understanding that the first sentence would be brought into line with whatever decision was reached on article 21.*

*Sub-paragraphs (a), (a) bis, (b), (c) and (d) were adopted by 47 votes to none, with 13 abstentions.*

*Paragraph 7, as a whole, as amended, was adopted by 48 votes to none, with 13 abstentions.*

48. Dr. BABAIAN (Union of Soviet Socialist Republics), explaining his vote, said that he had abstained for two reasons: firstly, because the first sentence of the paragraph was unacceptable to his delegation and, secondly, because he had some doubts about the need for the measures provided for in the case of the substances in schedule I in sub-paragraph (a), on which he had asked for a separate vote.

49. Mr. HUYGHE (Belgium) explained that he had voted in favour of paragraph 7, despite the reservations he had expressed about it. He had changed his position, for the sake of co-operation and compromise, after hearing the representatives of Sweden, the Soviet Union and India; he hoped that the other delegations would appreciate his action and understand his Government's difficulties.

50. Mr. HOOGWATER (Netherlands) said that he had voted for the adoption of paragraph 7 in the same spirit as the Belgian representative.

51. Dr. AZARAKHCH (Iran) said that he had finally come to support the text of the compromise because of the improvements made to the introductory part of the paragraph and, in particular, because the right of non-acceptance would be recognized only in exceptional cases. He must stress that religious precepts constituted such a case.

52. Dr. HOLZ (Venezuela) said that, despite his delegation's decided preference for the original text, he had abstained after hearing the statements by the representatives of the United States and the Soviet Union.

The meeting rose at 1.10 p.m.

## NINETEENTH PLENARY MEETING

*Monday, 15 February 1971, at 9.15 p.m.*

*President: Mr. NETTEL (Austria)*

### AGENDA ITEM 11

**Consideration of the revised draft Protocol on Psychotropic Substances adopted by the Commission on Narcotic Drugs, in accordance with Economic and Social Council resolution 1474 (XLVIII) of 24 March 1970 (continued) (E/4785, chap. III)**

ARTICLE 2 (SCOPE OF CONTROL OF SUBSTANCES) (continued) (E/CONF.58/L.5/Add.6/Rev.1 and L.5/Add.7, E/CONF.58/L.46, E/CONF.58/C.3/L.10/Add.4)

#### *Paragraph 8*

1. Dr. BABAIAN (Union of Soviet Socialist Republics) reiterated his reservation regarding paragraph 8 (c), which was expressed in foot-note 5 of the report of the Committee on Control Measures (E/CONF.58/L.5/Add.7).

*Paragraph 8 of the revised draft protocol (E/4785, chap. III) was adopted.*

#### *Proposal regarding a new paragraph 9*

2. Dr. MÅRTENS (Sweden), introducing the Danish and Swedish amendment to add a new paragraph 9 to article 2 (E/CONF.58/L.46), said his delegation had pointed out both in the Technical Committee and in the Committee on Control Measures (25th meeting) that some kind of control over precursors was necessary. In that connexion, he drew attention to the recommendation made by the WHO Expert Committee on Drug Dependence in section 4.7 of its seventeenth report.<sup>18</sup> The Committee on Control Measures had decided at its 25th meeting that no mention should be made of precursors in the Protocol, but that ran counter to the recommendation in operative paragraph 3 of Economic and Social Council resolution 1294 (XLIV) of 23 May 1968, which read: "[The Council] *Recommends* Governments to consider also appropriate measures to prevent the use of lysergic acid and other possible intermediate and precursor substances for the illicit manufacture of LSD or similar hallucinogenic substances".

3. That recommendation had been widely publicized, and it would be considered strange if the Conference were to ignore it.

4. He was aware of the difficulty of controlling precursors, but a solution might be found in a formula similar to that used in article 2, paragraph 8, of the 1961 Single Convention on Narcotic Drugs, which, though couched in general terms, would at least serve as a warning to the parties of the dangers of precursors being used in illicit traffic. The joint amendment therefore reproduced the wording of that provision, with the substitution of the words "psychotropic substances" for

<sup>18</sup> World Health Organization, *Technical Report Series*, 1970, No. 437.

the words "drugs". Without such a clause, the Protocol would be incomplete.

5. The representatives of Tunisia, Iran, Yugoslavia, Spain, the United Kingdom, Argentina, the United States, the United Arab Republic, Turkey, the Union of Soviet Socialist Republics, the Republic of Korea, Chile the Democratic Republic of the Congo and China\* supported the amendment.

6. Dr. MABILEAU (France) said that the amendment was useful, and he expressed regret that for technical reasons and because of lack of time the Conference had not been able to devise an article on precursors.

7. Dr. HOLZ (Venezuela) said that it had been a fundamental error not to include a provision on precursors, but at least something would have been achieved by the adoption of the joint amendment.

*The Danish and Swedish amendment (E/CONF.58/L.46) was adopted.*

*The question of precursors*

8. The PRESIDENT drew attention to the report of the Committee on Control Measures (E/CONF.58/L.5/Add.6/Rev.1) concerning the question of precursors, and suggested that the Conference should vote on the Committee's decision that there should be no provision regarding precursors in the Protocol and that there should be a consequential deletion of the two new definitions (e) *bis* and (h) *bis* in the report of the Technical Committee (E/CONF.58/C.3/L.10/Add.4).

*The decision of the Committee on Control Measures (E/CONF.58/L.5/Add.6/Rev.1) was approved by 44 votes to 2, with 11 abstentions.*

9. Dr. MABILEAU (France) said he had voted in favour of the Committee's decision because there was no alternative, but he regretted that it had been impossible to deal with precursors in the Protocol, for the failure to do so left open the possibility of illicit production and abuse.

10. Mr. KIRCA (Turkey) said he had abstained from voting, for the reasons given by the French representative.

11. Dr. HOLZ (Venezuela) said he was opposed to the Committee's decision, because precursors must be brought under control if the Protocol was to be effective. Lysergic acid did not appear in the schedules and could be freely imported. It was easily convertible, even in clandestine laboratories with rudimentary equipment. At least that substance should have been included in the schedules.

12. Dr. JOHNSON-ROMUALD (Togo) regretted that the Conference had had no time to deal with precursors. Sooner or later, the matter would have to be tackled by the Commission on Narcotic Drugs.

**ARTICLE 15 *bis* (MEASURES BY THE BOARD TO ENSURE THE EXECUTION OF PROVISIONS OF THE PROTOCOL (E/CONF.58/L.5/Add.7, E/CONF.58/L.44))**

13. The PRESIDENT pointed out that it was by mistake that article 15 *bis* had been incorrectly numbered 15 *ter* in the report of the Committee on Control Measures (E/CONF.58/L.5/Add.7).

\* See introductory note.

14. Mr. INGERSOLL (United States of America) said that the Committee's text was based on a United States proposal which was designed to provide the International Narcotics Control Board with authority to ensure the proper execution of the Protocol. The International Opium Convention of 1912, which had been the first international instrument on the subject, had failed to provide international machinery for supervising its application and it had soon been found to be of little effect. That omission had been made good in the International Opium Convention of 1925, which had achieved substantial progress in the control and suppression of illicit traffic.

15. The proposed new article followed article 14 of the Single Convention, which had proved its worth.

16. Dr. BABAIAN (Union of Soviet Socialist Republics), introducing his amendments (E/CONF.58/L.44), said that he had great respect for the useful work being done by the Board and recognized the part it had to play in the application of the Protocol, but he doubted whether article 14 of the Single Convention or article 15 *bis* of the draft Protocol were particularly useful, and he could not remember any occasion when the Board had had to resort to such extreme measures as asking for explanations from a Government or territory when it had reason to believe that the aims of the Single Convention were being seriously endangered by the failure of a country or territory to carry out its provisions.

17. Some delegations seemed to regard such an article as important, particularly in view of the right of non-acceptance as provided for in article 2, paragraph 7.

18. In his view, article 15 *bis* gave the Board excessively wide powers, which were incompatible with article 21. The Board should not be able to impose an embargo or take other action affecting non-parties, including States that had no right of accession to the Protocol, for in that case such States would be the victims of discrimination. His amendments, which were based on legal considerations, were designed to render article 15 *bis* acceptable and to bring it into line with article 14 of the Single Convention.

19. Mr. NIKOLIĆ (Yugoslavia) expressed agreement with the USSR representative. He wondered what would be the position of States which were free to ratify but did not so far as article 15 *bis* was concerned.

20. Mr. INGERSOLL (United States of America) said that the Conference had frequently sought to resolve controversial issues by reference to the Single Convention. The idea of the Board communicating with a country or territory whose acts imperilled an international treaty was long established and had been applied since 1925 even to non-parties, irrespectives of the reason for their not being parties. Apart from article 14, the Single Convention contained several provisions that might be applied to non-parties, such as articles 12, 13, 21 and 24, and the USSR was a party both to the 1925 International Opium Convention and to the Single Convention. Article 15 *bis* did not attempt to impose any legal obligations on non-parties, but only permitted the Board to act so as to avoid the frustration by non-parties of

international efforts to prevent the abuse of psychotropic substances and to secure their co-operation.

21. Participation in the Protocol was a different issue, which would be decided when the Conference came to consider article 21.

22. Article 15 *bis* was not discriminatory; it was based on precedents and its omission would weaken the Protocol.

23. Mr. OVTCHAROV (Bulgaria) said that his delegation had repeatedly objected to discriminatory provisions, and there were such elements in article 15 *bis*. He would support the USSR amendments.

24. Mr. TSYBENKO (Ukrainian Soviet Socialist Republic) said he supported the USSR amendments. The provisions of the Protocol could not apply to non-parties. The United States representative had overlooked the fact that the Single Convention did not provide for the right of non-acceptance by a party as set out in article 2, paragraph 7, of the Protocol.

25. Dr. BABAIAN (Union of Soviet Socialist Republics) said that when signing the Single Convention the USSR had made special reservations concerning article 14, paragraphs 1 and 2, because it was unlawful for an international treaty to confer on an international body powers that would affect non-parties.

26. Article 34 of the 1969 Vienna Convention on the Law of Treaties stated: "A treaty does not create either obligations or rights for a third State without its consent".<sup>19</sup> That rule was clear and very relevant to article 15 *bis*.

27. Mr. STEWART (United Kingdom) said that, though designed to strengthen the Board, article 15 *bis* would be greatly weakened by the USSR amendments. No country need fear article 15 *bis* if it did not endanger the application of the Protocol. Article 21 had no bearing on article 15 *bis*, which he supported as a necessary safeguard for Governments ratifying the treaty.

28. Mr. KOCH (Denmark) said that during the discussion on article 14 of the Single Convention some delegations had argued that the Single Convention codified rules and regulations which any member of the family of nations should apply in good faith, whether or not its Government participated in the Convention. The same was true of the Protocol, which codified certain ethical and moral obligations, of which States must ensure the observance for the protection of their own population and the whole of mankind. He supported article 15 *bis*.

29. Dr. BABAIAN (Union of Soviet Socialist Republics) said that his first amendment essentially consisted of two elements. First, the substitution of the word "Parties" for the word "country", and, second, the insertion of the words "under the provisions of this Protocol". The text would then be closer to that of the Single Convention. The other changes were consequential.

30. Mr. INGERSOLL (United States of America) asked what was the precise implication of the words "under the provisions of this Protocol". The USSR amendment seemed to depart from the Single Convention very considerably. The words "and bearing on questions arising under those provisions", which appeared in article 14, paragraph 1 (a), of the Single Convention, had been omitted in the Committee's text because they seemed unnecessary.

31. Mr. NIKOLIĆ (Yugoslavia) said it was premature to vote on the USSR amendment on the assumption that article 21 would be accepted. He considered that that article should be changed so as to render the Protocol open for accession to all States. It would then be quite appropriate to confer on the Board the powers proposed in article 15 *bis*. If article 21 in its present discriminatory form were adopted, then he would oppose article 15 *bis* because it was inadmissible to allow the Board to interfere in the affairs of non-parties. On the other hand, it would be right for the Board to communicate with States which were free to ratify the Protocol but did not do so.

32. Mr. ASHFORTH (New Zealand) said that, as he saw it, three issues were involved in the USSR amendment. In the first place, the introduction of the words "under the provisions of this Protocol" in the proposed redraft of the first sentence of paragraph 1 (a) would preclude the Board from considering matters outside the provisions of the Protocol, which would be a disadvantage. Moreover, the introduction of those words, coupled with the proposal that the information the Board should consider should come solely from parties, would mean that the Board would not obtain information from non-parties, as it did under the Single Convention. The second issue related to the proposed substitution of the notion of "party" for the notion of "Government" or "country". If such a substitution were to be made, the Board would only have the right to communicate with parties, irrespective of the willingness of non-parties to co-operate fully in the implementation of the Protocol; and such a situation was undesirable. The third issue related to the proposed insertion of the word "other" in the second sentence of paragraph 1 (a), in paragraph 1 (c) and in the first sentence of paragraph 2. One effect of that substitution would be that the Board would be able to communicate information about, say, a petty offence to all parties but the party guilty of the offence.

33. Dr. JOHNSON-ROMUALD (Togo) moved the closure of the debate.

34. Mr. SLAMA (Tunisia) and Mr. KOFI-DAVIES (Ghana) supported that motion.

35. The PRESIDENT said that in the absence of any opposition to the motion he would assume that it had been carried.

*It was so decided.*

36. The PRESIDENT said he thought the best course would be to vote first on the first USSR amendment, then on the second, the fourth and the second subparagraph of the fifth, which were the same in substance,

<sup>19</sup> *Official Records of the United Nations Conference on the Law of Treaties, First and Second Sessions, Documents of the Conference (A/CONF.39/11/Add.2)* (United Nations publication, Sales No.: E.70.V.5), p. 294.

then on the third amendment and lastly on the first sub-paragraph of the fifth USSR amendment.

*It was so agreed.*

*The first USSR amendment (E/CONF.58/L.44) was rejected by 31 votes to 12, with 13 abstentions.*

*The second, the fourth, and the second sub-paragraph of the fifth amendment of the USSR (E/CONF.58/L.44) were rejected by 29 votes to 12, with 17 abstentions.*

*The third USSR amendment (E/CONF.58/L.44) was rejected by 32 votes to 12, with 14 abstentions.*

*The first sub-paragraph of the fifth USSR amendment (E/CONF.58/L.44) was rejected by 31 votes to 12, with 15 abstentions.*

37. Dr. BABAIAN (Union of Soviet Socialist Republics) requested that a separate vote should be taken on paragraphs 1 and 2 of the text of article 15 *bis* together.

*Paragraphs 1 and 2 (E/CONF.58/L.5/Add.7) were adopted by 35 votes to 13, with 10 abstentions.*

*Paragraphs 3 to 7 (E/CONF.58/L.5/Add.7) were adopted by 48 votes to 5, with 4 abstentions.*

*Article 15 bis as a whole (E/CONF.58/L.5/Add.7) was adopted by 39 votes to 8, with 12 abstentions.*

38. Mr. NIKOLIĆ (Yugoslavia) said he had had to abstain in the vote on the first USSR amendment, because, although the USSR representative had said that the wording he was proposing was aligned with that of article 14 of the Single Convention, that had not appeared to be the case, at least as far as the French language was concerned. He had also abstained in the vote on article 15 *bis*, as he considered the vote premature for the reasons he had given earlier.

39. Mr. KIRCA (Turkey) said his delegation had abstained in the vote on all the paragraphs of article 15 *bis* and on the article as a whole. Its abstention did not mean that it was not in favour of giving the Board the control functions assigned to it in that article; on the contrary, his delegation was very much in favour of the Board's having those functions. In the view of his Government, however, the Board should be carefully shielded from issues which might have political repercussions at the international level; and it should not and could not, by reason of its activities, be put in a position in which it might prejudice, even indirectly, acts of recognition in international law which only the Governments of sovereign States were competent to perform. Moreover, the Board was certainly bound by the provisions of article 2, paragraph 7, of the Charter of the United Nations.

40. It was basically for that reason, moreover, that in the opinion of the Turkish Government article 14 of the Single Convention could not be given any other interpretation than the one he had indicated.

41. Dr. DANNER (Federal Republic of Germany) said that in the combined vote on paragraphs 1 and 2 of article 15 *bis* his delegation had voted against, because it considered the embargo provided for in paragraph 2 was undesirable in the case of psychotropic substances.

42. Dr. BERTSCHINGER (Switzerland) said his delegation had abstained in the vote on article 15 *bis* because

it considered the article, like article 14 of the Single Convention, to be superfluous. The Board should not have the power to take action which might ruin the economy of any country. With such a provision in it, his Government would have difficulty in ratifying the Protocol.

43. Mr. OVTCHAROV (Bulgaria) said his delegation had voted against article 15 *bis* because the article contained discriminatory features. There was no logical or legal basis for giving an international organ the right to interfere in the affairs of non-parties to an international instrument.

44. Dr. BABAIAN (Union of Soviet Socialist Republics) said that his delegation's vote against the article should not be construed as a lack of appreciation of the Board's work. His delegation greatly valued the Board's work, but did not consider it legitimate that the Board should be able to have any influence over non-parties. The article was superfluous, and with the provisions in paragraphs 1 and 2 was completely unacceptable to his delegation.

45. Dr. BÖLCS (Hungary) said he had voted against the article for the same reasons as those given by the USSR and Swiss representatives.

46. Dr. JOHNSON-ROMUALD (Togo) said he warmly supported the article and had voted for it. The provisions of the article were essential as a means of helping to protect the developing countries from the uncontrolled export of psychotropic substances. Moreover, it was only fair that recognition of the right of non-acceptance should be balanced by a provision of the kind contained in article 15 *bis*.

47. U HLA OO (Burma) said his delegation believed that the Board had an important part to play in ensuring the proper functioning of the Protocol. It wanted to strengthen the Board's hand, but it was, of course, against discrimination.

48. Mrs. NOWICKA (Poland) said she shared the views of the Yugoslav representative. Her delegation had voted against paragraphs 1 and 2 of article 15 *bis* and against the article as a whole, but not because it had no confidence in the Board.

#### ARTICLE 1 (USE OF TERMS) (E/CONF.58/L.4/Add.5 and Corr.1)

49. Mr. NIKOLIĆ (Yugoslavia), Chairman of the Drafting Committee, introducing the report of the Drafting Committee (E/CONF.58/L.4/Add.5 and Corr.1), drew attention to the fact that the definition of the term "territory" in sub-paragraph (o) had been deferred until the Conference had considered article 23 *bis*.

50. The PRESIDENT suggested that the article should be considered sub-paragraph by sub-paragraph.

*Introductory sentence, sub-paragraph (a) ("Council") and sub-paragraph (b) ("Commission")*

*The introductory sentence and sub-paragraphs (a) and (b) were adopted.*

*Sub-paragraph (c) ("Board")*

51. Dr. MABILEAU (France) said he thought that the correct reference would be to article 5 of the 1961 Single Convention on Narcotic Drugs.



52. After some discussion, the PRESIDENT suggested that the reference to an article should be deleted. The definition would then read: "‘Board’ means the International Narcotics Control Board provided for in the Single Convention on Narcotic Drugs, 1954".

*Sub-paragraph (c) as thus amended, was adopted.*

*Sub-paragraph (d) (“Secretary-General”)*

*Sub-paragraph (d) was adopted.*

*Sub-paragraph (e) (“Psychotropic substance”)*

53. The PRESIDENT drew attention to foot-note 1.

54. Mr. BARONA LOBATO (Mexico) proposed the deletion of the words “or any natural material”.

55. Dr. MABILEAU (France) said that he favoured the retention of those words, which would make it possible to include in the schedules certain plants that could be considered as psychotropic substances. For example, certain hallucinogenic mushrooms which grew wild might in future be cultivated and, in that case, it was desirable that they should be brought under control.

56. In any case, since in foot-note 1 the Drafting Committee had expressed the view that the retention of the words “or any other natural material” was contingent upon that of sub-paragraph (l) (“Production”), he proposed that the consideration of sub-paragraph (e) should be deferred for the time being and that the Conference should now examine sub-paragraph (l).

*It was so agreed.*

*Sub-paragraph (l) (“Production”)*

57. Dr. WALSHE (Australia) recalled that at the first special session of the Commission on Narcotic Drugs, her delegation, which had attended that session only as an observer, had queried in the Technical Committee the necessity for the definition and use of the term “production” in the Protocol.

58. Her delegation had been, and still was, of the opinion that the Protocol dealt with a wide variety of substances of both biological and synthetic origin. With regard to the latter, no definition of the term “production” was required, since synthesis was covered by the term “manufacture”. With regard to the former, the sources from which substances of biological origin could be derived were many and varied at the present time and might be even more so as knowledge progressed. Hallucinogenic substances in schedule I were constituents of mushrooms, cacti and even certain fish.

59. She drew attention to the definition of the term “production” as it appeared in the draft Protocol (E/4785, chap. III, article 1, sub-paragraph (l)) and to foot-note 3 to that definition stating that the Commission understood that the term did not cover the growing of plants for ornamental purposes or plants growing wild. Examinations would present authorities with the problem of proving, when persons were found with hallucinogenic plants, etc. in their possession, intent to use them for illicit purposes. That entailed great, if not insurmountable, difficulties, in her delegation’s opinion. Furthermore, an innocent person who might indeed be growing plants for ornamental purposes or who had plants growing wild on his property might have to establish his innocence.

60. Without such examinations, however, authorities might be faced with even more difficult situations; for example, they might be required to undertake eradication campaigns which would be almost impossible to accomplish and still serve no useful purpose. Her delegation believed that it was the systematic extraction of hallucinogenic substances from those biological products which had to be controlled, and that would be covered by the term “manufacture” if the words “other than production” were left out of the text of sub-paragraph (k) of article 1.

61. Finally, she reminded the Conference that there were many thousands of species of mushrooms, a significant number of which contained hallucinogenic substances, widely distributed throughout the world.

62. Her delegation was strongly opposed to the inclusion of a definition of the term “production” and also any reference to it throughout the Protocol.

63. Mr. KIRCA (Turkey) suggested that those who opposed the reference in sub-paragraph (e) to natural materials should take up the point in connexion with article 27, on reservations. He favoured the retention of that reference.

64. Dr. REXED (Sweden) supported the Australian representative’s views.

65. Dr. THOMAS (Liberia) also supported those views. In Africa, numerous species of hallucinogenic plants grew wild; some of them were used for ceremonial purposes, and it was not possible to prevent that use.

66. Dr. BABAIAN (Union of Soviet Socialist Republics) said that on the whole he favoured the retention of sub-paragraph (l), because it could be useful in the future. Moreover, if that sub-paragraph were dropped, it would be necessary to amend the text of numerous articles in which references to production had been included.

67. Mr. ANAND (India) supported the Australian representative’s views. The retention of sub-paragraph (l) would lead to difficulties. For example, the tetrahydrocannabinols had been included in schedule I. Since cannabis was the plant from which those substances were derived, the retention of sub-paragraph (l) would mean that cannabis would fall within the scope of the Protocol as well as within that of the Single Convention. Psychotropic substances were manufactured; they were not produced. He therefore firmly believed that all references to production should be dropped from the Protocol.

68. Mr. SHIK HA (Republic of Korea) said that it would be difficult for his delegation to accept sub-paragraph (l). In addition to dropping that sub-paragraph, it was necessary also to delete the reference to production from article 6.

69. Mr. CHAPMAN (Canada) also supported the representative of Australia. Sub-paragraph (k) (“Manufacture”) would suffice, provided that the words “other than production” were dropped, and that the last sentence—on the subject of preparations—was retained. In that form, sub-paragraph (k) would cover all the possibilities of obtaining psychotropic substances.



70. Dr. MABILEAU (France) pointed out, in connexion with the point raised by the Indian representative, that the question of cannabis had been already settled by the Single Convention. It was significant that a sub-paragraph on the term "production" was to be found in article 1 (Definitions) of the Single Convention.

71. He favoured the retention of sub-paragraph (l). Its deletion would lead to difficulties in the future, by making it impossible to place under control the cultivation of hallucinogenic plants.

72. Mr. BARONA LOBATO (Mexico) strongly supported the Australian representative's statement and drew attention to the important remarks made during the general debate by the Swedish representative (3rd meeting) stressing the great difference between the present Protocol and the Single Convention; whereas the Single Convention had dealt mainly with substances derived from natural products originating in developing countries, the Protocol would apply to synthetic substances manufactured industrially in developed countries.

73. His delegation was strongly opposed to the retention of sub-paragraph (l), and hoped that the provision would be dropped.

74. Mr. INGERSOLL (United States of America) associated his delegation with the position taken by that of Australia. There was no need to include a provision on the use of the term "production". He drew attention to foot-note 15 in the report of the Drafting Committee, giving the reason for the Technical Committee's decision to delete sub-paragraph (l).

75. Mr. SLAMA (Tunisia) said he shared the views of the representatives of Turkey, the USSR and France on the need to retain the provisions in sub-paragraph (l).

*Sub-paragraph (l) was rejected by 32 votes to 12, with 10 abstentions.*

76. Dr. BABAIAN (Union of Soviet Socialist Republics), explaining his vote, said that his delegation had abstained from voting on sub-paragraph (l) because its deletion would not cause any major difficulties to his country. At the same time, his delegation had felt that it might have been wiser to retain sub-paragraph (l), in order not to have to revise the text of several articles of the Protocol.

77. Mr. ASHFORTH (New Zealand) said that his delegation had voted against the retention of sub-paragraph (l) because it firmly believed that a provision on the use of a term was only necessary in an international instrument when the term was used in the instrument in a sense different from its ordinary meaning. His negative vote, therefore, did not imply that his delegation agreed to the deletion of other references to "production"; that term could be retained elsewhere in the Protocol, provided it was used in its ordinary or natural meaning.

78. The PRESIDENT pointed out that, in a number of articles, the Conference had made the retention of the term "production" dependent on its eventual decision on the term "Production" in article 1. The decision just taken to omit sub-paragraph (l) would thus affect the wording of all the articles in question.

*Sub-paragraph (e) ("Psychotropic substance") (continued)*

79. Mr. STEWART (United Kingdom) strongly supported the Mexican representative's proposal to delete the words "or any natural material". He drew attention to foot-note 1, stating the Drafting Committee's opinion that the retention of those words in sub-paragraph (e) was contingent on the retention of sub-paragraph (l). The deletion of those words was therefore a consequential amendment to the action just taken to omit sub-paragraph (l).

80. Dr. MABILEAU (France) said that the two questions were not necessarily linked. He favoured the retention of the words "or any natural material" in sub-paragraph (e); that retention would make it possible in the future to include certain natural products in one schedule or another. It would not be reasonable to close the door to such a possibility.

*The words "or any natural material" were retained by 23 votes to 21, with 6 abstentions.*

*Sub-paragraph (e) was adopted by 50 votes to none, with 3 abstentions.*

81. Dr. BABAIAN (Union of Soviet Socialist Republics), explaining his vote, said that his delegation had voted for the proposal to delete the words "or any natural material". In his view, the words "natural or synthetic" were broad enough to cover all possibilities, thereby making the words "or any natural material" redundant. The retention of those unnecessary words, however, would not create any difficulties, and his delegation had therefore been able to vote in favour of the sub-paragraph as a whole.

82. Mr. INGERSOLL (United States of America), explaining his vote, said that his delegation had voted for the deletion of the words "or any natural material" because it had voted earlier against the retention of sub-paragraph (l). Although those words had been retained, he had nevertheless voted in favour of sub-paragraph (e) as a whole, because he considered it necessary that an explanation of the use of the term "psychotropic substances" should be included in the Protocol.

83. Mr. STEWART (United Kingdom), explaining his vote, said that his delegation had voted for the deletion of the words "or any natural material" because their deletion was an obvious corollary to the decision to delete sub-paragraph (l). He had voted for sub-paragraph (e) as a whole, however, because the inclusion of the words "or any natural material" neither added to nor detracted from the definition of the term "psychotropic substance". The reference to "any natural material" neither enlarged nor diminished the powers of the Commission on Narcotic Drugs to expand the schedules.

84. Mr. HOOGWATER (Netherlands) said he had voted for sub-paragraph (e) as a whole, for the same reasons as the United States representative.

*Sub-paragraph (f) ("Preparation")*

85. Dr. JOHNSON-ROMUALD (Togo) explained that sub-paragraph (f) had resulted from a long and thorough discussion in the Technical Committee. The only change that had been made to the text appearing in the revised

draft Protocol had been to reverse the words "mixture or solution" so that they now read "solution or mixture".

*Sub-paragraph (f) was adopted.*

*Sub-paragraph (g) ("Schedule I", "Schedule II", "Schedule III" and "Schedule IV")*

86. The PRESIDENT drew attention to foot-note 4 on the subject of the words "from time to time".

87. Mr. KIRCA (Turkey) criticized the use of the words "from time to time". Alterations to the Protocol would be made when necessary; not "from time to time", an expression which seemed to imply periodicity, at least in the French version.

88. Dr. BABAIAN (Union of Soviet Socialist Republics) said he shared those views, which were applicable also to the Russian text. An expression such as "whenever necessary" would be more precise than the wording "from time to time", which had unfortunately been used in the corresponding paragraph 1 (u) of article 1 of the Single Convention.

89. The PRESIDENT noted that there had been no expression of support for the words "from time to time". He would therefore take it, if there were no further comments, that the Conference agreed to adopt sub-paragraph (g) with the omission of those words.

*It was so agreed.*

*Sub-paragraph (h) ("Schedule V")*

90. The PRESIDENT drew attention to foot-note 5, which indicated that sub-paragraph (h) would have to be deleted in the event of the adoption of the new text for article 2 bis (E/CONF.58/L.5/Add.3), which contained no mention of schedule V. If there were no objections, he would therefore consider that the Conference agreed to postpone the consideration of sub-paragraph (h) until it took a decision on article 2 bis.

*It was so agreed.*

*Sub-paragraph (i) ("Export" and "Import")*

91. The PRESIDENT, referring to foot-note 10, recalled the decision taken earlier in the meeting on the exclusion from the Protocol of all references to precursors. In accordance with that decision, the words "or precursive" would not be included in sub-paragraph (i) after the word "psychotropic". For the same reason, sub-paragraphs (e) bis and (h) bis had, of course, been omitted.

92. Mr. HOOGWATER (Netherlands) said that in the Committee on Control Measures he had already drawn attention (23rd meeting) to the fact that the text of sub-paragraph (i) was confusing. He would therefore vote against its retention.

93. Mr. ANAND (India) drew attention to the very special meaning assigned to the term "territory" in sub-paragraph (o), the retention of which was dependent on the inclusion in the Protocol of article 23 bis. He suggested that, if the Conference took a decision on sub-paragraph (i), the question of the use of the term "territory" in that sub-paragraph should be reserved until a decision had been taken on article 23 bis and hence on sub-paragraph (o). For his part, he felt that

both in article 23 bis and in sub-paragraphs (i) and (o) of article 1 it would be more appropriate to refer to an area or a zone than to a territory.

94. Mr. CALENDIA (Italy) said that the concluding words of sub-paragraph (i) should have read "from one part of a State to another".

95. Dr. JOHNSON-ROMUALD (Togo) supported the Indian delegation's position. It was quite unsatisfactory to use the same term "territory" with two different meanings in articles 23 and 23 bis respectively; the use made of the term in article 23 was correct, while that made in article 23 bis was not. Some other expression would therefore have to be found to replace that term in the concluding portion of sub-paragraph (i).

96. Mr. KOFI-DAVIES (Ghana) suggested that in sub-paragraph (i) the term "territory" should be replaced by "region".

97. Dr. BABAIAN (Union of Soviet Socialist Republics) proposed that a separate vote should be taken on the concluding words "or from one territory to another territory of the same State". If those words were omitted, the problem would be settled.

98. Mr. KOCH (Denmark) said that the only reason for including sub-paragraph (i) in article 1 lay precisely in those concluding words. It was necessary to explain the use of the terms "export" and "import" in sub-paragraph (i) simply because of the very special meaning given to those terms in article 23 bis, which provided for the possibility of the State dividing its territory "into two or more territories". Without the words in question, the definition in sub-paragraph (i) would simply state the natural or ordinary meaning of the terms "export" and "import", and would not be worth retaining. Unless the concluding words were retained, he would therefore vote against sub-paragraph (i).

99. Mr. KIRCA (Turkey) said that the use of the term "territory" in the concluding portion of sub-paragraph (i) depended on the wording eventually adopted for article 23 bis. In any case, he did not favour the use of term "region", which had a very special meaning in the constitution of certain States.

100. Dr. MABILEAU (France) pointed out that articles 23 and 23 bis of the Protocol were the exact parallel of articles 42 and 43 of the Single Convention, which had not given rise to any difficulties over a period of ten years.

*A vote was taken on the concluding words of sub-paragraph (i) "or from one territory to another territory of the same State".*

*The result of the vote was 26 in favour and 14 against, with 12 abstentions.*

*The words in question were rejected, having failed to obtain the required two-thirds majority.*

*Sub-paragraph (i), as amended, was adopted by 26 votes to 4, with 21 abstentions.*

The meeting rose at 1.15 a.m.  
on Tuesday 16 February 1971.

## TWENTIETH PLENARY MEETING

Tuesday, 16 February 1971, at 10.25 a.m.

President: Mr. NETTEL (Austria)

### AGENDA ITEM 11

**Consideration of the revised draft Protocol on Psychotropic Substances adopted by the Commission on Narcotic Drugs, in accordance with Economic and Social Council resolution 1474 (XLVIII) of 24 March 1970 (continued)**  
(E/4785, chap. III)

ARTICLE 1 (USE OF TERMS) (continued)  
(E/CONF.58/L.4/Add.5 and Corr.1, E/CONF.58/L.43)

#### Sub-paragraph (j) ("Distribution")

1. The PRESIDENT drew the attention of the Conference to foot-note 11 of the report of the Drafting Committee (E/CONF.59/L.4/Add.5), in which it was stated that the Committee on Control Measures in its report (E/CONF.58/L.5/Add.5) had deleted the definition.
2. Mr. MILLER (United States of America) said that the definition of the term "distribution" was much too wide and might apply to an extreme diversity of persons and cases. He therefore proposed that sub-paragraph (j) should be deleted.
3. Dr. JOHNSON-ROMUALD (Togo), supported by Mr. HUYGHE (Belgium), suggested that the Conference should merely endorse the decision of the Committee on Control Measures and proceed without further delay to vote on the sub-paragraph.
4. Mr. ANAND (India) observed that the word "distribution" was adequately defined by practice and the use that was made of it in the 1961 Single Convention on Narcotic Drugs. He considered that sub-paragraph (j) was superfluous.
5. Dr. THOMAS (Liberia) said that he also was in favour of the deletion of sub-paragraph (j). He formally proposed the closure of the debate.

*By 52 votes to none, with one abstention, it was decided to delete sub-paragraph (j).*

#### Sub-paragraph (k) ("Manufacture")

6. The PRESIDENT drew the Conference's attention to foot-notes 12, 13 and 14 in the report of the Drafting Committee, and to the corrigendum (E/CONF.58/L.4/Add.5/Corr.1) in which it was explained that the deletion of the last sentence of sub-paragraph (k) had not been suggested by a delegation but recommended by the Technical Committee (E/CONF.58/C.3/L.10).
7. Mr. SEMKEN (United Kingdom) observed that the second sentence of sub-paragraph (k) was not to be found in sub-paragraph 1 (n) of article 1 of the Single Convention and it added nothing to the text. That was why the Technical Committee had recommended its deletion.
8. Mr. KUŠEVIĆ (Executive Secretary of the Conference) said he was afraid the omission of the second sentence might create difficulties of interpretation. The

execution of a prescription by a pharmacist could not be assimilated either to the refining of psychotropic substances or to their transformation into other psychotropic substances.

9. Dr. JOHNSON-ROMUALD (Togo) supported the statement by the Executive Secretary. A pharmacist only transformed a substance into a preparation.

10. Mr. MILLER (United States of America) recalled that the Technical Committee had expressed the view that the second sentence added nothing to what was clearly stated in the first, since in executing a prescription a pharmacist merely transformed one substance into another.

11. Dr. OLGUÍN (Argentina) considered that, on the contrary, if difficulties of interpretation were to be avoided preparations should be expressly mentioned.

12. Mr. HUYGHE (Belgium) pointed out, in support of the statement by the Executive Secretary, that in a number of international treaties, including those signed between countries members of the European Economic Community, it was explained that the term "manufacture" did not include the compounding of preparations. Unless, therefore, preparations were specially mentioned in the present context, serious difficulties of interpretation would be encountered.

13. Dr. BABAIAN (Union of Soviet Socialist Republics) considered that the Executive Secretary and the representatives of Togo, Argentina and Belgium had been right in stressing the need for a special clause to cover the case of pharmacists; it was important that the precise scope of the term "manufacture" should be indicated.

14. Dr. WALSHE (Australia) said she shared the opinion of the Executive Secretary and those who had spoken after him. The contents of article 2 *bis* seemed to her sufficient to dispel the United States representative's fears.

15. Dr. HOLZ (Venezuela) said he thought it very desirable that preparations should be mentioned, for their compounding was an important link in the chain of manufacture.

16. Mr. CERECEDA ARANCIBIA (Chile) considered that the words "other than production" in the first sentence should be deleted. As to whether the second sentence should be retained or deleted, he thought it might perhaps be sufficient to add the words "or preparations" to the first sentence.

17. Dr. DANNER (Federal Republic of Germany) said he was in favour of retaining the second sentence, to which he would nevertheless formally propose, for the sake of greater clarity, that the words "on an industrial basis" should be added.

18. Mr. KOCH (Denmark) said he thought the addition proposed by the representative of the Federal Republic of Germany to the second sentence would be very useful. He pointed out, however, that if that sentence was retained (either with or without the addition), the Drafting Committee would have to be asked to revise consequentially the wording of article 14, so that substances used for preparations would not be counted twice in the statistics on manufacture.

19. Dr. JOHNSON-ROMUALD (Togo) said that in French a pharmacist could certainly not be regarded as a "*fabricant*" (manufacturer).
20. Mr. ASANTE (Ghana) expressed support for what had been said by the representative of Denmark. He would prefer, however, that the matter should be dealt with in plenary rather than by the Drafting Committee.
21. He unreservedly supported the proposal made by the representative of the Federal Republic of Germany.
22. Dr. BOERI (Monaco) supported the statement by the representative of Togo; the compounding of a preparation could certainly not be assimilated to "manufacture". He therefore suggested that the second sentence should be replaced by the following: "Manipulations for obtaining preparations of psychotropic substances are not regarded as manufacture within the meaning of the above term".
23. Mr. DITTERT (International Narcotics Control Board) confirmed what had been said by the representative of Denmark; if the second sentence was retained, it would be necessary to make it clear in article 14 that the statistics on manufacture should not refer to the quantities of preparations manufactured.
24. Mr. CHAPMAN (Canada) said he was in favour of the total deletion recommended by the Technical Committee. As thus curtailed, the sub-paragraph would be sufficient by itself.
25. Dr. BABAIAI (Union of Soviet Socialist Republics) said he recognized the justification for what had been said by the representative of Togo. It must not be forgotten, however, that some industrial enterprises transformed a large number of psychotropic substances. It was essential that those substances should be under control.
26. Dr. REXED (Sweden) said he thought the addition proposed by the representative of the Federal Republic of Germany would resolve all the difficulties.
27. Mr. ASHFORTH (New Zealand) said he was afraid that amendment would not be quite enough. He proposed that the wording should be modified as follows: "... but does not include the extemporaneous compounding of a preparation for the sole purpose of executing an individual medical prescription".
28. Mr. HUYGHE (Belgium) said that he also thought the proposal by the representative of the Federal Republic of Germany was too vague. There was something to be said for the New Zealand representative's proposal, but it had the defect of not being in accordance with pharmaceutical practice. Moreover, pharmacists sometimes worked in laboratories. He therefore proposed the addition of the following words to sub-paragraph (k): "other than those made on medical prescription by the pharmacist in his dispensary".
29. In reply to a question by Mr. KIRCA (Turkey), he explained that "dispensary" should be understood as meaning any kind of pharmacy, including those in hospitals and medical centres.
30. Mr. SEMKEN (United Kingdom) observed that the course of the discussion had merely confirmed his first impression, that the inclusion of the second sentence would only lead to confusion. He therefore urged the Conference to endorse the opinion of the Technical Committee.
31. Dr. THOMAS (Liberia) said he was in favour of sub-paragraph (k) as proposed by the Drafting Committee. He moved the closure of the debate.
32. The PRESIDENT said that, if there were no objections, he would suggest that the debate should be closed.  
*It was so decided.*
33. Mr. KUŠEVIĆ (Executive Secretary of the Conference) explained that the deletion of the sentence in square brackets might create difficulties. He quoted the example of a manufacturer buying psychotropic substances for preparing tablets; in his case it would not be a matter of obtaining, refining or transforming psychotropic substances, and consequently the manufacturer would not have to have a licence if the second sentence of sub-paragraph (k) was deleted.  
*A vote was taken on the oral amendment of the representative of the Federal Republic of Germany.*  
*The result of the vote was 25 in favour and 15 against, with 17 abstentions.*  
*The amendment was not adopted, having failed to obtain the required two-thirds majority.*  
*A vote was taken on the New Zealand oral amendment.*  
*The result of the vote was 27 in favour and 17 against, with 16 abstentions.*  
*The New Zealand amendment was not adopted, having failed to obtain the required two-thirds majority.*  
*The Belgian oral amendment was adopted by 35 votes to 7, with 16 abstentions.*
34. Mr. ASANTE (Ghana) speaking on a point of order, asked whether the words "[other than production]" were to be retained.
35. Mr. CHENG (China)\* said it was his understanding that the words were deleted in consequence of the Conference's decision to delete sub-paragraph (l).
36. The PRESIDENT explained that in deciding to delete sub-paragraph (l) the Conference had also decided that the term should be deleted in all the articles in which the deletion was consequentially necessary. That was not the case, however, with the sub-paragraph under discussion.
37. Dr. JOHNSON-ROMUALD (Togo) observed that in French the word "*fabrication*" had a narrower meaning than the word "production".
38. Mr. HOOGWATER (Netherlands), supported by Mr. CHENG (China),\* asked for a separate vote on the words "[other than production]".  
*It was decided to delete the words "other than production" by 51 votes to none, with 18 abstentions.*
39. Mr. SEMKEN (United Kingdom) asked for a separate vote on the second sentence of sub-paragraph (k).  
*By 44 votes to 9, with 5 abstentions, it was decided to retain the second sentence of sub-paragraph (k), as amended by the Belgian oral amendment.*

\* See introductory note.



*Sub-paragraph (k) as a whole, as amended, was adopted by 53 votes to 1, with 5 abstentions.*

40. Mr. CHAPMAN (Canada) explained that his delegation had voted against the second sentence as amended by the delegation of Belgium, because, in its opinion, it did not cover all the aspects of the compounding of psychotropic substances. It had voted for the sub-paragraph as a whole, however, because it considered a definition of the term "manufacture" essential.

41. Mr. KIRCA (Turkey) said that his delegation had voted against the retention of the words "other than production", in view of the final text adopted for sub-paragraph (a) of article 1.

42. The Turkish delegation interpreted the term "dispensary" as including pharmacies attached to hospitals and medical centres.

43. Mr. MILLER (United States of America) said that his delegation had been opposed from the start to the inclusion of the second sentence of sub-paragraph (k). It had voted for all the amendments, however, because it had been of the opinion that, if that sentence was to be retained, it would have to be drafted in such a way that pharmacies simply executing medical prescriptions would not come under the provisions of the Protocol. It had voted for sub-paragraph (k) as a whole, for the reasons already given by the representative of Canada.

44. Dr. BÖLCS (Hungary) explained that his delegation had abstained from voting on sub-paragraph (k) because in his opinion the amendments adopted to the definition of "manufacture" would make the definition too complicated. The original text of sub-paragraph (k) had been clearer.

45. Dr. BABAIAN (Union of Soviet Socialist Republics) explained that his delegation's vote on the words "other than production" was the logical consequence of the vote at the 19th meeting on sub-paragraph (l).

46. The USSR delegation had voted for sub-paragraph (k) as a whole. It had abstained from voting on the Belgian amendment, because the New Zealand amendment had seemed clearer to it.

47. Mr. KOCH (Denmark), supported by Dr. JENNINGS (Ireland), said that his delegation had voted against the Belgian amendment, because it did not cover all cases in which the compounding of preparations should not be included in the term "manufacture", as for example the case of doctors and veterinarians who were authorized to make preparations for dispensing to their customers. He had voted against the retention of the second sentence, as amended, because the debate had shown that its effect would be to create confusion rather than to clarify.

48. In reply to a remark by Mr. KOCH (Denmark), the PRESIDENT explained that the Drafting Committee would be instructed to revise the wording of article 14 in the light of the new text adopted for sub-paragraph (k).

*Sub-paragraph (m) ("Stocks")*

49. Dr. JOHNSON-ROMUALD (Togo), supported by Dr. BABAIAN (Union of Soviet Socialist Republics), said he did not see any need for discussing that sub-

paragraph, which faithfully reproduced the corresponding definition in the Single Convention.

50. Mr. MILLER (United States of America) pointed out that the term "stocks" was to be found in only one article of the Protocol, in which its meaning was perfectly clear from the context. The definition therefore seemed to him superfluous. In the Single Convention, the situation was quite different, for there stocks played an important part, particularly in the provisions relating to the estimates and statistics to be furnished.

51. Mr. DITTERT (International Narcotics Control Board) observed that the definition had indeed been necessary in the Single Convention, articles 19 and 20 of which, without giving any other indication as to the meaning of the term, provided that the parties should send the Board estimates and statistical returns on stocks. In the Protocol, on the other hand, the article on statistics stipulated that statistical reports should be furnished only on manufacturers' stocks of the substances in schedules I and II. In the Board's opinion, it was not necessary to retain the definition of the term "stocks" in the Protocol.

*The result of the vote on sub-paragraph (m) was 17 in favour and 27 against, with 16 abstentions.*

*Sub-paragraph (m) was not adopted, having failed to obtain the required two-thirds majority.*

52. Dr. BERTSCHINGER (Switzerland) said that, as he interpreted it, the deletion of sub-paragraph (m) did not mean that Governments would have to furnish data on the quantities they held for special purposes and to meet emergencies.

53. Dr. BABAIAN (Union of Soviet Socialist Republics) explained that he had voted for the retention of sub-paragraph (m) because he had been of the opinion that the very clear definition of the term "stocks" which it contained would void all possibility of confusion. He supported the interpretation given by the representative of Switzerland.

54. Mr. KIRCA (Turkey) said he considered that the deletion of sub-paragraph (m) would not be prejudicial to the provisions of article 15 *bis* as adopted.

*Sub-paragraph (n) ("Illicit traffic")*

55. The PRESIDENT drew the Conference's attention to foot-note 17, and therefore proposed that the words "production or" should be deleted.

*It was so decided.*

*Sub-paragraph (n), as thus amended, was adopted.*

*Sub-paragraph (o) ("Territory")*

56. The PRESIDENT drew the Conference's attention to foot-note 18 and consequently proposed that consideration of sub-paragraph (o) should be deferred until the Conference had considered article 23 *bis*. The Conference would then be able to take a decision on article 1 as a whole.

*It was so decided.*

*Proposed new sub-paragraph ("Premises")*

57. Dr. BABAIAN (Union of Soviet Socialist Republics), introducing his delegation's amendment (E/



CONF.58/L.43), which proposed the addition of a new sub-paragraph to article 1, explained that he had considered a definition of the expression "premises" to be necessary, since the discussions in the Drafting Committee had shown that it was variously understood by delegations. He had taken into account the interpretation given by the representative of the United Kingdom and the meaning attached to the term in international instruments. It was essential that the expression should have the same meaning for all countries if the control measures provided for in the Protocol were to be capable of application.

58. Mr. KOECK (Holy See) supported the USSR representative's amendment, but said he would like to know whether the expression could designate a plot of land that had not been built on. The Legal Adviser's opinion on that point would be useful.

59. Mr. SEMKEN (United Kingdom) said there was not much point in talking about plots of land which had not been built on, since that kind of plot could hardly be used for the manufacture of psychotropic substances and the activities referred to in the Protocol.

60. The Drafting Committee could slightly reword the English text; since the word "premises", although in the plural, had a singular meaning, it would be better to say "a building or a part of a building".

61. Dr. JENNINGS (Ireland) suggested that the words "and equipment" should be inserted in the USSR amendment before the words "used for activities".

62. The PRESIDENT recalled that the United Kingdom representative had already objected to a similar amendment.

63. Mr. WATTLES (Legal Adviser to the Conference) explained that the expression "premises", as used in the USSR amendment, was employed in various parts of the instrument particularly in regard to the issue of licences. The meaning seemed clearly in English to include land appertaining to buildings, but it was hard to see how the manufacture and production of psychotropic substances, or the trade in them, could be carried out in the open air.

64. Mr. KOECK (Holy See) explained that it would perhaps be necessary to apply measures of control on plots of land that were not built on, since the activities referred to in the Protocol might be carried out in a mobile laboratory (lorry, trailer, etc.).

65. Mr. ASANTE (Ghana) said he did not see the need for including plots of land that were not built on in the definition of the word "premises".

66. Dr. BABAIA (Union of Soviet Socialist Republics), supported by Mr. KIRCA (Turkey) said that, in international legal texts, the expression "premises" meant not only buildings or parts of buildings but the land appertaining to them. The two ideas were thus interconnected and it was difficult to separate them.

67. Mr. VALDES BENEGAS (Paraguay), supported by Dr. JOHNSON-ROMUALD (Togo) and Mr. NIKOLIĆ (Yugoslavia), expressed the view that the USSR representative's amendment exactly corresponded to the terminology employed in legal texts and covered not

only the building in which the activities referred to were carried out but everything that formed part of the property. The amendment was perfectly clear and should be adopted.

68. Dr. BÖLCS (Hungary) said he approved the USSR representative's amendment, but considered that the definition should be applied flexibly in view of the fact that activities in connexion with psychotropic substances and activities in connexion with other pharmaceutical products were carried out in the same buildings. That was true for example in the case of certain pharmaceutical products factories.

*The USSR amendment (E/CONF.58/L.43) was adopted.*

*Title of the instrument submitted to the Conference for its consideration*

69. The PRESIDENT recalled that several delegations had presented an amendment (E/CONF.58/L.30) suggesting that the word "Protocol" should be replaced by the word "Convention" in the title and wherever it appeared in the present draft Protocol.

70. Mr. CHENG (China)\* observed that delegations had received full powers to sign a protocol, not a convention. He would like to have the Legal Adviser's opinion on that subject.

71. Mr. WATTLES (Legal Adviser to the Conference) explained that the Secretary-General, if he was chosen to be the depositary of the instrument adopted by the Conference would be responsible for verifying the full powers of the signatories. The description of the instrument in them was of little importance so long as it was clear that what was intended was the instrument adopted by the Conference.

72. Mr. BARONA LOBATO (Mexico), supported by Mr. CHAPMAN (Canada), explained that a protocol was an instrument annexed to a treaty or convention, whereas what the Conference was discussing was a multilateral instrument that was independent in form and content and related to a particular subject. The regular legal expression for that kind of instrument was the word "convention".

73. U HLA OO (Burma), supported by Dr. BÖLCS (Hungary) and Dr. CORRÊA da CUNHA (Brazil), said he wondered why the question had not been considered at the first and second special sessions of the Commission on Narcotic Drugs; he was of the opinion that the reasons for the change had not been sufficiently explained. That being so, he would have difficulty in accepting the proposal.

74. Mr. ASANTE (Ghana) said he shared the Burmese representative's objections, but proposed the closure of the debate on the subject, to expedite the Conference's work.

*The Ghanaian representative's motion was adopted by 42 votes to 2, with 10 abstentions.*

*The joint amendment (E/CONF.58/L.30) was adopted by 52 votes to 1, with 6 abstentions.*

The meeting rose at 12.50 p.m.

\* See introductory note.

## TWENTY-FIRST PLENARY MEETING

Tuesday, 16 February 1971, at 9.20 p.m.

President: Mr. NETTEL (Austria)

### AGENDA ITEM 11

**Consideration of the revised draft Protocol on Psychotropic Substances adopted by the Commission on Narcotic Drugs, in accordance with Economic and Social Council resolution 1474 (XLVIII) of 24 March 1970 (continued) (E/4785, chap. III)**

#### ARTICLE 2 *bis*

(SPECIAL PROVISIONS REGARDING THE CONTROL OF PREPARATIONS)  
(E/CONF.58/L.4/Add.6)

1. Mr. OBERMAYER (Austria) said that article 2 *bis*, paragraph 3, imposed obligations that were too far-reaching. Articles 10, 12 and 14 should not apply to exempted preparations in schedules III and IV.
2. Mr. HUYGHE (Belgium) entirely agreed with the previous speaker and said that preparations in schedules III and IV, when not dangerous, should not be subject to articles 10, 13 and 14. It would be undesirable to make exemptions for substances in schedule II. If they remained active, they should be subject to the same control provisions as substances that were not preparations.
3. Mr. HOOGWATER (Netherlands), Mr. CALENDIA (Italy) and Dr. DANNER (Federal Republic of Germany) agreed with the two previous speakers.
4. Dr. ALAN (Turkey) said that article 2 *bis* had been discussed at great length in a working group, in the Committee on Control Measures and in the Drafting Committee. He would deplore any effort to change the text finally arrived at.
5. Dr. THOMAS (Liberia) expressed agreement with the Turkish representative. He asked that article 2 *bis* be put to the vote paragraph by paragraph.
6. Dr. MABILEAU (France) said that article 2 *bis* represented a compromise achieved after arduous negotiations, and it would be undesirable to re-open the discussion of it at that late stage. He was in favour of the text as it stood.
7. Mr. CHAPMAN (Canada) said he agreed with the French representative; the requirement imposed by article 2 *bis* was reasonable.
8. Dr. OLGUÍN (Argentina) hoped that article 2 *bis* would be adopted without change.
9. Dr. MÅRTENS (Sweden) expressed agreement with the Turkish representative and others who had spoken in the same sense.
10. Mr. ANAND (India) said that if the discussion on article 2 *bis* were re-opened no purpose would have been served by the compromise.
11. Dr. JOHNSON-ROMUALD (Togo) said that if the manufacture of a preparation was not regarded as manufacture, no records would be kept and article 10 relating to records would not apply, nor would article 13 regarding inspection, or article 14 requiring the furnishing of reports by parties. In the working group, however, some delegations had been persuaded to accept the provisions regarding the exemption of preparations, and he was opposed to re-opening the discussion. The text should be adopted as it stood.
12. Mr. ASANTE (Ghana) said the importance of the Convention lay in the fact that it would provide a measure of protection against imports which a country might not wish to admit; it was therefore extremely unsatisfactory that as a result of a unilateral finding a State should be able to export potentially dangerous substances to another State. Paragraph 3 of article 2 *bis* must be adopted as it stood. He presumed that the purpose of the representatives who had raised objections was to explain the position of their Governments, which they might have had no opportunity of doing in the working group or in the Committee on Control Measures. They had made no formal proposal for amendment.
13. Mr. MILLER (United States of America) expressed agreement with the Turkish representative.
14. Dr. BÖLCS (Hungary) said he had no objection to article 2 *bis*, but the provisions of sub-paragraphs (ii) and (iii) in paragraph 3 did not seem quite logical. Article 10 required manufacturers to keep records of psychotropic substances, but not of preparations. The Drafting Committee was now suggesting that that requirement should be extended to cover exempt preparations. Article 12 was designed to protect countries wishing to prohibit imports of psychotropic substances, but there was surely no need to do that for exempt preparations which were not liable to abuse and did not create a public-health problem. In his opinion, the two sub-paragraphs could be omitted.
15. Mr. KUŠEVIĆ (Executive Secretary of the Conference) pointed out that the new paragraph 5 *bis* of article 10 proposed by the Drafting Committee<sup>20</sup> did not require pharmacies and hospitals to keep records, but only manufacturers. The latter might have in their possession large quantities that could find their way into illicit traffic. Under article 12, States were free to decide whether or not to admit imports.
16. Mr. OBERMAYER (Austria) asked for a separate vote on each sub-paragraph of paragraph 3.
17. Dr. JOHNSON-ROMUALD (Togo) said he was not opposed to a separate vote on the paragraphs of article 2 *bis*, but could not support the Austrian motion.
18. Dr. HOLZ (Venezuela) and Mr. ARCHIBALD (Trinidad and Tobago) expressed agreement with the representative of Togo.

*The motion of the Austrian representative was adopted by 28 votes to 13, with 16 abstentions.*

*Paragraph 1 was adopted by 62 votes to none.*

*Paragraph 2 was adopted by 62 votes to none.*

<sup>20</sup> This paragraph is reproduced in the report of the Drafting Committee (E/CONF.58/L.4/Add.9).

Paragraph 3 (i) was adopted by 62 votes to none, with 1 abstention.

Paragraph 3 (ii) was adopted by 43 votes to 8, with 11 abstentions.

Paragraph 3 (iii) was adopted by 46 votes to 7, with 11 abstentions.

Paragraph 3 (iv) was adopted by 58 votes to none, with 2 abstentions.

Paragraph 3 (v) was adopted by 51 votes to 8, with 2 abstentions.

Paragraph 3 (vi) was adopted by 62 votes to none.

Paragraph 3 as a whole was adopted by 58 votes to none, with 9 abstentions.

Paragraph 4 was adopted by 55 votes to none, with 5 abstentions.

At the request of the Yugoslav representative, the vote on article 2 bis as a whole was taken by roll-call.

Turkey, having been drawn by lot by the President, was called upon to vote first.

*In favour*: Turkey, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, United Arab Republic, United Kingdom of Great Britain and Northern Ireland, United States of America, Venezuela, Yugoslavia, Algeria, Argentina, Australia, Brazil, Bulgaria, Burma, Byelorussian Soviet Socialist Republic, Cameroon, Canada, Chile, China,\* Colombia, Democratic Republic of the Congo, Costa Rica, Denmark, Dominican Republic, Finland, France, Gabon, Ghana, Greece, Guatemala, Holy See, Hungary, India, Iran, Iraq, Ireland, Italy, Lebanon, Liberia, Mexico, Monaco, New Zealand, Nicaragua, Pakistan, Paraguay, Poland, Republic of Korea, South Africa, Spain, Sweden, Switzerland, Thailand, Togo, Trinidad and Tobago, Tunisia.

*Against*: None.

*Abstentions*: Austria, Belgium, El Salvador, Federal Republic of Germany, Honduras, Japan, Netherlands.

Article 2 bis, as a whole, was adopted by 55 votes to none, with 7 abstentions.

19. Dr. BABAIAN (Union of Soviet Socialist Republics) said he had voted in favour of article 2 bis as a whole, but had abstained from voting on paragraph 4 because it contained discriminatory elements. He drew attention to the foot-note to the paragraph.

20. Mr. GATTI (Holy See) said he had abstained from voting on paragraph 3 (i) and 3 (iv) because the words "or a negligible" in paragraph 2 might be abused. The efficacy of paragraph 3 would clearly depend on the good faith of Governments.

21. Mr. OVTCHAROV (Bulgaria) said he had voted for article 2 bis as a whole, but had abstained on paragraph 4 for the reasons given by the USSR representative.

#### ARTICLE 1

(USE OF TERMS) (continued)  
(E/CONF.58/L.4/Add.5)

Sub-paragraph (h) ("Schedule V")

22. The PRESIDENT recalled that, at the 19th meeting, it had been decided to postpone consideration of sub-

paragraph (h) of article 1, until a decision was taken on article 2 bis. That article having now been adopted in a form which contained no mention of schedule V, sub-paragraph (h) of article 1 ought to be deleted, as indicated by the Drafting Committee (E/CONF.58/L.4/Add.5, foot-note 5). He suggested that that should be done.

*It was so agreed.*

#### PREAMBLE

(E/CONF.58/L.15, E/CONF.58/L.25)

23. The PRESIDENT, opening the discussion on the preamble, drew attention to the Mexican amendment (E/CONF.58/L.15) and the United States amendment (E/CONF.58/L.25) to the text in the original revised draft Protocol.

24. The Secretariat had also submitted two draft preambles, prepared in consultation with a number of delegations.

25. Mr. BEEDLE (United Kingdom) said he wished to sponsor the second Secretariat draft, which read as follows:

*The Parties,*

*Desirous* of safeguarding the health and welfare of mankind,

*Recognizing* that the use of psychotropic substances for medical, scientific and other purposes is indispensable and that their availability for such purposes should not be unduly restricted,

*Concerned* at the public-health and social problems resulting from the abuse of certain of these substances,

*Determined* to prevent and combat abuse of such substances and the illicit traffic to which it gives rise,

*Considering* that measures are necessary to restrict the use of such substances to legitimate purposes,

*Believing* that effective measures against abuse of such substances require co-ordination and universal action,

*Acknowledging* the competence of the United Nations in the field of control of psychotropic substances, and desirous that the international organs concerned should be within the framework of that Organization,

*Recognizing* that a treaty is necessary to achieve these purposes,

*Agree* as follows:

26. Dr. BABAIAN (Union of Soviet Socialist Republics) said that the Secretariat's first draft was an improvement on the original text in the revised draft Protocol and reflected the purpose of the Convention. He therefore wished to sponsor it. The text read as follows:

*The Parties,*

*Desirous* of safeguarding the physical and moral health of mankind,

*Concerned* at the public-health and social problem created by the spreading abuse of psychotropic substances,

*Determined* to prevent and combat abuse of psychotropic substances and the illicit traffic to which it gives rise,

*Convinced* that the use of psychotropic substances should be restricted to medical and scientific requirements,

*Recognizing* that psychotropic substances have important therapeutic and scientific uses and that their availability for such uses should not be unduly restricted,

*Believing* that effective measures against abuse of psychotropic substances require co-ordination and universal action,

*Acknowledging* the competence of the United Nations in the field of control of psychotropic substances and desirous that the

\* See introductory note.

international organs concerned should be within the framework of that Organization,

*Recognizing* that a treaty is necessary to achieve these purposes,  
*Agree as follows:*

27. He had, however, two changes to propose. First, the opening sentence should use the same wording as that of the 1961 Single Convention on Narcotic Drugs, and should read: "The Parties, concerned with the health and welfare of mankind".
28. In the fourth paragraph, the word "rigorously" should be inserted before the word "restricted".
29. Mr. BEEDLE (United Kingdom) said that if the first USSR amendment was adopted, there would be some ambiguity, because the word "concerned" would be used in a quite different sense in the first and second paragraphs of the Secretariat's first draft.
30. Dr. BABAIAN (Union of Soviet Socialist Republics) said that in the second paragraph in the draft sponsored by the United Kingdom, the words "and other purposes" were quite unacceptable, since they suggested that psychotropic substances could be used for a whole series of other purposes that had nothing to do with medicine or science. He therefore proposed their deletion. He also proposed the insertion of the word "rigorous" before the word "measures" in the fifth paragraph of that draft.
31. Mr. BARONA LOBATO (Mexico) said that his delegation had given careful consideration to the text of the preamble to the revised draft Protocol but had found it incomplete, since it did not adequately state the aims of the Convention.
32. All legal rules were intended to serve some ultimate purpose or design. For example, the provisions of criminal law which laid down penalties for homicide and assault were intended to safeguard the physical integrity of human beings; similarly, the provisions of criminal law on theft and embezzlement were aimed at the protection of private property, an aim which was also served by numerous provisions of civil law.
33. The same was true of the rules of international law. Those which had been embodied in the Convention now under discussion were essentially aimed at seeking means of safeguarding the physical and moral health of mankind. That aim had not been stated in the preamble to the revised draft.
34. Apart from that serious gap, the order in which the various paragraphs of the proposed preamble had been arranged was not logical. His delegation had therefore submitted its amendment to replace that preamble.
35. He would not press that amendment, however, and was prepared to accept the text sponsored by the United Kingdom delegation, provided that the first paragraph was amended so as to begin with the words "Concerned with the health ...", as proposed by the USSR delegation. It was important to use that wording, because it was precisely to meet the concern felt at the harmful consequences of the abuse of psychotropic substances and the illicit traffic to which it gave rise that the present Conference had been convened.
36. Mr. ASANTE (Ghana) said that the use of high-sounding phrases was one of the greatest hallucinogens of the age. The Charter of the United Nations had already proclaimed the concern of Member States with the health and welfare of mankind, and there was no need to repeat it. If the preamble was too high-flown, the parties might be deluded into thinking they were doing more than they really were. The convention would represent only a modest element in a much wider effort to protect humanity. The original text was modest, simple and concise. The amendments added nothing to it.
37. Mr. KOECK (Holy See) said he wished to join the United Kingdom in sponsoring the much-improved text of the preamble provided by the Secretariat's second draft. His delegation was grateful to the Mexican and other delegations whose informal consultations with the Secretariat had resulted in that text.
38. He welcomed, in particular, and was not in favour of any alteration of, the opening paragraph, which stressed the need to safeguard the physical and moral health of mankind, an aim which was sufficiently important to be reiterated on such a suitable occasion.
39. On the other hand, he strongly supported the USSR suggestion that in the fifth paragraph the adjective "rigorous" should be inserted before "measures".
40. Mr. SHEEN (Australia) supported the text sponsored by the United Kingdom and the Holy See, except for the second paragraph, relating to the medical and scientific uses of psychotropics and their use in industry for the production of non-psychotropic substances. Those matters were dealt with in the relevant articles of the Convention, but they had no place in the preamble, which should constitute a forthright statement of the primary purpose of the Convention.
41. That purpose was to prevent and combat the abuse of psychotropic substances and the illicit traffic to which it gave rise; it was that purpose alone, together with the general concern at the public-health and social problems resulting from the abuse, which should be expressed in the preamble. He therefore requested that the second paragraph of that text should be put to the vote separately.
42. Mr. INGERSOLL (United States of America) said that his delegation withdrew its amendment (E/CONF.58/L.25), and wished to join the sponsors of the text introduced by the United Kingdom delegation. He was not in favour of the USSR proposal for the amendment of the opening paragraph of that text. The expression "concerned with" was somewhat passive, whereas "desirous of safeguarding" reflected a more positive approach and was more suitable in a paragraph which set the tone to the whole Convention.
43. As for the second paragraph, it followed closely the pattern of the second paragraph of the preamble to the Single Convention. He would have no objection to the deletion of the words "and other" before "purposes" in order to meet the point raised by the USSR representative, provided that the reference to the use of psychotropic substances for "legitimate purposes" was retained in the fifth paragraph.
44. By adopting article 3, sub-paragraph (b) (13th meeting), on the legitimate use of psychotropic sub-



stances "in industry for the manufacture of non-psychotropic substances or products" (E/CONF.58/L.26/Add.2) the Conference had acknowledged that there existed legitimate uses other than medical and scientific ones. That fact was also recognized by the proviso "except as provided in article 3" in paragraph 2 of article 4, on the limitation of the use of psychotropic substances to medical and scientific purposes (*ibid.*)—a recognition which would not be affected by the omission of the reference to "other purposes" in the second paragraph of the preamble.

45. Lastly, his delegation had no objection to the insertion of the word "rigorous" before "measures" in the fifth paragraph.

46. Dr. JOHNSON-ROMUALD (Togo) said he preferred the text sponsored by the USSR, which was in fact the first text that had resulted from the informal consultations on the preamble. The second or revised text, which was now sponsored by the United Kingdom, the Holy See, and the United States, did not adequately express the aims of the Convention.

47. He had, in particular, grave misgivings regarding the reference in the second paragraph of that text to the use of psychotropic substances for "other purposes", but the deletion of that phrase would not remove altogether his delegation's objections to the paragraph. He therefore supported the Australian delegation's request for a separate vote.

48. Lastly, he supported the suggestion that the word "rigorous" should be inserted in the fifth paragraph.

49. Mr. KIRCA (Turkey) said his delegation would be prepared to accept the text proposed by the United Kingdom, the Holy See and the United States, provided that certain changes were made.

50. In the first place, he strongly supported the USSR proposal that the first paragraph should be an exact reproduction of the corresponding paragraph in the preamble to the Single Convention. That change had an important legal bearing. At its second special session, the Commission on Narcotic Drugs had adopted the term "drug" to cover both narcotics and psychotropics. The adoption of that term showed that the drug problem was broad in its scope and that the Convention on Psychotropic Substances would be complementary to the Single Convention. The two Conventions would in fact be the two halves of an integrated system.

51. The use of an identical wording in the opening preambular paragraph of both Conventions would establish the link existing between them and act as a reminder that the Conference had drawn largely on the wording of the Single Convention in formulating the Convention on Psychotropic substances. It would also serve to ensure that the two conventions were interpreted and applied in the same spirit.

52. The amendment to the first paragraph was thus of great legal significance, quite apart from its moral importance.

53. In the second paragraph, the words "and other" before "purposes" should be deleted; they could be taken as a reference to the use of psychotropic sub-

stances for the capture of wild animals or in connexion with certain religious ceremonies.

54. Lastly, in the third paragraph, he suggested that the word "spreading" (*grandissant*) should be inserted before the word "abuse". It was to deal with the problem of the spreading abuse of psychotropic substances that the Conference had met. Their abuse on a small scale would not have constituted a major problem justifying such international action.

55. Dr. MABILEAU (France) supported the text sponsored by the USSR delegation, in preference to that introduced by the United Kingdom representative. In particular, the reference to "other purposes" in the second paragraph of the United Kingdom text was totally unacceptable to the French delegation.

56. Dr. THOMAS (Liberia) expressed support for the text introduced by the United Kingdom representative, which adequately stated all the objectives of the Convention. He suggested, however, that the opening words of the third paragraph should be amended to read "Concerned with ...".

57. Mr. BEEDLE (United Kingdom) said that, at the first special session of the Commission on Narcotic Drugs, many delegations had been dissatisfied with the text of the draft preamble. In particular, that text suffered from the weakness that its third paragraph seemed to suggest that the use of all psychotropic substances should be rigorously restricted to medical and scientific requirements.

58. That being so, he wished to draw attention to some differences between the text he had introduced at the present meeting and the one sponsored by the USSR delegation. The first difference was that, while the third paragraph of the former stressed the public-health and social problems resulting from the abuse of certain psychotropic substances, the second paragraph of the latter mentioned those problems in relation to the abuse of psychotropic substances in general. The second important difference was that the former contained, whereas the latter did not, a reference (in the fifth paragraph) to the use of psychotropic substances for "legitimate purposes", which covered the use of psychotropic substances in industry for the production of non-psychotropic substances.

59. He therefore appealed to the USSR representative to accept the former text, with the following changes, which took into account the main objections which the USSR delegation had raised: first, to replace the three opening words of the first paragraph by the words "Concerned with"; secondly, to place the second paragraph fifth instead of second; thirdly, to replace in that paragraph the words "medical, scientific and other purposes" by the words "medical and scientific purposes"; fourthly, in the third paragraph, which would now become second, to replace the first two words "Concerned at" by the words "Noting with concern", and to replace the last three words, "of these substances", by the words "psychotropic substances"; fifthly, to insert the word "rigorous" before "measures" in the fifth paragraph, which would now become fourth.

60. Lastly, he did not favour the suggestion made by the Turkish representative to refer to the "spreading"



abuse of psychotropic substances. That was an unnecessary qualification.

61. Mr. NIKOLIĆ (Yugoslavia) suggested that a small working group might be set up to prepare a text which would command general acceptance.

62. The PRESIDENT said the Conference had insufficient time left for that course to be feasible.

63. Mr. ASANTE (Ghana) pointed out that the primary task of the Conference was to adopt an instrument which would combat the abuse of psychotropic substances. Looked at from that point of view, the preamble proposed in the revised draft Protocol was perfectly satisfactory, and his delegation could accept it. He did not see any reason for considering alternative versions, which only confused the issue.

64. Mr. KIRCA (Turkey) said that the work of the Conference would certainly be simplified if the respective texts advocated by the United Kingdom and the USSR could be reconciled. Perhaps the United Kingdom wording, as now proposed, might be acceptable to the USSR and the delegations which had expressed a preference for the text it had sponsored.

65. Dr. BABAIAN (Union of Soviet Socialist Republics) said that the changes introduced by the United Kingdom met the main points which his delegation considered important. The USSR could therefore accept the wording now proposed by the United Kingdom, provided that mention was made of a convention.

66. Mr. KOECK (Holy See) said that his delegation, as a co-sponsor of the text originally sponsored by the United Kingdom, accepted it in its revised version. It did so, however, on the understanding that the wording of the first paragraph of the preamble would be identical in all languages with that of the first paragraph of the preamble to the Single Convention.

67. Mr. CHAPMAN (Canada) welcomed the changes made by the United Kingdom, whose new suggestion for the preamble was an improvement on its predecessor and should secure general acceptance.

68. Dr. JOHNSON-ROMUALD (Togo) said that he too was glad to see the emergence of what appeared to be a consensus text.

69. Mr. KIRCA (Turkey) said his delegation fully supported the revised wording proposed by the United Kingdom. It would be better, though, if the eighth paragraph referred to a convention, and therefore proposed that the words "a treaty" in that paragraph should be replaced by the words "an international convention", which appeared in the corresponding paragraph of the Single Convention.

70. Mr. BEEDLE (United Kingdom) said he had no objection to that change.

71. Mr. SHEEN (Australia) said that in view of the consensus which had emerged he would not insist on his request for a separate vote on the second paragraph.

*The revised text of the preamble proposed by the United Kingdom, as amended by Turkey, was adopted and referred to the Drafting Committee.*

**ARTICLE 14 bis**  
**(FUNCTIONS OF THE COMMISSION)**  
**(E/CONF.58/C.4/L.55)**

72. Dr. BABAIAN (Union of Soviet Socialist Republics) said he thought it not only important but also proper that the reply from the Legal Counsel of the United Nations to the Legal Adviser to the Conference on the matters raised at the end of the 26th meeting of the Committee on Control Measures should be circulated to the Conference. He realized, however, that the work of the Conference would be delayed if the reply had to be made available in all languages. He would therefore be satisfied if it were circulated only in English, and he asked for that to be done.

73. Mr. KUŠEVIĆ (Executive Secretary of the Conference) pointed out that to circulate the reply even in English alone would delay progress.

74. The PRESIDENT asked the USSR representative if he would forego his request on the understanding that the Legal Adviser would make a statement to the Conference on the reply he had received from the Legal Counsel and that that statement would be circulated as a document of the Conference.

75. Dr. BABAIAN (Union of Soviet Socialist Republics) agreed to that procedure.

The meeting rose at 12.5 a.m.  
on Wednesday, 17 February 1971.

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**TWENTY-SECOND PLENARY MEETING**

*Wednesday, 17 February 1971, at 9.10 a.m.*

*President: Mr. NETTEL (Austria)*

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**AGENDA ITEM 10**

**Organization of work**

1. Mr. KUŠEVIĆ (Executive Secretary of the Conference) said that owing to the difficulties which the Secretariat was having in collating the various articles in the form in which they had been adopted by the Conference, it would be necessary to modify somewhat the procedure for discussion, so that the work could be completed within the set time-limits. Consideration might, for example, be given to the idea that the President should allow only eight delegations to speak on each article, for that would mean a considerable saving of time.

2. Dr. BABAIAN (Union of Soviet Socialist Republics) said he was sorry he could not accept the suggestion of the Executive Secretary. While representatives should certainly, so far as possible, refrain from speaking on any but important questions, it would be inadmissible, when so much time had been devoted to articles of minor import-

ance, to set an arbitrary limit on the consideration of such important articles as article 21.

3. The PRESIDENT observed that the Conference would only lose more time by discussing the suggestion of the Executive Secretary. If the Conference agreed, he would himself propose the closure of the debate whenever that seemed expedient.

#### AGENDA ITEM 11

**Consideration of the revised draft Protocol on Psychotropic Substances adopted by the Commission on Narcotic Drugs, in accordance with Economic and Social Council resolution 1474 (XLVIII) of 24 March 1970 (continued)**  
(E/4785, chap. III)

#### ARTICLE 14 *bis*

(FUNCTIONS OF THE COMMISSION) (continued)  
(E/CONF.58/L.49; E/CONF.53/C.4/L.55)

4. The PRESIDENT announced that the Legal Adviser to the Conference had received from the Legal Counsel of the United Nations the information requested by the USSR representative at the 21st meeting on the subject of article 14 *bis*.<sup>21</sup>

5. Mr. WATTLES (Legal Adviser to the Conference) recalled that under article 14 *bis* as proposed by the United States (E/CONF.58/C.4/L.55) and amended orally, decisions of the Commission on Narcotic Drugs in the execution of certain functions which the draft Convention conferred on it were to be taken by a two-thirds majority of the members. The question had been raised whether it was correct for the Conference to adopt such a provision, and reference had been made to rule 55 of the rules of procedure of the functional commissions of the Economic and Social Council, which provided that decisions of the Commission should be taken by a simple majority of the members present and voting.

6. When a treaty conferred functions upon a subsidiary organ of the Council and laid down provisions as to how those functions were to be carried out, it was for the Council to decide whether to accept the functions and also the provisions relating to their execution. Those were matters of policy for the decision of the Council.

7. It would seem that there would be no legal obstacle to the Council's deciding that a functional commission should follow a different voting procedure from that in rule 55 when exercising a function conferred pursuant to a treaty. In a legal opinion given to the Committee on Procedure of the Council on 17 January 1950, it was stated that:

Article 67 of the Charter [which provides that decisions of the Economic and Social Council shall be made by a majority of the members present and voting] only governs the Council itself. Its commissions are governed by Article 68, which does not stipulate the form which the voting procedure for the commissions shall take. It is, therefore, clear that the Council may adopt for its commissions such voting procedure as it may see fit to prescribe. The question as to whether the voting procedure for commissions should follow the procedure laid down for the Council is purely a matter of policy for the Council itself to decide.<sup>22</sup>

<sup>21</sup> This text was later circulated under the symbol E/CONF.58/L.50.

<sup>22</sup> E/AC.28/L.13.

8. It therefore followed that the Council would have freedom to exercise its judgement on the acceptance of the functions which the Convention proposed to confer on the Commission, and on acceptance of the provisions concerning the mode in which those functions were to be performed, including the voting rule to be applied.

9. The Secretariat was not in a position to give any forecast as to how the judgement of the Council would be exercised in that matter. The great majority of the members of the Council was, however, represented at the Conference, and therefore delegations, to the extent that they were able to foresee the positions that would be taken by their Governments in the Council, might be in a much better position to predict the decision than the Secretariat.

10. Mr. INGERSOLL (United States of America) recalled that the amendment proposed by his delegation (E/CONF.58/L.55) had been replaced by another draft (E/CONF.58/L.49) submitted jointly by Liberia, Mexico, Paraguay, Togo, the United States and Venezuela. That text was already sure of receiving the support of several other delegations. It had a dual purpose: first, to make sure that all matters relating to the substances covered by the Convention, and particularly by articles 2 and 2 *bis*, would be duly considered by the Commission, and that the Commission's decisions would be effectively carried out; and, second, to make sure that those of the Commission's decisions which related to the said substances were adopted by a majority which would place them beyond suspicion of being arbitrary. It should be remembered in that connexion that of the some 120 Members of the United Nations only 24 were members of the Council; so that, by a decision taken by a simple majority, 13 States could impose their will on more than 100 States, which would have had no say in the matter. There was a danger that such a provision might jeopardize ratification of the Convention, whose effectiveness, as had often been said, would depend on the number of ratifications it received.

11. The amendment was very simple, since it included only two sentences. The first provided that the Commission could consider all matters pertaining to the aims of the Convention and to the implementation of its provisions, and make recommendations relating thereto. The second was to the effect that the decisions of the Commission provided for in article 2 and article 2 *bis*, pursuant to which the obligations of the parties were increased, should be taken by a two-thirds majority.

12. However it was regarded, the adoption of such a text could only strengthen the authority of the Commission, on which new and important responsibilities devolved under the Convention.

13. With reference to the information given by the Legal Adviser, he considered it very unlikely that the Council would wish to oppose a measure decided on by some 60 sovereign States in the interests of public health. The Council was nevertheless free to express its views on the functions devolving on the Commission under the Convention in matters relating to the control of psychotropic substances.

14. Mr. SHEEN (Australia) said he was not fully convinced of the necessity of imposing on the Commission

a two-thirds majority rule for the decisions envisaged in paragraph 2 of the amendment. He would refrain, however, from prolonging the discussion on that point. Still, the wording of the paragraph left him somewhat perplexed, and he wondered whether it had really been the sponsors' intention that the rule should be applicable only to decisions under articles 2 and 2 *bis*. The representative of Togo might perhaps wish to give the Conference some explanation on that point.

15. Dr. BABAIAN (Union of Soviet Socialist Republics) said he was sorry the document which he would have liked all delegations to have had in their hands had not been distributed to them, and that the Legal Adviser to the Conference had given only a paraphrase of it, and a rather obscure one at that. It was clear, however, from the Legal Adviser's statement that in the last resort the question must be decided by the Council, and in that case it was difficult to see how a clause which might subsequently be modified by the Council could be included in the Convention.

16. He, therefore, formally requested that the Conference should vote on whether it considered itself competent to change the rules of procedure of the Commission which had been established by the Council.

17. The PRESIDENT, referring to rule 36 of the rules of procedure of the Conference said that the motion presented by the USSR representative obliged him to suspend the discussion on the substance of the matter and call for the vote he had requested.

18. Dr. BABAIAN (Union of Soviet Socialist Republics) asked that the vote should be taken by roll-call.

19. Mr. NIKOLIĆ (Yugoslavia) said he was not sure he had understood. Did the Legal Adviser's statement imply that the Council could modify a provision of the Convention after the Convention had been signed and ratified?

20. Mr. WATTLES (Legal Adviser to the Conference) explained that if the Council rejected a provision of the Convention relating to the majority required for decisions thereunder by the Commission, the result would be the, at least partial, frustration of the Convention. The new provision would remain in it, but would produce no effect; and an extremely complicated legal situation would thus be created.

21. Mr. KIRCA (Turkey) said he would like to know exactly what the Conference would be voting on: the competence of the Conference to prescribe a two-thirds majority for a decision by the Commission directly concerning the Convention, or the Conference's competence to modify the rules of procedure of a functional commission of the Council.

22. The PRESIDENT pointed out that the second question could not arise. It was simply a matter of knowing whether the Conference could stipulate the two-thirds majority rule.

23. Mr. VALDES BENEGAS (Paraguay) reminded the Conference that the Council could not presume to set itself up as a judge of the sovereignty of the Member States of the United Nations.

24. Mr. OVTCHAROV (Bulgaria) said it was unreasonable to take a decision that might remain without

effect. Moreover, he very much doubted whether the two-thirds majority rule would facilitate the Committee's work.

25. Mr. ASANTE (Ghana) said he would abstain from voting on what was a difficult legal question which many of the delegations present would probably not be in a position to commit themselves on.

26. He formally moved the closure of the debate on the question of competence.

27. The PRESIDENT, noting that there was no objection to the motion, declared the debate closed.

28. He invited the Conference to decide whether it was competent to provide that decisions of the Commission pursuant to articles 2 and 2 *bis* should be taken by a two-thirds majority.

29. Dr. BABAIAN (Union of Soviet Socialist Republics), speaking on a point of order, observed that that was not what he had asked for. What was needed was a recognition of the fact that such a clause would change the rules of procedure adopted by the Council for its commissions.

30. The PRESIDENT pointed out that the Conference was certainly not competent to alter a text adopted by the Council.

31. Dr. BABAIAN (Union of Soviet Socialist Republics) urged that it should be clearly stated that the clause in question would modify the rules of procedure adopted by the Council for its functional commissions.

32. Mr. INGERSOLL (United States of America) explained that the sponsors had certainly not intended to ask the Conference to modify rules of procedure adopted by the Council; furthermore, it had been made quite clear that the Council could accept or reject the provision in question. To avoid all confusion, he asked for a separate vote on each of the two aspects of the question.

33. The PRESIDENT said that each State should be left free to spell out the implications of paragraph 2 of the amendment.

34. Dr. URANOVICZ (Hungary) observed that, even if it voted only on the question of its competence to prescribe a two-thirds majority for decisions pursuant to articles 2 and 2 *bis*, the Conference would thereby be voting on its competence to modify the rules of procedure of the functional commissions of the Council.

35. Mr. KIRCA (Turkey) supported the United States representative's proposals. Unless the Conference clearly distinguished between the two aspects of the question, many delegations would have the greatest difficulty in voting.

36. The PRESIDENT, invited the Conference to decide whether or not it was competent to provide that decisions of the Commission pursuant to articles 2 and 2 *bis* should be taken by a two-thirds majority, on the understanding that each State would be free to interpret the provision that was adopted.

37. Dr. BABAIAN (Union of Soviet Socialist Republics) again urged that his motion should be put to the vote as a whole, and that it should be made clear that the clause

in question would modify the rules of procedure of the functional commissions of the Council.

38. The PRESIDENT observed that the only question that arose was whether the Conference was competent to decide that decisions of the Commission pursuant to articles 2 and 2 *bis* should be taken by a two-thirds majority.

39. Mr. ASANTE (Ghana) formally moved the closure of the debate on the question of competence. He repeated that, not being qualified to judge, he would abstain from voting.

40. Dr. BABAIAN (Union of Soviet Socialist Republics) again asked that it should be made clear that the new clause would modify the rules of procedure of the functional commissions of the Council.

41. The PRESIDENT ruled that the only question on which the Conference could vote was whether it was competent to adopt paragraph 2 of the United States amendment, which provided that "the decisions of the Commission provided for in article 2 and article 2 *bis* of this Convention pursuant to which the obligations of the Parties are increased shall be taken by a two-thirds majority of the members of the Commission".

*At the USSR representative's request, the vote was taken by roll-call.*

*Denmark, having been drawn by lot by the President, was called upon to vote first.*

*In favour:* Denmark, El Salvador, Federal Republic of Germany, Finland, France, Greece, Guatemala, Honduras, Iran, Ireland, Japan, Liberia, Mexico, Monaco, Netherlands, Nicaragua, Norway, Paraguay, Republic of Korea, Rwanda, South Africa, Spain, Sweden, Togo, Tunisia, Turkey, United Kingdom of Great Britain and Northern Ireland, United States of America, Venezuela, Argentina, Austria, Belgium, Brazil, Cameroon, Canada, Chile, China,\* Congo (Democratic Republic of), Costa Rica.

*Against:* Hungary, Italy, Poland, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, Yugoslavia, Algeria, Bulgaria, Byelorussian Soviet Socialist Republic.

*Abstaining:* Ghana, Holy See, India, Iraq, New Zealand, Switzerland, Thailand, United Arab Republic, Australia, Burma.

*By 39 votes to 9, with 10 abstentions, the Conference declared itself competent to insert in the text of the Convention the provision contained in paragraph 2 of the United States amendment (E/CONF.58/L.49).*

42. Dr. JOHNSON-ROMUALD (Togo) expressed the view that, since the Commission was going to be given new functions relating to psychotropic substances, which were more numerous and complex than the narcotic drugs at present under control, it was quite natural that the Conference should require a bigger majority for the Commission's decisions, and that it should try to make it more difficult to exercise the right of rejection.

43. As the Australian representative had rightly pointed out, however, it was not equitable to prescribe the two-thirds majority only for cases in which the obligations of the parties were going to be increased and not for cases in which they were to be reduced. To correct that situation, he proposed the deletion of the phrase "pursuant to which the obligations of the Parties are increased".

44. Dr. REXED (Sweden) supported the remarks made by the representative of Togo.

45. Dr. URANOVICZ (Hungary), speaking in explanation of his vote, said he had voted against recognizing the Conference's competence to adopt the United States amendment because he considered that it was not only the decisions of the Commission on Narcotic Drugs that were involved, and that logically the same provisions should apply also to WHO and the International Narcotics Control Board.

46. Dr. BABAIAN (Union of Soviet Socialist Republics) said he still thought the effect of the decision just taken by the Conference would be to modify the rules of procedure of the functional commissions of the Council. To justify that amendment, it had been pointed out, on the one hand, that psychotropic substances required stricter control than narcotic drugs and that, on the other hand, the Commission on Narcotic Drugs must be prevented from taking arbitrary decisions. In his opinion, those arguments were invalid so far as the Commission was concerned, for the Commission had already taken, in the case of certain less-known narcotic drugs, decisions which had not been contested. In his opinion, such a distinction between psychotropic substances and narcotic drugs was not justified; some narcotic drugs were in fact of synthetic origin and raised problems that were just as complex as those raised by psychotropic substances. Moreover, even if the principle was accepted, he found it difficult to see what justification there could be for adopting a procedure which, as the Australian representative had rightly pointed out, would make it more difficult to include new psychotropic substances in the schedules, and which might therefore, in the absence of all control, have serious consequences for public health. Lastly, the decision was incompatible with the more important role which most delegations wished to be assigned to WHO, not to speak of the legal questions to which it could give rise in the Council.

47. Mr. INGERSOLL (United States of America) said he could accept the proposal made by the representative of Togo, who had rightly pointed out that the purpose of his delegation's amendment was to make more difficult the exercise of the right of non-acceptance or the adoption of exceptional measures applicable to new psychotropic substances. Moreover, he did not think the amendment could reflect on the competence of WHO and the Commission on Narcotic Drugs, both of which had vast experience of narcotic drugs and could take the decisions on the subject that were called for. The introduction of new synthetic narcotic drugs did not change the situation, since they had the same properties and effects as the conventional narcotic drugs, and it was therefore less difficult to take decisions with regard to them than with regard to psychotropic substances. The

\* See introductory note.



problems raised by the application of the Conference's decisions were much more varied and complex.

48. Dr. THOMAS (Liberia) supported the views expressed by the representatives of Togo and the United States. He urged the members of the Conference to adopt article 14 *bis* with the sub-amendment proposed orally by the representative of Togo, which would help the Commission on Narcotic Drugs to discharge its new tasks. He formally moved the closure of the debate on the article.

49. The PRESIDENT said that if there were no objections, the debate on the matter would be closed.

50. Dr. BABAIAN (Union of Soviet Socialist Republics), speaking on a point of order, asked for separate votes on paragraphs 1 and 2 of the amendment.

51. Mr. BOULBINA (Algeria) said he would like to have some explanation of the voting procedure envisaged by the sponsor of the amendment and on the criteria for determining the two-thirds majority. In particular, he asked whether the majority would be of the members present and voting or of the total number of members of the Commission.

52. The PRESIDENT said he was sorry he could not entertain the Algerian representative's remark, since the debate had been pronounced closed and his question was not on a point of order.

*Paragraph 1 of the United States amendment was adopted by 57 votes to none, with 2 abstentions.*

*Paragraph 2 of the United States amendment, as amended by the representative of Togo, was adopted by 40 votes to 3, with 16 abstentions.*

*Article 14 bis as a whole (E/CONF.58/L.49), as amended, was adopted by 43 votes to none, with 16 abstentions.*

53. Mr. KIRCA (Turkey) said he had abstained from voting on paragraph 2 and on article 14 *bis* as a whole, although he had accepted the initial text of the amendment. The fact was that international treaties could usually be changed only with the unanimous consent of the parties; and in the case of exceptions to that rule which might be decided on by international bodies, provision should be made for such decisions to be adopted by rational voting procedures. The original text had, however, been modified by the deletion of the phrase "pursuant to which the obligations of Parties are increased"; and in his delegation's opinion, that provision was likely to complicate the Commission's work. That was why the Turkish delegation had abstained from voting.

54. Moreover, he considered that the provisions on that point for inclusion in the Convention to be adopted by the Conference should be strictly parallel to those of the 1961 Single Convention on Narcotic Drugs. While it was true that from the scientific and medical points of view psychotropic substances were more complex than narcotic drugs, the two categories of drugs presented the same social danger, and that last aspect should be studied by the Commission. It would be wrong to adduce scientific arguments for requiring a qualified majority only in one case and not in the other. His Government

might therefore consider proposing that the Single Convention should be amended so as to bring it into line with article 14 *bis*, as just adopted.

55. Mr. ANAND (India) said that, in view of the explanations given by the Legal Adviser to the Conference, from which it appeared that it was in the Council's power not to endorse the provisions adopted in article 14 *bis*, paragraph 2, and since he had been unable to undertake the necessary preliminary consultations, he had preferred to abstain from voting on paragraph 2.

56. Dr. BABAIAN (Union of Soviet Socialist Republics) said he had voted for paragraph 1 and abstained from voting on paragraph 2 for the reasons he had given before. The only legally valid solution would have been for the Conference to address to the Council a resolution requesting it to consider the possibility of partly amending the rules of procedure of its functional commissions when they had to apply decisions resulting from amendments to the draft Convention. In its present form, the amendment which the Conference had just adopted was unacceptable to the Soviet Union.

57. Mr. BARONA LOBATO (Mexico) said he had voted for article 14 *bis* because he considered that it did not change the rules of procedure of the functional commissions of the Council.

58. Mr. NIKOLIĆ (Yugoslavia) said he had abstained from voting. He admitted that psychotropic substances gave rise to more complex problems, and that the decisions concerning them should therefore be adopted by a large majority. He did not think that provision would have the effect of weakening the new Convention, or that it implied a lack of confidence in WHO; but the explanations given by the Legal Adviser to the Conference showed that article 14 *bis* could be rejected by the Council, and that the Conference was not competent to take decisions of that kind.

59. U HLA OO (Burma) said that he, too, had preferred to abstain, although the supporters of the amendment had adduced valid arguments, in view of the explanations given by the Legal Adviser to the Conference.

#### ARTICLE 23 *bis*

(TERRITORIES FOR THE PURPOSES OF ARTICLES 6, 11, 12 AND 14)

60. The PRESIDENT said that no amendment had been submitted to the initial text of the article as contained in the revised draft Protocol (E/4785, chap. III).

61. Mr. ANAND (India), supported by Dr. THOMAS (Liberia), observed that article 23 *bis* was modelled on article 43 of the Single Convention, but that the word "territories" used in paragraph 1 might lead to confusion. It was not strictly speaking territories that were meant, but zones or regions within a single country. He therefore proposed that the word "territories" in paragraph 1 should be replaced by the word "zones". However, he would propose leaving it to the Legal Adviser to the Conference to choose between the word "zones" and the word "regions". In paragraph 2, on the other hand, the word "territory" could be kept, since it designated a Customs union set up between the parties.



62. Mr. WATTLES (Legal Adviser to the Conference) said he would prefer the word "regions" but saw nothing against using the word "zones".

63. Mr. HOOGWATER (Netherlands), supported by Mr. SHEEN (Australia), asked whether it was really necessary to retain paragraph 1, for it might lead to confusion unless care were taken to designate the central Government responsible for the application of articles 6, 11, 12 and 14.

64. The PRESIDENT said he did not think the amendment affected the substance of the article. He suggested that the word "territories" in paragraph 1 should be replaced by the word "regions". The end of the paragraph would thus read "into a single region".

*It was so decided.*

65. Mr. BIGAY (France) said that, from the legal point of view, he thought that it was not correct to speak about the "region" of a State, and that the word "territory" was to be preferred.

66. Mr. ANAND (India) observed that everything depended on whether the territory was being considered as a whole or from the point of view of its parts. In the second case, it was the word "region" which should be used.

67. Mr. WATTLES (Legal Adviser to the Conference) said it was for each party to decide whether a part of its territory constituted a region for the purpose of the application of the Convention.

68. Mr. MANSOUR (Lebanon) supported the observations made by the representatives of the Netherlands and Australia and said he would like a separate vote to be taken on the retention of paragraph 1.

69. Mr. NIKOLIĆ (Yugoslavia) instanced the situation of a country consisting of several dozen islands, and said that in that case the deletion of paragraph 1 might create difficulties, since the territory was necessarily divided into several parts.

70. Mr. MANSOUR (Lebanon) withdrew his proposal.

*Article 23 bis (E/4785, chap. III), as amended, was adopted by 59 votes to none, with 2 abstentions.*

ARTICLE 1  
(USE OF TERMS) (*continued*)  
(E/CONF.58/L.4/Add.5 and Corr.1)

*Sub-paragraph (h) ("Schedule V") (continued)*

71. Dr. REXED (Sweden) pointed out that the text adopted for article 2 *bis* no longer mentioned groups of preparations exempt from certain provisions of the Protocol. Since the definition had become superfluous, he proposed that sub-paragraph (h) should be deleted.

*By 56 votes to none, with 3 abstentions, it was decided to delete sub-paragraph (h)*

*Sub-paragraph (o) ("Territory") (resumed from the 20th meeting)*

72. The PRESIDENT pointed out that in consequence of the decision taken on article 23 *bis*, the word "territory", in the first sentence, should be replaced by the word "region".

73. Dr. BABAIAN (Union of Soviet Socialist Republics) observed that, since the term "territory" had been replaced by the term "region", the second sentence of sub-paragraph (o) was redundant. It had, in fact, been included because the term "territory" could be understood in different ways, but since that ambiguity had been removed, there was no need to retain the second sentence.

74. Dr. JOHNSON-ROMUALD (Togo), Mr. MANSOUR (Lebanon), Mr. KOCH (Denmark), Mr. KIRCA (Turkey), Mr. KOFI-DAVIES (Ghana) and Mr. ANAND (India) expressed agreement with the opinion voiced by the USSR representative.

*By 56 votes to none, with 1 abstention, it was decided to delete the second sentence of sub-paragraph (o).*

*Sub-paragraph (o), as amended, was adopted by 55 votes to none, with 6 abstentions.*

*Sub-paragraph (i) ("Export" and "Import") (resumed from the 19th meeting)*

75. Dr. JOHNSON-ROMUALD (Togo) and Mr. KOCH (Denmark), speaking on a point of order, asked that the Conference should reconsider the decision it had adopted on sub-paragraph (i), so as to take account of the decision it had reached on article 23 *bis*.

76. Mr. KIRCA (Turkey) and Mr. ANAND (India) spoke against the motion.

*The motion was rejected by 36 votes to 11, with 14 abstentions.*

77. Mr. OBERMAYER (Austria) observed that definitions were normally arranged in alphabetical order, and asked that that should be done in article 1 of the Convention.

78. The PRESIDENT said that was impossible, since the official text of the Convention would exist in the five official languages of the United Nations.

*Article 1 as a whole (E/CONF.58/L.4/Add.5 and Corr.1), as amended, was adopted by 60 votes to none, with 2 abstentions, and referred to the Drafting Committee.*

ARTICLE 21  
(PROCEDURE FOR SIGNATURE, RATIFICATION AND  
ACCESSION)  
(E/CONF.58/L.18)

79. Dr. BABAIAN (Union of Soviet Socialist Republics), introducing the amendment submitted by his delegation and the delegations of Hungary and the United Arab Republic (E/CONF.58/L.18), said that the Convention was aimed at settling a problem which affected all men, in whatever country they might be. The Convention's objectives could not be attained unless all States could participate. It was emphasized in the preamble that, to be effective, the measures adopted against the abuse of psychotropic substances must be co-ordinated and "universal". In its resolution 1474 (XLVIII), the Council had also declared that it was "convinced that the objectives and aim of this Protocol are of interest to the international community as a whole". In support of his argument, he cited further the relevant passages of the Declaration on principles of International

Law concerning Friendly Relations and Co-operation among States in accordance with the Charter of the United Nations (General Assembly resolution 2625 (XXV)).

80. Other very important international instruments were open to all States; they included the Treaty Banning Nuclear Weapon Tests in the Atmosphere in Outer Space and Under Water, signed in Moscow on 5 August 1963, the Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, including the Moon and Other Celestial Bodies (1967), the Agreement on the Rescue of Astronauts, the Return of Astronauts and the Return of Objects Launched into Outer Space (1968), the Treaty on the Non-Proliferation of Nuclear Weapons (1968) and, quite recently, the Convention to Suppress Unlawful Seizure of Aircraft, signed at The Hague on 16 December 1970.

81. He recalled that in a note from its Ministry of Foreign Affairs, transmitted by his delegation's communication of 27 March 1971 addressed to the Economic and Social Council,<sup>23</sup> the German Democratic Republic had expressed the wish to be a party to the Protocol. For all the reasons he had given, his delegation considered that the discrimination that was being exercised against a number of States in that respect was quite inadmissible.

82. Mr. KRIEG (Federal Republic of Germany) said that, so far as international treaties were concerned, the practice established by the United Nations system was to use what was called the "Vienna" formula: all States belonging to the United Nations family could be admitted, and other States could be invited to become parties by decision of the competent United Nations organ. In the present case, they could be invited by the Economic and Social Council, if a majority of the Council's members expressed the corresponding desire. Thus, the Vienna formula guaranteed application of the principle of universality.

83. The "all States" clause advocated by a number of countries, on the other hand, limited the sovereign power of the States Members of the United Nations to decide on admission themselves. The supporters of that clause were trying to throw the responsibility for deciding which States should participate on to the Secretary-General, but the Secretary-General had always been opposed to such a procedure. It was a question, therefore, of finding out the extent to which States wished to renounce their sovereign right of decision.

84. In conclusion, he expressed the view that the Vienna formula was the solution which best settled the problem of participation, and that the amendment should be rejected.

85. M:s. NOWICKA (Poland) and Mr. OVTCHAROV (Bulgaria) expressed agreement with the USSR representative.

86. Mr. BIGAY (France) said his delegation was in favour of article 21 of the draft Protocol and was opposed to any other proposal.

87. Many of the provisions of the Convention were based on the Single Convention, and it was therefore reasonable to apply to both treaties the same clause regarding participation.

88. Moreover, according to the proposed amendment, it would be for the Secretary-General to determine whether an entity expressing the desire to accede to the Convention could be regarded as a State. The French delegation did not think such a responsibility should be placed on the Secretary-General, and it would like to have the Legal Adviser's opinion on that point. Furthermore, it did not see why States represented at or invited to the present Conference should cede to the Secretary-General their sovereign power to decide to whom they should extend the possibility of having dealings with them.

89. Moreover, it was not true to say that article 21 of the draft Protocol definitively ruled out States whose assistance might be regarded as useful to the world community; for the Council could invite any State to become a party, even if it was neither a member of the United Nations, any of the specialized agencies or the International Atomic Energy Agency nor a party to the Statute of the International Court of Justice.

90. His delegation would therefore vote against the amendment and for article 21 of the draft.

91. Mr. SLAMA (Tunisia) said he shared the opinion of the USSR delegation and supported the amendment. As to paragraphs 2 and 3, they gave rise to no objection on the part of the Tunisian delegation, which could accept them in their present wording.

92. Mr. BEB a DON (Cameroon) supported article 21 as given in the draft Protocol, for the reasons stated by the representative of France.

93. He suggested that, since the article dealt with the conditions for admission, the title should be amended to read: "Procedure for admission, signature, ratification and accession".

94. He had misgivings about the present wording of sub-paragraph (b) in paragraph 1, which seemed to imply that the signatory State committed itself by the act of signing, whereas signature was not normally sufficient to constitute a commitment. The sub-paragraph therefore seemed superfluous, or, if it was retained, it should form part of sub-paragraph (a).

95. With reference to paragraph 3, he pointed out that ratification did not consist of the deposit of an instrument with the Secretary-General; ratification was a domestic constitutional requirement. He therefore suggested that paragraph 3 should be worded as follows: "The instruments of ratification or accession shall be deposited with the Secretary-General".

96. Mr. INGERSOLL (United States of America) suggested that paragraph 2 should be drafted as follows: "The present Convention shall be open for accession 90 days after it is opened for signature at Vienna".

97. In his opinion, article 21 had nothing to do, in substance, with the principle of the sovereign equality of States. What entities were to be regarded as States was a political question. The formula used in article 21

<sup>23</sup> E/L.1304.

of the draft was a wording established by the United Nations, and to alter it would be to go beyond the present Conference's terms of reference.

98. The proposed amendment would impose on the Secretary-General, who was the sole depositary of instruments of accession to the Convention, the task of determining whether or not a given entity was a State; but the Secretary-General had stated that he neither would nor could take a decision of that kind. The United States delegation was therefore in favour of article 21 of the draft.

99. Mr. ONODERA (Japan) said he also was in favour of paragraph 1 of article 21 of the draft Protocol and opposed to any amendment to it.

100. His delegation had no strong position on paragraph 2, but the period of four months provided for in the Single Convention seemed suitable.

The meeting rose at 12.55 p.m.

## TWENTY-THIRD PLENARY MEETING

Wednesday, 17 February 1971, at 5.10 p.m.

President: Mr. NETTEL (Austria)

### AGENDA ITEM 11

**Consideration of the revised draft Protocol on Psychotropic Substances adopted by the Commission on Narcotic Drugs, in accordance with Economic and Social Council resolution 1474 (XLVIII) of 24 March 1970 (continued)**  
(E/4785, chap. III)

#### ARTICLE 21

(PROCEDURE FOR SIGNATURE, RATIFICATION AND ACCESSION) (continued)  
(E/CONF.58/L.18)

1. Mr. ANISCHENKO (Byelorussian Soviet Socialist Republic) said that, as the preamble indicated, the abuse of psychotropic substances was a matter requiring universal action. Frequent references had been made during the Conference to the welfare of mankind, yet article 21 prevented many States from being parties to the Convention. Such discrimination would be avoided by adopting the amendment submitted by Hungary, the USSR and the United Arab Republic (E/CONF.58/L.18), which his delegation fully supported.

2. Dr. JOHNSON-ROMUALD (Togo) said that his Government, which supported the notion of universality in matters of public health, considered that the acceptance of the Convention by as many States as possible was certainly desirable. But experience showed that the principle of universality was not always invoked for disinterested purposes, and therefore, in the light of United Nations practice, of the facts of international

life and of his Governments' commitments, he would vote for the text of article 21 as it appeared in the revised draft Protocol.

3. Mr. CALENDIA (Italy) said that, for the reasons given by the French representative (22nd meeting) he supported the existing text. The amendment dealt with matters that were the prerogative of the United Nations. In any case, article 21 enabled other States to become parties at the invitation of the Economic and Social Council.

4. Mr. CERECEDA ARANCIBIA (Chile) said that the safeguarding of public health necessarily required the participation of all States. The exclusion of any State constituted discrimination, and his delegation would vote for the amendment.

5. Dr. BABAIAN (Union of Soviet Socialist Republics), referring to the statement made by the French representative at the 22nd meeting, pointed out that there were in fact several treaties in which the "all States" formula was used. A recent example was the Treaty on the Non-Proliferation of Nuclear Weapons, to which a large number of States had acceded.

6. Contrary to what the United States representative had said, article 21 infringed the principle of the equality of States. In the course of their general statements at the opening of the Conference, a number of representatives had emphasized that no country could be immune from the threat of the abuse of psychotropic substances. At the 5th plenary meeting, the Netherlands representative had said that international action would only be effective if it covered practically the whole world. Yet the United States representative was advocating the exclusion of certain States from the Convention.

7. At the 1st plenary meeting, the representative of the Secretary-General had said that it was necessary that as many States as possible should be parties to the Protocol. That was perfectly true, and he therefore urged the Conference to adopt the amendment proposed by Hungary, the USSR and the United Arab Republic.

8. Mr. BROWN (Australia) said that he supported the text of article 21 as it stood. The Convention was closely associated with the United Nations and WHO, and conferred executive powers on the Commission on Narcotic Drugs and the International Narcotics Control Board, so it seemed best that the Secretary-General should be the depositary. In the case of those treaties in which the "all States" formula had been used, it had not been possible for the Secretary-General to act as depositary.

9. So far as paragraph 2 of the article was concerned, his delegation would like the Convention to be open for signature for a period of twelve months; in a federal State like Australia, ninety days would be insufficient.

10. Mr. GIBBS (United Kingdom) said that his delegation associated itself with those who supported the existing provisions of the accession clause. There was no connexion between that clause and any of the treaties with multiple depositaries.

11. The Convention was one of the many United Nations technical conventions for which the Secretary-General acted as depositary. It had been urged that the

Convention should be open to every State because it dealt with a matter of interest to the whole world; but the other United Nations technical conventions, in which the Vienna formula was used, also dealt with matters of interest to all. The existing text made it possible for the Economic and Social Council to invite other States to become parties.

12. The Conference should not arrogate to itself powers in a matter which only the United Nations could properly decide. He would therefore vote against the amendment.

13. Mr. NIKOLIĆ (Yugoslavia) said that his Government was opposed to discrimination and therefore considered that the Convention should be of universal application. The USSR representative had advanced very cogent arguments, and some of the agreements to which he had referred were of a technical nature. The preamble made it clear that universal action was required, yet article 21 restricted participation in the Convention. His delegation would support the amendment.

14. Dr. CORRÊA da CUNHA (Brazil) said that his delegation supported the text of article 21 as it appeared in the draft Protocol.

15. Mr. BOULBINA (Algeria) said that, as the Algerian delegation had made clear during the United Nations Conference on the Law of Treaties, his country firmly supported the principle of universality and the sovereign equality of States. It was quite inadmissible that the Conference should say it was concerned with the welfare of mankind and then divide mankind into groups. Every State in the international community must play its part in a Convention designed to protect the health of human beings. Consequently, his delegation could not accept article 21 as it stood, and supported the amendment.

16. Mr. MANSOUR (Lebanon) emphasized that the Conference was concerned with the welfare of mankind, regardless of race, colour or creed. It followed that all States should be able to accede to the Convention. In view of the danger represented by psychotropic substances, the political problem referred to by implication in paragraph 1 of the article was unimportant. It was not a question of according recognition to States; the Secretary-General would simply be asked to accept, passively, ratification by all States.

17. The article as now worded was contrary to article 15 *bis*, which clearly empowered the Board to request explanations from the Government of any country. He supported the amendment.

18. Mr. HUYGHE (Belgium) said he thought it unwise to tamper with the text of article 21 as given in the draft Protocol.

19. So far as paragraph 2 was concerned, he would urge that the Convention should be open for signature for a considerable period, say six to twelve months. Belgium was a member of the European Economic Community and would need to consult the other members before signing the Convention. In the meantime, there was nothing to prevent other countries from putting into force the measures it laid down.

20. Mr. HOOGWATER (Netherlands) said that the control measures should clearly be of world-wide ap-

plication; but that was not ruled out by the present text. His delegation supported the text of article 21 as it stood, for the reasons given by the representatives of France and the United Kingdom.

21. It would be difficult, even impossible, for his country to sign the Convention forthwith, since it would have to discuss it with the other members of the European Economic Community. He would therefore ask that a fairly long period should be specified for signature.

22. Dr. URANOVICZ (Hungary) said that, as a co-sponsor, his delegation fully supported the amendment and the arguments adduced by the other representatives who had spoken in favour of it.

23. Mr. TSYBENKO (Ukrainian Soviet Socialist Republic) said that his country warmly supported the amendment.

24. Mr. SHIK HA (Republic of Korea) said that the question was of a highly political nature. His delegation would not go into details, but it wished to draw attention to two important points. In the first place, the amendment clearly conflicted with the well-established principles and precedents of the United Nations, and more particularly with the Vienna formula. Secondly, his delegation was strongly convinced that the Conference, which had been called together to adopt a Convention on Psychotropic Substances, had no competence or authority to deal with a political question of that kind.

25. Consequently, his delegation appealed to the Conference to approve paragraph 1 of the original text in the form in which it appeared in the draft Protocol.

26. His delegation did not have any strong feelings about paragraph 2, and was quite prepared to accept the majority view.

27. Dr. EL HAKIM (United Arab Republic) said that the aim was to have the most comprehensive system of control. That could not be achieved if discrimination was exercised to prevent certain States from becoming parties. The Convention was a scientific instrument, and the support of all States was needed if its purposes were to be carried out. That was why the United Arab Republic was one of the sponsors of the amendment.

28. He would suggest that the Convention should be open for signature for a period of six months.

29. Mr. WATTLES (Legal Adviser to the Conference), replying to the question asked by the French representative at the 22nd meeting, said that the Secretary-General's position with regard to the "all States" formula was well known: he held no views on what States ought to be invited to become parties to treaties adopted by conferences held under United Nations auspices, a matter which was purely for those conferences to decide. The Secretary-General would, however, wish that conferences should make their requirements quite clear in cases in which he was to be the depositary of an instrument. The "all States" formula was interpreted differently by different Governments. The Secretary-General did not regard it as part of his functions as depositary to decide on disputed questions of statehood. If, therefore, the Conference wished to open the Convention to additional parties beyond those described in the draft Protocol, it



would have to find a more appropriate formula. If the formula was simply "all States", the Secretary-General would be unable to receive instruments from any States other than those mentioned in the present text of the draft Protocol, i.e. States Members of the United Nations, members of the specialized agencies and of the International Atomic Energy Agency, and parties to the Statute of the International Court of Justice. The position would, however, be different if the Conference provided the Secretary-General with a list of the States on which it wished to confer the right to become parties, in which case the Secretary-General would execute the instructions given to him.

30. The PRESIDENT drew the Conference's attention to the blank space in paragraph 2 for the date until which the Convention was to be open for signature. Various suggestions had been made, ranging from ninety days to twelve months. Article 40, paragraph 1, of the 1961 Single Convention on Narcotic Drugs, signed in March 1961, gave the specific date 1 August 1961. It would certainly be wiser to fix a specific date rather than a period of so many days. He suggested 1 January 1972.

*The suggestion was adopted.*

*At the request of the USSR representative the vote on the amendment to paragraph 1 was taken by roll-call.*

*Pakistan, having been drawn by lot by the President, was called upon to vote first.*

*In favour:* Poland, Tunisia, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, United Arab Republic, Yugoslavia, Algeria, Bulgaria, Burma, Byelorussian Soviet Socialist Republic, Chile, Colombia, Hungary, India, Iraq, Lebanon.

*Against:* Panama, Paraguay, Republic of Korea, Rwanda, San Marino, South Africa, Spain, Sweden, Switzerland, Thailand, Togo, Turkey, United Kingdom of Great Britain and Northern Ireland, United States of America, Venezuela, Argentina, Australia, Austria, Belgium, Brazil, Canada, China,\* Costa Rica, Denmark, El Salvador, Federal Republic of Germany, France, Guatemala, Guyana, Honduras, Iran, Ireland, Israel, Italy, Japan, Luxembourg, Monaco, Netherlands, New Zealand, Nicaragua, Norway.

*Abstaining:* Portugal, Cameroon, Congo (Democratic Republic of), Finland, Gabon, Ghana, Holy See, Liberia.

*The amendment to paragraph 1 (E/CONF.58/L.18) was rejected by 41 votes to 16, with 8 abstentions.*

31. Dr. URANOVICZ (Hungary) moved that a separate vote be taken on the words "invited by the Council" in paragraph 1.

32. Mr. GIBBS (United Kingdom), supported by Mr. INGERSOLL (United States of America) and Mr. BIGAY (France), objected to the motion for a separate vote. The Conference had just rejected the "all States" formula by a substantial majority. A request for a separate vote on the words in paragraph 1 would amount to a second vote on the same question. Furthermore, article 21 as a whole embodied an accepted United

Nations formula and should not be divided for purely political purposes.

*The Hungarian motion was rejected by 43 votes to 11, with 12 abstentions.*

33. Mr. KIRCA (Turkey), speaking on a point of order, reminded the Conference that the Cameroonian delegation had submitted an amendment (22nd meeting) suggesting a new text for paragraph 3, reading as follows: "The instruments of ratification or accession shall be deposited with the Secretary-General".

34. The PRESIDENT said he had assumed that that was a purely drafting change for consideration by the Drafting Committee.

35. Mr. BEB a DON (Cameroon) said he would press for a vote on his amendment by the plenary Conference, because the existing text was ambiguous. He had also proposed that the title of article 21 should be amended by the insertion of the word "admission" between "procedure for" and "signature", since the article described what States might become parties to the Convention.

*The Cameroonian amendment to the title of article 21 was adopted by 20 votes to 3, with 40 abstentions.*

*The Cameroonian amendment to paragraph 3 was adopted by 37 votes to 1, with 24 abstentions.*

36. Dr. BABAIAN (Union of Soviet Socialist Republics) asked that a separate vote should be taken, first on paragraph 1, and then on paragraphs 2 and 3, for reasons which the Conference undoubtedly appreciated.

*Paragraph 1 was adopted by 47 votes to 11, with 7 abstentions.*

*Paragraphs 2 and 3 were adopted unanimously.*

*Article 21 as a whole (E/4785, chap. III), as amended, was adopted by 52 votes to 9, with 5 abstentions.*

37. Mr. KIRCA (Turkey), explaining his vote, said he had voted against the amendment to paragraph 1 and for the text of article 21 as adopted, for the legal reasons given by the French, United States and United Kingdom representatives and in the light of the statement by the Legal Adviser to the Conference. He would also like to make it clear that if an entity which was not recognized as a State under international law by parties to the Convention became a party on accepting an invitation from the Economic and Social Council, it would not thereby be considered to have been recognized as a State within the meaning of international law by parties which had not previously recognized it under international law. Furthermore, if the rights and obligations issuing from the Convention were invoked as between that entity and States parties which did not recognize it as a State under international law, that too could not be construed as tacit recognition by those States.

38. Dr. BABAIAN (Union of Soviet Socialist Republics) explained that he had voted for paragraphs 2 and 3 and against article 21 as a whole because the article included discriminatory features so flagrant that he had been unable to vote for an article which barred certain States from participation in the Convention. The view of the USSR

\* See introductory note.

was well known and had been stated fully at the United Nations Conference on the Law of Treaties in May 1969. The USSR, indeed, had not ratified the Vienna Convention on the Law of Treaties. Many delegations had raised questions of secondary interest with respect to the strictness or flexibility of the control measures, but the Vienna formula was an issue of far greater importance. He hoped that the Conference would be able to adopt a declaration on universal participation in the Convention on psychotropic substances on the lines of the similar declaration adopted in the Final Act of the Conference on the Law of Treaties. An appropriate text would be submitted.

39. Dr. CORRÊA da CUNHA (Brazil) said that the pattern of his voting might have seemed inconsistent, but it would be appreciated by those who had followed his delegation's statements of its position throughout the Conference.

40. Mgr. MORETTI (Holy See), explained that his delegation had since the beginning of the Conference earnestly hoped for general agreement on the universal application of the Convention, in consideration of the higher interests of mankind. Failing such agreement, and not wishing to take a decision which would inevitably be construed as political—a situation which the Holy See always did its utmost to avoid—it had decided to abstain. It hoped nevertheless, that the basic general lines of the Convention would serve as a guide to the domestic legislation of all countries, for the benefit of all peoples, and that international law would soon come to be regarded, no longer solely as the law of States, but also, and above all, as the law of man.

41. Mr. ASANTE (Ghana) explained that he had abstained from voting on the amendment to paragraph 1 because, though his Government held the view that the purposes of the Convention would best be served by the accession of all States, it considered that the political issues involved should preferably be discussed elsewhere.

42. Dr. JOHNSON-ROMUALD (Togo) explained that he had voted against the amendment to paragraph 1, but must state once more that his Government was firmly attached to the notion of universality. His delegation's vote should not be construed as a vote against that principle, but purely as reluctance to becoming involved in an issue with political implications.

43. Mr. HOOGWATER (Netherlands) explained that his delegation invariably supported motions for division when it was evident that a group of less than two-thirds of the participants was trying to force the Conference into some action which it did not desire. That had not, however, been the intention of the Hungarian representative's motion.

**ARTICLE 22**  
(ENTRY INTO FORCE)

44. The PRESIDENT observed that no amendments had been submitted to article 22 of the revised draft Protocol but a space had been left in paragraph 1 for the number of States needed to bring the Convention into force. The number laid down in article 41 of the Single Convention had been 40. He wondered whether the

Conference wished to revert to the Single Convention as a model.

45. Dr. REXED (Sweden) observed that the Convention on Psychotropic Substances differed from the Single Convention, because new substances were being developed very rapidly and the present Convention must therefore be brought into force more speedily. He therefore formally proposed that the number should be 25.

46. Mr. KIRCA (Turkey) supported the Swedish proposal.

47. Mr. RENK (Switzerland), supported by Dr. BABAIAK (Union of Soviet Socialist Republics), suggested 40.

48. Mr. BIGAY (France), supported by Dr. JOHNSON-ROMUALD (Togo), suggested 30 as a compromise between that suggestion and the Swedish proposal.

49. Mr. CHENG (China)\* drew the Conference's attention to the fact that under article 41, paragraph 1, of the Single Convention, the instrument was to come into force on the thirtieth day, whereas the text of the draft Convention on Psychotropic substances specified the ninetieth day.

The meeting rose at 7.5 p.m.

**TWENTY-FOURTH PLENARY MEETING**

*Wednesday, 17 February 1971, at 9.15 p.m.*

*President: Mr. NETTEL (Austria)*

**AGENDA ITEM 11**

**Consideration of the revised draft Protocol on Psychotropic Substances adopted by the Commission on Narcotic Drugs, in accordance with Economic and Social Council resolution 1474 (XLVIII) of 24 March 1970 (continued)**  
(E/4785, chap. III)

**ARTICLE 22**

(ENTRY INTO FORCE) (continued)

1. Mr. HOOGWATER (Netherlands) said he disagreed with the Swedish representative (23rd meeting). The ratification of the Convention would not be made any easier if a mere twenty per cent of the membership of the United Nations was enough to bring into force all the obligations it entailed. Those obligations would place a considerable burden upon producing countries, which would only be willing to accept that burden if there was a larger number of ratifications.

2. His own preference was therefore for 55 ratifications, but he would be willing to compromise and accept 45.

3. Mr. TSYBENKO (Ukrainian Soviet Socialist Republic) urged the Conference to accept the figure of 40, which appeared in article 41 of the 1961 Single Convention on Narcotic Drugs.

\*See introductory note.

4. Mr. KUŠEVIĆ (Executive Secretary of the Conference) pointed out that the purpose of the Single Convention had been to consolidate in a unified instrument all the provisions of previous international narcotics treaties. The substances in question had already been under international control in 1961, when the Single Convention was adopted.

5. The position regarding psychotropic substances was different. The General Assembly, by its resolution 2433 (XXIII) of 19 December 1968, had invited the Commission on Narcotic Drugs and the Economic and Social Council "to give urgent attention to the problem of the abuse of the psychotropic substances", and had referred to Council resolutions 1293 (XLIV) and 1294 (XLIV), and to World Health Assembly resolutions WHA 18.47, WHA 20.42, WHA 20.43 and WHA 21.42, all of them "urging controls on psychotropic substances not yet under international control".

6. Dr. REXED (Sweden) said he would be prepared to agree with the French proposal (23rd meeting) to insert the word "thirty" in paragraph 1.

7. Mr. ASANTE (Ghana) and Mr. HUYGHE (Belgium) were in favour of the insertion of the word "forty", as in the Single Convention.

8. Mr. BROWN (Australia) said he agreed with the Executive Secretary as to the desirability of an early entry into force of the Convention. Since its effectiveness would depend on a sufficient number of ratifications, however, he would prefer the requirement that there should be 40 ratifications.

9. Mr. INGERSOLL (United States of America) pointed out that, under article 21, paragraph 1, the potential number of parties to the Convention was very large.

10. The insertion of a low figure in article 22, paragraph 1, would detract from the Convention's effectiveness. Moreover, if the Convention made a bad start, the result would be to discourage other ratifications. He agreed with those representatives who had spoken in favour of inserting "forty".

11. The PRESIDENT asked whether those delegations which had put forward a figure other than 40 wished to press their proposals.

12. Dr. JOHNSON-ROMUALD (Togo), Dr. REXED (Sweden) and Mr. HOOGWATER (Netherlands) said that they were prepared to agree to 40.

*Article 22 (E/4785, chap. III) was adopted, with the insertion of the word "forty".*

**ARTICLE 23**  
(TERRITORIAL APPLICATION)  
(E/CONF.58/L.35)

13. Dr. BABAIAN (Union of Soviet Socialist Republics), introducing his amendment (E/CONF.58/L.35) for the deletion of article 23 from the draft Convention, said that from the outset the Soviet Union had consistently pursued a policy based on the equality of peoples, regardless of race, nationality or religion. Soon after the October revolution of 1917, the USSR had terminated

all pre-existing unequal treaties with other countries and had constantly fought for the liberation of colonial peoples.

14. It was inadmissible that in the year 1971 a United Nations conference should include in an international Convention an article based on the admissibility of the colonial relationship. Article 23, as now framed, was in flagrant contradiction with the Declaration on the Granting of Independence to Colonial Countries and Peoples adopted by the General Assembly in its resolution 1514 (XV) of 14 December 1960. It should therefore be deleted from the draft.

15. Mr. ASHFORTH (New Zealand) said that the retention of article 23 in the Convention was a practical matter and not a political one. He therefore opposed the USSR amendment.

16. Mr. NIKOLIĆ (Yugoslavia) drew attention to foot-note 25 to article 23 (E/4785); his delegation had been one of those which had stressed that article 23 was unacceptable because it conflicted with the 1960 Declaration; the article was incompatible with the spirit of the times, and he strongly supported the proposal to delete it.

17. Mr. BOULBINA (Algeria) supported the USSR amendment. The 1960 Declaration on which it was based was sufficiently well known and it was therefore unnecessary for him to dwell upon it.

18. Mr. BEEDLE (United Kingdom) said that the United Kingdom needed article 23. It still had a number of dependent territories and, for constitutional and administrative reasons, the provisions of article 23 were necessary to enable the United Kingdom to defend the interests of those territories in applying the Convention.

19. All were agreed on the need to ensure the widest and the earliest possible application of the Convention. Article 23 was relevant in that connexion, because it would enable the United Kingdom to apply the Convention in those dependent territories which were ready for such application. If the provisions of article 23 were omitted, the process of consultation with those territories would involve substantial delays.

20. Article 23 contained safeguards which were in line with the 1960 Declaration. Its provisions were therefore not contrary to that Declaration. Since 1960, a number of conventions had been concluded which included an article on the lines of article 23; he could cite the 1961 Convention on the Reduction of Statelessness, the 1968 Convention on Road Traffic, the 1962 and 1968 International Coffee Agreements and the 1971 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. The most important precedent for the present purpose, however, was the 1961 Single Convention; its article 42 was identical in its provisions with article 23 now under discussion. It was significant that the Single Convention had been adopted only a few months after the 1960 Declaration.

21. In conclusion, he stressed that the matter was a purely practical one; the provisions of article 23 would help in the process of applying the Convention.

22. Miss BALENCIE (France) urged that article 23 should be retained. France was particularly interested in the provisions of that article, for it was anxious to apply the Convention to the non-metropolitan territories for whose international relations it was responsible. The Single Convention and a number of other international instruments contained provisions on the lines of article 23.

23. Dr. SADEK (United Arab Republic) said that his delegation fully supported the USSR amendment.

24. Mr. OVTCHAROV (Bulgaria) urged the deletion of article 23 with its utterly obsolete references to colonial dependencies.

25. Mr. ARCHIBALD (Trinidad and Tobago) urged the retention of article 23, which recognized the illogicalities of life. There still existed a small number of non-metropolitan territories, and article 23 should be included in the Convention to facilitate the defence of those territories' interests and of such status as they possessed. The inclusion of article 23 would not represent a denial of the principles embodied in the 1960 Declaration. It would simply constitute an acceptance of the facts as they existed at present.

26. Dr. JOHNSON-ROMUALD (Togo) said that the purpose of article 23 was to facilitate the application of the Convention in territories which were at present under colonial rule.

27. A number of countries participating in the Conference would not have been present if, some years ago, such countries as France and Belgium had not had the courage to accept the heavy task of decolonization. Those countries could not forget the peoples which were still under colonial rule, and particularly the African peoples under the Portuguese colonial yoke.

28. Although his delegation had always been prepared to co-operate in any practical arrangements to facilitate the broadest possible application of the Convention, it could not but regard article 23 with grave misgivings. It could not vote in favour of that article, because such a vote might give the impression that it could remain passive in the face of the existence of the anachronistic Portuguese colonial system. That system had been unanimously condemned by all the African countries. Since, however, the elimination of article 23 would leave a gap in the text of the Convention, his delegation had decided to abstain from voting on the article.

29. Mr. ASANTE (Ghana) said that his delegation rejected the practice whereby one country imposed its dominion over other countries beyond its borders. It viewed article 23 as a practical arrangement, however, and would therefore abstain from voting on it. Its inclusion in the draft would not affect his country's attitude towards the Convention as a whole.

30. Dr. BABAIAN (Union of Soviet Socialist Republics) pointed out that there existed a great many international treaties which did not contain the colonial clause. To speed up the work of the Conference, he would not press his amendment (E/CONF.58/L.35), but asked for a roll-call vote on article 23.

*At the request of the representative of the USSR, the vote on article 23 was taken by roll-call.*

*The Dominican Republic, having been drawn by lot by the President, was called upon to vote first.*

*In favour:* Dominican Republic, Federal Republic of Germany, Finland, France, Gabon, Guatemala, Guyana, Holy See, Honduras, Iran, Ireland, Italy, Japan, Monaco, Netherlands, New Zealand, Nicaragua, Norway, Panama, Paraguay, Republic of Korea, Rwanda, South Africa, Spain, Sweden, Switzerland, Trinidad and Tobago, Turkey, United Kingdom of Great Britain and Northern Ireland, United States of America, Australia, Austria, Belgium, Brazil, Canada, China,\* Costa Rica, Denmark.

*Against:* Hungary, India, Iraq, Lebanon, Pakistan, Poland, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, United Arab Republic, Yugoslavia, Algeria, Bulgaria, Byelorussian Soviet Socialist Republic.

*Abstaining:* El Salvador, Ghana, Greece, Liberia, Mexico, Thailand, Togo, Tunisia, Venezuela, Argentina, Burma, Cameroon, Chile, Congo (Democratic Republic of).

*The result of the vote was 38 votes in favour and 13 against, with 14 abstentions.*

*Article 23 (E/4785, chap. III) was adopted, having obtained the required two-thirds majority.*

31. Mr. CHENG (China),\* explaining his vote, said his delegation had voted in favour of article 23 in consideration of the situation of Hong Kong, which belonged to the category of territories covered by that article. The provisions of article 23 would make it possible for the authorities in Hong Kong to control psychotropic substances in the area. The omission of article 23 would have made such control impossible, and the impact would have been felt throughout the world.

32. Mr. KIRCA (Turkey), explaining his vote, said that his delegation had voted in favour of article 23 for two reasons. The first was that not all non-metropolitan territories were necessarily colonial territories.

33. The second reason was that, in the present state of positive international law on the subject—which, in the opinion of the Turkish Government, should be modified as soon as possible by the granting of independence to all colonies without exception—it was necessary to ensure the application of the Convention in those non-metropolitan territories, of the type mentioned in article 23, which were already sufficiently autonomous to take a decision on the matter themselves.

34. In that context, his delegation's affirmative vote could not be interpreted as in any way contrary to General Assembly resolution 1514 (XV), containing the Declaration on the Granting of Independence to Colonial Countries and Peoples. The Turkish Government, which had been one of the sponsors of that resolution, continued to be a strong supporter of the Declaration.

35. Dr. OLGUÍN (Argentina) said that his delegation had abstained from voting, because article 23 dealt with a problem whose settlement lay beyond the scope of the Convention's essential provisions.

36. It was true that article 23 reproduced a similar provision in the Single Convention, but it was essential

\* See introductory note.



to bear in mind the developments which had taken place, and the pronouncements that had been made by the highest international authorities, in the ten years which had elapsed since 1961.

37. The Conference was engaged in the formulation of a convention of general application which would make it possible to combine the efforts of the whole international community in the struggle against the abuse of, and illicit traffic in, psychotropic substances. In the circumstances, his delegation had felt that the introduction in article 23 of an additional provision covering only certain special cases in which the sovereignty of a territory was in dispute would perhaps not be acceptable to the majority of the other countries, not involved in the dispute.

38. In order, therefore, to facilitate the Conference's work and at the same time safeguard the inalienable territorial rights of Argentina, his delegation wished to place on record that, in view of the decision to include article 23, with its reference to "non-metropolitan territories", Argentina's accession to the Convention under consideration would be on the understanding, and subject to the reservation, that the application of the Convention to territories the sovereignty over which was in dispute between two or more countries—whether signatories to the Convention or not—must not be interpreted as a waiver or renunciation of the position which each of them had taken up to that time.

39. Mr. OVTCHAROV (Bulgaria) said that his delegation had voted against article 23 because its contents were contrary to the spirit of the present time; article 23 had no place in the present Convention.

40. Dr. GATTI (Holy See), explaining his vote, said that for nearly two thousand years the Holy See had carried on a continuous struggle to uphold human freedom and dignity. Unfortunately, however, there still existed certain situations in which, *ad pejora evitanda*, realities had to be taken into account. If article 23 were omitted from the Convention, certain peoples might have to live without any protection against the dangerous effects stemming from the abuse of psychotropic substances. For that reason, his delegation had voted in favour of article 23. In doing so, however, it wished to make clear its intense regret that there were still peoples which had not yet been able to decide their political status for themselves.

41. Dr. AZARAKHCH (Iran) said that his delegation had voted in favour of article 23, although it was a strong supporter of the 1960 Declaration. The reason was that some non-metropolitan territories unfortunately still existed and that the Convention should be applied to all such territories for whose international relations a party to the Convention was responsible.

42. Dr. BABAIAN (Union of Soviet Socialist Republics) said that his delegation had voted against article 23 because the provisions of that article ran counter to the spirit of the time. They were based on the recognition of colonialism.

43. There was an essential difference between the subject-matter of article 23 and that of 23 *bis*, and he reminded the Conference that the text of the latter article had

now been amended. That change made it all the clearer that the purpose of article 23 was to deal with colonial territories.

44. His delegation, which had always strongly opposed the inclusion in international conventions of articles dealing with colonial situations, had been disappointed to note that the newly independent countries had not unanimously opposed the retention of article 23.

45. Mr. BARONA LOBATO (Mexico) said that his delegation had abstained from voting for exactly the same reason as that indicated by the representative of Argentina, and it shared the reservation he had expressed.

46. Mr. MANSOUR (Lebanon), explaining his vote, said he could not accept the explanation given by certain delegations that article 23 was necessary for practical reasons. He would have preferred to hear those delegations announce that their countries had agreed to put an end to colonial situations, in compliance with United Nations decisions.

47. His own country, which had suffered in the past from foreign occupation, was strongly opposed to all forms of colonialism, and his delegation had therefore voted against article 23.

48. Mrs. NOWICKA (Poland) said her delegation had voted against the article because it did not consider that the provisions it contained had any place in an international instrument designed for the future.

49. Mr. SHIK HA (Republic of Korea) said he had voted for the article for the same reasons as those given by the representative of China.

50. Dr. JOHNSON-ROMUALD (Togo) said that his abstention from voting should be taken merely as an indication of the willingness of his Government to cooperate in implementing the provisions of the Convention. An abstention represented the maximum limit to which his Government was prepared to go on a matter relating to colonialism, and it was only prepared to go to that limit in the present context.

51. Mr. NIKOLIĆ (Yugoslavia) said he had been happy to vote against the article. It was regrettable that a colonial clause was to be included in an international treaty concluded in the twentieth century. He failed to understand some of the so-called explanations of vote; instead of explaining their vote for the article, many speakers had excused themselves by saying they were against colonialism.

#### ARTICLE 24 (DENUNCIATION)

52. The PRESIDENT said the Conference should decide how the blank space in paragraph 1 was to be filled. The term in the corresponding provision in the Single Convention was one of two years.

53. Dr. BABAIAN (Union of Soviet Socialist Republics), Mr. CHAPMAN (Canada), Mr. KOCH (Denmark) and Mr. INGERSOLL (United States of America) said that a term of two years in the present case would be satisfactory.

54. The PRESIDENT said that in the absence of any objection, he would assume that the Conference agreed to complete paragraph 1 of article 24 by inserting the word "two" in the blank space.

*It was so decided.*

55. Mr. NIKOLIĆ (Yugoslavia) requested that a separate vote should be taken on paragraph 1.

*Paragraph 1 of article 24, as amended, was adopted by 46 votes to 9, with 8 abstentions.*

*Paragraphs 2 and 3 of article 24 were adopted unanimously.*

*Article 24 as a whole (E/4785, chap. III), as amended, was adopted by 48 votes to none, with 16 abstentions.*

#### ARTICLE 25 (AMENDMENTS)

(E/CONF.58/L.32 and Corr.1, E/CONF.58/L.33)

56. Mr. BIGAY (France) said the purpose of the amendment submitted by the delegations of Canada, France, Turkey and the USSR (E/CONF.58/L.32 and Corr.1) was to bring the provisions of article 25 into line with the corresponding provisions of the Single Convention (article 47), which made no provision for amendments to be submitted to the General Assembly. The sponsors considered that, since the Convention had been drawn up by a special conference, any amendments to it must be adopted by a similar conference; it was not normal that a different type of body should be enabled to amend the Convention. Moreover, if provision was made for the General Assembly to adopt amendments to the Convention, a paradoxical situation would arise; amendments would be discussed by the representatives of States which were not parties to the Convention.

57. Mr. KRIEG (Federal Republic of Germany) said his delegation supported the amendment submitted jointly by the four delegations. The reason his delegation had submitted its own amendment (E/CONF.58/L.33) was that the national authorities in the Federal Republic of Germany would require some time in which to give force to the provisions of an amendment.

58. Mr. CHAPMAN (Canada) said he could endorse what the French representative had said.

59. Mr. ONODERA (Japan) said his delegation had had some difficulty with the provision in paragraph 3 (b) of the original text. The proposal of the four delegations fully met his delegation's concern, and he would be able to give it his whole-hearted support.

60. Mr. SVIRIDOV (Union of Soviet Socialist Republics) said that his delegation had co-sponsored the joint proposal for the reasons given by the French representative. It had, however, an additional reason, namely, that since article 40, paragraph 2, of the Vienna Convention on the Law of Treaties stipulated that any proposal to amend a multilateral treaty as between all the parties must be notified to all the contracting States, the provision in paragraph 3 (b) of the original draft Convention would place non-Members of the United Nations at a disadvantage.

61. Mr. KIRCA (Turkey) said his delegation supported the joint amendment, not only for the reasons given by the French representative, but also because it considered that paragraph 3 (b) of the original draft was contrary to the provisions of the Charter, particularly those of Articles 10, 11, 12 and 13.

62. Mr. WINKLER (Austria) said his delegation supported the joint amendment. He pointed out, however, that the wording used in the English version of the corrigendum (E/CONF.58/L.32/Corr.1) was not the same as that of the corresponding provision of the Single Convention.

63. The PRESIDENT said that, since the purpose of the joint amendment and the corrigendum thereto was to bring the provisions of article 25 into line with the corresponding provisions of the Single Convention, he thought it could be assumed that the intention of the corrigendum was that in paragraph 1 of the English text of the joint amendment the words "Any country" should be replaced by the words "Any Party".

64. Dr. OLGUÍN (Argentina) said that his delegation endorsed the views of the sponsors of the joint amendment, which it supported.

65. Mr. WATTLES (Legal Adviser to the Conference), explaining why paragraph 3 (b) had been included in the revised draft Protocol, said that the means adopted for amending narcotics treaties in the past was precisely protocols adopted by the General Assembly on the recommendation of the Council. Such protocols had twice been adopted as annexes to resolutions of the Assembly. That method was also expressly provided for in Article 62, paragraph 3, of the Charter, and it was only provided thereafter, in paragraph 4, that the Council might call a conference. Provision for the submission of amending treaties to the General Assembly had not been included in the Single Convention, but that was clearly a mistake, since the Single Convention could not purport to change the relationship between the Council and the Assembly established in the Charter itself. The provision in paragraph 3 (b) had been included to correct an obvious omission.

66. The PRESIDENT suggested that a vote should be taken first on the joint amendment. If it was adopted, it would be unnecessary to vote on the amendment proposed by the Federal Republic of Germany, since the joint amendment replaced the text of article 25 of the revised draft Protocol.

*The joint amendment (E/CONF.58/L.32 and Corr.1) was adopted by 57 votes to 1, with 4 abstentions.*

#### ARTICLE 26 (DISPUTES) (E/CONF.58/L.23, E/CONF.58/L.31)

67. Mr. ANAND (India) said the question of disputes had been considered in detail at the first special session of the Commission on Narcotic Drugs, and a number of delegations, including his own, had considered it wrong in principle to make reference of a dispute to the International Court of Justice compulsory. They had proposed a different wording for article 26, paragraph 2, the text of which was given in foot-note 28 to the revised

draft Protocol. His delegation was now proposing that that text should replace the present text of paragraph 2 (E/CONF.58/L.23).

68. His delegation considered it undesirable to impose solutions on Governments in fundamental disputes, since that could only lead to bitterness and increase administrative difficulties. Mutual trust and co-operation in the settlement of disputes must be encouraged. As at present worded, paragraph 2 conflicted with the notion of mutual co-operation in the settlement of disputes underlying the provisions of paragraph 1. Reference of a dispute to the Court should be permissive and by mutual consent. He hoped the Conference would not be swayed by political considerations, that it would consider his delegation's proposal on its merits and would vote for it.

69. Mr. KIRCA (Turkey) said that paragraph 2 as it stood was unacceptable to his delegation for the reasons given by the Indian representative. He could associate himself with the amendment proposed by the latter, but preferred the wording proposed by his own delegation (E/CONF.58/L.31), which was almost identical with that of the corresponding provision of the Single Convention (Article 48, para. 2).

70. The Turkish Government interpreted article 48, paragraph 2, of the Single Convention as meaning that reference to the International Court of Justice would be in accordance with the Statute of the Court, article 36 of which provided that reference of a dispute to the Court should be by mutual consent, or by acceptance by a State voluntarily of the compulsory jurisdiction of the Court in the disputes in question, in relation to any other State accepting the same obligation.

71. Mr. BOULBINA (Algeria) said that his Government had made a reservation regarding article 48 of the Single Convention, because it did not accept the jurisdiction of the Court. The problem of the Court's jurisdiction and of the difficulties it raised had been examined at length during the United Nations Conference on the Law of Treaties. Neither article 26 of the original draft nor the Turkish amendment, which he could not accept, would meet a situation in which the States parties to a dispute were not in agreement to refer it to the Court.

72. The Indian amendment was acceptable.

73. Mr. RASHED AHMED (Pakistan) said that article 26 ought to be considered from the purely practical angle. Surely the "judicial process" mentioned in article 26, paragraph 1, included reference to the Court. If, however, the parties had been unable to reach a settlement by any of the means listed in that paragraph, it was unrealistic to expect them to reach agreement to refer the matter to the Court. He supported the Turkish amendment.

74. Dr. BABAIAN (Union of Soviet Socialist Republics) said that, as his delegation had indicated at the first special session of the Commission on Narcotic Drugs, article 26 was unacceptable. It was clearly stated in the Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States in accordance with the Charter of the United Nations (General Assembly resolution 2625 (XXV)) that States should seek the settlement of international disputes by peaceful means of their own choice. The Indian amend-

ment was entirely consistent with that principle and he would support it. He would also support the Turkish amendment.

75. Mr. KIRCA (Turkey) said he would like to have the Legal Adviser's opinion on whether his amendment would permit a party to submit a dispute to the International Court of Justice unilaterally.

76. Mr. WATTLES (Legal Adviser to the Conference) said that the Turkish amendment was based on article 48, paragraph 2, of the Single Convention, which had been regarded as a compromise; and during its consideration in 1961 some such wording as "at the request of any one of the Parties" had been deleted because many delegations had felt that that deletion would make the text acceptable. The clause as finally adopted would have to be interpreted by the Court if a party made a unilateral application.

77. In his personal view, the preparatory work leading up to the adoption of that article indicated that there was an obligation on both parties to a dispute to submit it to the Court, but that a unilateral application would not be successful. Article 48, paragraph 2, of the Single Convention did not therefore, in his view, confer compulsory jurisdiction on the Court.

78. Mr. ARCHIBALD (Trinidad and Tobago) suggested that the substance of the Indian amendment was already contained in article 26, since it was implied by the words "judicial process" in paragraph 1.

79. Mr. KIRCA (Turkey) said that his Government interpreted article 48, paragraph 2, of the Single Convention in the same way as the Legal Adviser. The Turkish amendment did not signify that each party was bound to accept the jurisdiction of the Court, nor did it exclude the possibility of a party declaring its acceptance of the Court's compulsory jurisdiction in relations with other States which had already done the same. Alternatively, the parties would have to conclude a special agreement accepting the jurisdiction of the Court in accordance with article 36, paragraph 2, of its Statute.

80. In order to render his amendment quite clear, he proposed the addition, at the end thereof, of the words "in accordance with the Statute of the International Court of Justice".

81. Mr. BROWN (Australia) said he agreed with the Pakistan representative. After hearing the Legal Adviser's opinion, he now doubted whether the Turkish amendment was acceptable, and would therefore support the original text of paragraph 2.

82. The substance of the Indian amendment was already contained in paragraph 1, and it offered no solution if all the methods of settlement set out in that paragraph had failed.

83. Mr. INGERSOLL (United States of America) said he was opposed to the Indian amendment, which, being merely permissive, would render paragraph 2 of the article meaningless. The reference of a dispute to the Court must depend on agreement being reached by the parties. The original text of the paragraph imposed a clear obligation on the parties and gave backbone to the Convention.

84. Mr. BEEDLE (United Kingdom) said it would not be right in principle to deprive the parties of the right to have recourse to a court after the failure of the procedures in paragraph 1. He was opposed to the Indian amendment, which was a recipe for inaction.

85. The Turkish amendment had the merit of reproducing a provision from the Single Convention; but, as the Legal Adviser had indicated, that provision contained no indication as to how it could be made to work.

86. He preferred the text of the revised draft Protocol.

87. Mr. RENK (Switzerland) said he agreed with the previous speaker. His Government had always hoped that as many countries as possible would accept the compulsory jurisdiction of the Court, and the original text of paragraph 2 came closest to that aim. He would therefore support it.

88. Dr. BABAIAN (Union of Soviet Socialist Republics) pointed out that General Assembly resolution 2625 (XXV) had not existed in 1961, when article 48 of the Single Convention had been drawn up. The Turkish amendment was consistent with existing international instruments and an improvement on the original text.

89. The PRESIDENT said that the Indian amendment, being the furthest removed from the original, would be put to the vote first.

90. Mr. KIRCA (Turkey) asked for separate votes on paragraphs 1 and 2 of article 26.

*The Indian amendment (E/CONF.58/L.23) was rejected by 34 votes to 15, with 11 abstentions.*

*A vote was taken on the revised Turkish amendment (E/CONF.58/L.31).*

*The result of the vote was 28 in favour and 20 against, with 12 abstentions.*

*The revised Turkish amendment was not adopted, having failed to obtain the required two-thirds majority.*

*Paragraph 1 of article 26 was adopted by 61 votes to none, with 1 abstention.*

*Paragraph 2 of article 26 was adopted by 39 votes to 14, with 9 abstentions.*

*Article 26 as a whole (E/4785, chap. III) was adopted by 46 votes to 8, with 9 abstentions.*

91. Mr. INGERSOLL (United States of America) said he had voted in favour of paragraph 2 and of article 26 as a whole. He had abstained on the Turkish amendment, which had placed him in a dilemma. Its purpose was to secure the reference to the Court of disputes that could not be settled by other means. The policy of the United States Government was to encourage the making of binding agreements to submit to the Court disputes not settled by other means, but the Legal Adviser's opinion on the Turkish amendment seemed to run counter to that policy.

92. Mr. ANAND (India) said he had voted for paragraph 1, but against paragraph 2 and article 26 as a whole, because he was opposed to the unilateral submission of fundamental disputes to the Court. Disputes were best settled by both parties agreeing to go to the Court.

93. Mr. MANSOUR (Lebanon) said that recourse to the Court would be the ideal, but so long as the Court was unable to enforce its judgements it could not be effective. Disputes could not be solved without the parties' consent to the method chosen. He had abstained on paragraph 2, and had voted against article 26 as a whole.

94. Dr. BABAIAN (Union of Soviet Socialist Republics) said he had voted in favour of paragraph 1 but had opposed paragraph 2, which was quite unacceptable. Disputes must be settled by such peaceful means as were agreed to by the parties. Paragraph 2 in the original text was at variance with the Declaration contained in General Assembly resolution 2625 (XXV) and was retrograde. The International Court of Justice did not have great authority, and he personally, knowing how it arrived at its judgements, had no faith in it.

95. Mr. KOCH (Denmark) said that, although he had had some sympathy for the Turkish amendment, he had voted against it, after hearing the Legal Adviser's opinion.

96. The PRESIDENT put to the vote a motion for the adjournment of the meeting.

*The motion was adopted by 36 votes to 9, with 7 abstentions.*

The meeting rose at 12.20 a.m.  
on Thursday 18 February 1971.

## TWENTY-FIFTH PLENARY MEETING

Thursday, 18 February 1971, at 9.50 a.m.

President: Mr. NETTEL (Austria)

### AGENDA ITEM 11

**Consideration of the revised draft Protocol on Psychotropic Substances adopted by the Commission on Narcotic Drugs, in accordance with Economic and Social Council resolution 1474 (XLVIII) of 24 March 1970 (continued)**  
(E/4785, chap. III)

#### PREAMBLE

*(resumed from the 21st meeting and concluded)*  
(E/CONF.58/L.4/Add.9)

*The preamble, as reproduced in the report of the Drafting Committee (E/CONF.58/L.4/Add.9), was adopted.*

#### ARTICLE 1 (USE OF TERMS)

*(resumed from the 22nd meeting and concluded)*  
(E/CONF.58/L.4/Add.9)

1. Mr. NIKOLIĆ (Yugoslavia), Chairman of the Drafting Committee, explained that only sub-paragraphs (i), (k) and (l) had been re-worded by the Drafting Committee; the other sub-paragraphs had already been adopted by the Conference. The Conference was therefore called upon to take a decision only on those three sub-paragraphs.



2. Mr. KUŠEVIĆ (Executive Secretary of the Conference) pointed out that the wording of sub-paragraph (i) ("Manufacture") would be made clearer if the concluding words "in pharmacies" were deleted, because the meaning of the term "pharmacy" differed very widely from country to country.

3. Dr. BABAIAN (Union of Soviet Socialist Republics) said that the present wording of sub-paragraph (i) was very clear; he saw no need to delete the words "in pharmacies".

4. The PRESIDENT recalled that the second sentence of sub-paragraph (i) had been included following the adoption of an amendment submitted by the Belgian delegation (20th meeting). It was therefore not possible to delete the last two words without reconsidering a decision which the Conference had already taken.

5. Dr. JOHNSON-ROMUALD (Togo) said it would not be advisable to reopen the discussion on the second sentence at that late stage.

*Sub-paragraph (i) ("Manufacture") (E/CONF.58/L.4/Add.9) was adopted.*

*Sub-paragraphs (k) ("Region") and (l) ("Premises") (E/CONF.58/L.4/Add.9) were adopted.*

#### ARTICLE 2

(SCOPE OF CONTROL OF SUBSTANCES)

*(resumed from the 19th meeting and concluded)*

(E/CONF.58/L.4/Add.7-9)

*Paragraphs 1 to 6*

*Paragraphs 1 to 6 (E/CONF.58/L.4/Add.7) were adopted.*

*Paragraph 7*

6. Mr. NIKOLIĆ (Yugoslavia), Chairman of the Drafting Committee, said, with reference to foot-note 2, that the Drafting Committee (E/CONF.58/L.4/Add.8) had been unable to agree on another term to replace the word "circumstances".

7. The PRESIDENT invited the Conference to take a decision on the word "production" which appeared between square brackets in sub-paragraphs (a)(i), (b)(i), (c)(i) and (d)(i). He drew the Conference's attention to foot-notes 3 and 4 relating to those sub-paragraphs. It was his personal opinion that if the Conference decided to delete the definition of "production", it would not necessarily follow that the word could not be used in the Convention; the absence of a definition simply meant that the term did not have a special meaning for the purposes of the Convention, but it could very well be used in its ordinary meaning.

8. Mr. ANAND (India) pointed out that in the sub-paragraphs in which the term "production" appeared, it was used in relation to the obligation to require licences, and the licencing requirement should be imposed in respect of manufacture and not production. He therefore suggested the deletion of the word "production" in the four sub-paragraphs of paragraph 7 in which it appeared.

9. Mr. WATTLES (Legal Adviser to the Conference), in reply to a question by the Indian representative, said

that, in view of the decisions of the Conference, he saw no purpose in retaining the word "production".

*The word "production" in paragraph 7 was deleted.*

*Paragraph 7 (E/CONF.58/L.4/Add.8), as amended, was adopted.*

*Paragraphs 8 and 9*

*Paragraphs 8 and 9 (E/CONF.58/L.4/Add.9) were adopted.*

*Article 2 as a whole, as amended, was adopted.*

#### ARTICLE 10 (RECORDS)

*(resumed from the 11th meeting and concluded)*

(E/CONF.58/L.4/Add.9)

*New paragraph 5 bis*

*The new paragraph 5 bis of article 10 (E/CONF.58/L.4/Add.9) was adopted.*

*Article 10 as a whole, as amended, was adopted.*

ARTICLE 15 bis (MEASURES BY THE BOARD TO ENSURE THE EXECUTION OF PROVISIONS OF THE CONVENTION)  
*(resumed from 19th meeting and concluded) (E/CONF.58/L.4/Add.9)*

10. Dr. BABAIAN (Union of Soviet Socialist Republics) said he maintained his objections to article 15 bis (19th meeting).

*Article 15 bis (E/CONF.58/L.4/Add.9) was adopted.*

#### ARTICLE 27 (RESERVATIONS)

(E/CONF.58/L.28)

11. Mr. NIKOLIĆ (Yugoslavia) proposed that reservations should be allowed on article 23 (Territorial application).

12. Mr. BARONA LOBATO (Mexico), introducing his amendment (E/CONF.58/L.28), said that he wished to draw the attention of the Conference to the problem his country faced, which determined its position not only with respect to the article on reservations but with respect to the whole Convention. He would detail as briefly as possible the facts and the resulting internal legal situation as they affected his country from the constitutional point of view. Mexico could not accept article 6 as it was now drafted, because it would be very difficult for his country to comply strictly with the obligations set forth therein, at least for some time. There were in Mexico certain indigenous ethnic groups that used some well-known hallucinogenic mushrooms and the fruit of the cactus known as "peyote" in their magic or religious rites. He was referring in particular to a "Mazatec" indigenous group in the western Sierra Madre, numbering about 45,000, which had already been using hallucinogenic mushrooms in its religious rites before the Spanish conquest and had consistently followed that practice even after Mexican independence. It was interesting to note, moreover, that that religious rite had not so far constituted a public health problem, still less given rise to illicit traffic, and that the old Spanish chroniclers had only mentioned that the mush-

rooms in question produced drunkenness. Two other ethnic groups, each comprising about 7,000 individuals and living further north in the western Sierra Madre in very escarped and isolated areas, also harvested peyote tops, which contained the psychoactive principle of mescaline, for use in their initiation rites. It would clearly be extremely unjust to make the members of those tribes liable to penalties of imprisonment because of a mistaken interpretation of the Convention and thus add an inhuman punishment to their poverty and destitution. To remedy the situation of those ethnic groups, the Mexican Government had established programmes for drawing them into the life of the nation and the process of social and economic development. Those community development programmes related, in particular, to education, public health, agriculture and the utilization of natural resources, employment promotion, road construction and hygiene. It was hoped that those measures would result in the progressive disappearance of magic and religious rites which were harmful to the health of the population.

13. In the circumstances, his delegation urged other delegations to show a spirit of understanding, so that it could be agreed that the provisions of article 6 should not be applicable to the various Mexican species of psilocybine, or to peyote, and that they did not concern the magic and religious rites of the ethnic groups in question. It was not Mexico's intention to weaken the international and national control measures, and his country was prepared to co-operate in the solution of the problems arising for the international community from the non-medical use of the substances covered by the Convention; but, in view of its exceptional situation, it considered that the only form in which it could accept that instrument was with the reservation he had mentioned.

14. In addition, the present text would conflict with certain articles of the Mexican Constitution, which stipulated that all men were free to hold the religious beliefs of their choice and to practise the appropriate ceremonies or acts of devotion in places of worship or at home. Also, article 133 of the Mexican Constitution stated that only treaties which conformed with Mexican legislation could be signed and ratified. Consequently, the ethnic groups consisting of the Mazatecas, the Huicholes and the Tarahumaras could impugn the signing of the Convention by maintaining that it constituted a violation of the rights granted by articles 14 and 16 of the Mexican Constitution. In view of those considerations, he hoped that the members of the Conference would show goodwill in working out a satisfactory solution. To that end, he would be glad if the Legal Adviser to the Conference would give his opinion on the subject.

15. Mr. ANAND (India) proposed that reservations should be allowed on article 26 (Disputes).

16. Dr. DANNER (Federal Republic of Germany) proposed that reservations on paragraph 2 of article 15 *bis* should be allowed.

17. Dr. BÖLCS (Hungary) proposed that reservations on articles 15 *bis*, 23 and 26 should be allowed.

18. Dr. BABAIAN (Union of Soviet Socialist Republics), supported by Mr. TSYBENKO (Ukrainian Soviet Socialist Republic), said that, on the example of the 1961 Single Convention on Narcotic Drugs, reservations on article 26 and paragraphs 1 and 2 of article 15 *bis* should be allowed.

19. Dr. HOLZ (Venezuela) expressed the hope that reservations would be allowed with respect to the composition of the schedules.

20. Mr. KIRCA (Turkey) proposed that reservations on article 26 should be allowed.

21. Furthermore, for the article on reservations, he preferred the wording of article 50 of the Single Convention; he therefore proposed that article 27 should be amended to read as follows:

1. No reservations other than those made in accordance with paragraphs 2 and 3 of the present article shall be permitted.

2. Any State may at the time of signature, ratification or accession make reservations in respect of the following provisions of the present Convention:

.....

3. A State which desires to become a Party but wishes to be authorized to make reservations other than those made in accordance with paragraph 2 of this article may inform the Secretary-General of that intention. Unless by the end of twelve months after the date of the Secretary-General's communication of the reservation concerned, this reservation has been objected to by one third of the States that have ratified or acceded to this Convention before the end of that period, it shall be deemed to be permitted, it being understood however that States which have objected to the reservation need not assume towards the reserving State any legal obligation under this Convention which is affected by the reservation.

4. A State which has made reservations may at any time by notification in writing to the Secretary-General withdraw all or part of its reservations.

22. Mr. BEEDLE (United Kingdom) and Dr. BABAIAN (Union of Soviet Socialist Republics) supported the Turkish representative's proposal.

23. Mr. BROWN (Australia) expressed concern at the Turkish representative's amendment, which could have adverse consequences for the operation of the Convention. The Australian delegation was also opposed to proposals to permit reservations with regard to article 26 dealing with the settlement of disputes.

24. Mr. ASANTE (Ghana) said that the Mexican proposal raised an important issue, for it should be borne in mind that the Convention was intended not to protect human well-being but to correct a deplorable state of affairs.

25. Where an ancestral tradition was harmful, every possible effort should be made to eradicate it. A similar problem arose in Africa, and it would not be solved by adopting a text which would tend to give the impression that such practices were approved.

26. Mr. NIKOLIĆ (Yugoslavia) supported the Turkish amendment. Since the Committee on Control Measures had not considered article 27, being of the opinion that it had better be thoroughly studied by the Conference, it was quite natural that the article should be discussed at the present stage and that some delegations should propose amendments to it.

27. Mr. BEVANS (United States of America) supported the Mexican amendment. Substances used for religious services should be placed under national rather than international control. Nor was there any reason to believe that the rites in question served as a pretext for illicit traffic.
28. He supported the Turkish amendment. Paragraph 3 in its original form was much too rigid, since it was impossible for a State to know at the time of signature, ratification or accession what reservations it would have occasion to make later.
29. Mr. BARONA LOBATO (Mexico) accepted the Turkish amendment, without, however, withdrawing his own delegation's amendment.
30. If, for one reason or another, the Mexican amendment was not accepted, he would request that reservations on article 6 should be allowed.
31. Mr. KUŠEVIĆ (Executive Secretary of the Conference) pointed out that article 50 of the Single Convention enabled a State which became a party to it to make any reservation it desired. Such reservations were deemed to be permitted if, on the expiry of a period of twelve months, one third of the States had not objected. It seemed unlikely, however, that, within that twelve-months' time limit, which was really very short, one third of the States parties to the Convention, or some thirty countries, would actually formulate objections.
32. The Conference had discussed at length the right of partial acceptance, and it should not indirectly go back on the decision which it had taken on that subject.
33. Mr. KOCH (Denmark) said he had not been convinced by the arguments put forward by the Executive Secretary. He supported the amendment proposed by the Turkish delegation, for the following reasons.
34. In the first place, paragraph 3 of article 50 of the Single Convention was intended to encourage States to ratify the Convention as speedily as possible. States which were opposed to a multiplicity of reservations would hasten to ratify the Convention so as to be able to formulate objections in due course. States wishing to make reservations would hasten to ratify the Convention so that the number of States which might object to them was as small as possible.
35. Moreover, in view of the conditions in which the Conference had worked during the last few weeks, there could be no certainty that the text of the treaty was perfect in all respects.
36. He was prepared to support the Mexican proposal. The best course would be to adopt that text and to introduce it into article 27 as a separate paragraph.
37. As to the articles on which reservations would be allowed and which would be enumerated in paragraph 2 of article 27, he noted that the Federal Republic of Germany wished to include article 15 *bis* in the list. The fact was, however, that that article was an essential part of a compromise that had been reached. A State should only be allowed to make reservations on it if it renounced the right to invoke paragraph 7 of article 2.
38. Dr. REXED (Sweden) said that, although he shared some of the misgivings which had been expressed regarding the Turkish amendment, he was prepared to accept it.
39. He was opposed to the idea of allowing reservations on article 6, which dealt with the substances included in schedule I.
40. He supported the position taken by the Danish delegation on article 15 *bis*.
41. Dr. AZARAKHCH (Iran), Mr. ORTIZ OLALLA (Spain) and Mr. ANAND (India) supported the amendment proposed by the Turkish delegation.
42. Mr. HOOGWATER (Netherlands) said that he found the Mexican proposal interesting. In general, however, his delegation was opposed to reservations, because the Convention should impose the same obligations on all the parties.
43. The Turkish amendment represented an improvement on the original text, but it raised two problems. In the first place, paragraph 2 might encourage some countries to express reservations before ratifying the Convention. In the second place, it was difficult to agree that, so far as reservations were concerned, States which had acceded to the Convention should have more rights than those which had simply signed it.
44. Mr. CHAPMAN (Canada) said he had not had time to study the problems raised by the Netherlands representative. He agreed, however, that the text proposed by the Turkish delegation was preferable to the original one.
45. As to the question raised by the Mexican delegation, a similar situation arose in Canada, but on a much more limited scale. It seemed, however, that the problem was adequately dealt with by the text of the Convention as it stood. After all, the Convention related only to chemical substances and not to natural materials. In particular, it would apparently not apply to peyote, which was used by certain Indian tribes.
46. Mr. RENK (Switzerland) said he would vote in favour of the original text of article 27, for the reasons given by the Secretariat.
47. In addition, it seemed to him that the Single Convention, which went back to 1961, was quite out of date and that international law had made considerable progress since then. In particular, the Vienna Convention on the Law of Treaties of 23 May 1969 contained a whole section on reservations (part II, section 2), which countries could take as a guide for the interpretation of article 27.
48. Mr. KIRCA (Turkey) said that, on the contrary, it was precisely because the Single Convention was ten years old that it should inspire much more confidence than the Vienna Convention, which had not yet even entered into force.
49. In reply to the remarks of the Executive Secretary of the Conference, he recalled that the amendment proposed by his delegation enabled one third of the States already bound by the Convention to prevent a reservation from becoming effective. In addition, even if a reservation was accepted, a party which had rejected

it was not obliged to take it into consideration and it could not be invoked against such a party.

50. Mr. BOUZAR (Algeria) supported the statement just made by the representative of Turkey. In any case, the Vienna Convention, to which the Swiss representative had referred, recognized the possibility of making reservations regarding international treaties. At all events, it was better that States should accede to a treaty with reservations rather than not accede at all.

51. Dr. CORRÊA da CUNHA (Brazil) supported the Turkish and Mexican amendments.

52. Mgr. MORETTI (Holy See) observed that a convention should be universal in character. If exceptions were made in favour of certain ethnic groups, there would be nothing to prevent certain organizations of hippies from trying to make out, on religious grounds, that their consumption of psychotropic substances was permissible.

53. Mr. OBERMAYER (Austria) supported the Turkish amendment and associated himself with the reservations expressed by the Federal Republic of Germany regarding paragraph 2 of article 15 *bis*.

54. Dr. BABAIAN (Union of Soviet Socialist Republics) said he had been very surprised at the statement made by the Executive Secretary. An unduly strict wording would make ratification more difficult. Moreover, the Turkish amendment was based on legal considerations which had been stated very pertinently by the Turkish representative.

55. In his view, the Convention should permit reservations on the provisions of article 26 and on those of paragraphs 1 and 2 of article 15 *bis*.

56. Mr. KUŠEVIĆ (Executive Secretary of the Conference) stressed once again that the period of one year during which objections could be formulated against a reservation seemed to him unduly short. It was very improbable that twenty-three countries would formulate objections within that period. The result would be that all reservations would be accepted.

57. Mr. BIGAY (France) said that his delegation was opposed to any reservation being made on article 6. The text of that article was a basic one, since it dealt with the substances included in schedule I and contained very strict provisions regarding those substances.

58. Mr. BARONA LOBATO (Mexico) explained that his delegation would be satisfied if, in the Turkish amendment, a provision were introduced which would facilitate ratification of the Convention by the Mexican Government.

59. Mr. KIRCA (Turkey) proposed the insertion in the text of his amendment of a new paragraph 4 reading as follows:

4. Parties on whose territory there are plants growing wild which contain psychotropic substances from among those listed in schedule I and which are traditionally used by certain small, clearly determined groups in magical or religious rites, may, in accordance with paragraph 2 of the present article, make reservations concerning these plants, in respect of the provisions of article 6, except for the provisions relating to international trade.

60. Mr. BARONA LOBATO (Mexico) said that he was glad to accept the Turkish representative's proposal, although he saw no need to mention international trade, of which there was none and which his Government would certainly not think of tolerating.

61. Dr. BABAIAN (Union of Soviet Socialist Republics) asked for a separate vote on paragraph 4 of the Turkish amendment.

62. Mr. BROWN (Australia) asked for a separate vote also on paragraph 3 of that amendment.

63. Mr. KOCH (Denmark) proposed the insertion, after the reference to paragraph 15 *bis*, of a passage on the following lines:

on the understanding that a Party making reservations, whether for the whole of its territory or for a region thereof, concerning the provisions of the present article shall not be entitled to invoke the provisions of article 2, paragraph 7.

64. Mr. NIKOLIĆ (Yugoslavia) and Mr. ANAND (India) supported that proposal.

65. The PRESIDENT noted that the question was one of substance and consulted the Conference to ascertain whether it was prepared to reopen the debate on article 27 with regard to that point.

*The Conference decided, by 35 votes to 9, with 16 abstentions, not to reopen the debate on article 27.*

66. The PRESIDENT said that, if the Conference decided to mention article 15 *bis* as a whole, it might not be necessary to mention separately paragraphs 1 and 2 of the article.

67. After a discussion in which Mr. OVTCHAROV (Bulgaria), Mr. ARCHIBALD (Trinidad and Tobago), Mr. KIRCA (Turkey) and Dr. BABAIAN (Union of Soviet Socialist Republics) took part, Dr. URANOVICZ (Hungary) withdrew his proposal to mention article 15 *bis* as a whole.

*Paragraph 3 of the Turkish amendment was adopted by 48 votes to 4, with 9 abstentions.*

*The new paragraph 4 of the Turkish amendment was adopted by 41 votes to 3, with 17 abstentions.*

*Paragraphs 1, 2 and 5 (the former paragraph 4) of the Turkish amendment were adopted by 53 votes to none, with 8 abstentions, subject to the decision regarding the articles of the Convention in respect of which reservations would be allowed under paragraph 2.*

*The Conference decided by 29 votes to 5, with 26 abstentions, to mention paragraphs 1 and 2 of article 15 *bis* in paragraph 2 of article 27.*

*The Conference decided by 22 votes to none, with 35 abstentions, to mention article 23 in paragraph 2 of article 27.*

*The Conference decided by 16 votes to 8, with 36 abstentions, to mention article 26 in paragraph 2 of article 27.*

*Article 27 as a whole, as amended, was adopted by 52 votes to none, with 9 abstentions.*

68. Mr. CHAPMAN (Canada) said he had voted against the adoption of paragraph 4 of article 27 because it introduced into the Convention a reference to plants



containing psychotropic substances included in schedule I, contrary to his delegation's wishes.

#### ARTICLE 28 (NOTIFICATIONS)

69. The PRESIDENT, after thanking the representative of Turkey for undertaking to complete the wording of article 28 as given in the revised draft Protocol, pointed out that the text submitted to the Conference for its approval was a verbatim reproduction of the text of article 51 of the Single Convention, except for the following changes: the end of the opening sentence and of sub-paragraph (a) read "article 21"; the end of sub-paragraph (b) read "article 22"; the end of sub-paragraph (c) read "article 26"; the end of sub-paragraph (d) read "articles 23, 23 bis, 25 and 27". In addition, in the concluding paragraph, "New York" had been replaced by "Vienna", and the date of signature would be specified as soon as possible.

70. Mr. NIKOLIĆ (Yugoslavia) proposed that the date of signature should be given as Sunday, 21 February 1971, so as to enable representatives to make their preparations for departure.

*It was so agreed.*

*Article 28, as thus amended, was adopted.*

71. Dr. BABAIAN (Union of Soviet Socialist Republics) said that his delegation maintained in any case the observations it had made regarding the preamble, article 15 bis and article 21.

The meeting rose at 12.50 p.m.

### TWENTY-SIXTH PLENARY MEETING

*Thursday, 18 February 1971, at 5.25 p.m.*

*President: Mr. NETTEL (Austria)*

#### AGENDA ITEM 11

**Consideration of the revised draft Protocol on Psychotropic Substances adopted by the Commission on Narcotic Drugs, in accordance with Economic and Social Council resolution 1474 (XLVIII) of 24 March 1970 (continued) (E/4785, chap. III)**

1. The PRESIDENT announced that the Drafting Committee had completed its work on the articles of the Convention. He paid a tribute to the Chairman and members of that Committee for their contribution to the success of the Conference.

#### SCHEDULES I-IV (E/CONF.58/L.47)

2. Dr. REXED (Sweden), Chairman of the Technical Committee, introducing the Committee's report on

schedules I, II, III and IV (E/CONF.58/L.47), said that the Technical Committee had considered carefully the various substances included in the four schedules of the revised draft Protocol (E/4785, chap. III). It had discussed at length, for each substance, its dependency-producing characteristics, its uses and the extent of its misuse.

3. After the final adoption by the Committee on Control Measures of the provisions relating to the scope of control of psychotropic substances, the Technical Committee had reviewed the schedules once more. It had then taken its final decision on the placing of the various substances in the schedules with due regard for the manner in which the Convention would operate in future in respect of each schedule.

4. The list of substances in schedule I, as adopted by the Technical Committee, did not differ from the list in the revised draft Protocol. After considerable discussion, the Committee had decided to retain all the isomers of tetrahydrocannabinol, although only one of those isomers (mentioned in the foot-note to schedule I) had been proved to have hallucinogenic properties; the majority of the Committee had felt that all the others should be included as well, in view of the likelihood that they might have similar properties.

5. Schedule II listed six substances: the five in the revised draft Protocol and phencyclidine, which the Committee had added.

6. For schedule III, the Committee had accepted the list in the revised draft Protocol and had rejected the proposal to add a number of substances mentioned in the foot-note to that schedule.

7. The various substances listed in schedule IV of the revised draft Protocol had been thoroughly examined and three of them had been removed from the list: aminorex, chlordiazepoxide and diazepam. A table was appended to the report showing, for each of the eleven substances included in schedule IV and the three that had been removed, the number of votes cast for retention and for deletion, and the number of abstentions. Opinion had thus been divided, but the resulting list was perhaps the best that could be arrived at.

8. He wished strongly to emphasize that the lists were not final. The substances included in them would serve as models for the subsequent addition, through the procedures laid down in the Convention, of other substances having similar characteristics.

9. It had been brought to his attention that, according to the Director of the United Nations Laboratory, it might be desirable to add to the schedules a note on the following lines: "All salts of substances included in these schedules shall be subject to the same control measures as the substances themselves".

10. It was difficult to see how a large assembly could usefully reopen the discussion on the individual substances included in the schedules by a Committee which comprised all the technical talent present at the Conference. He therefore suggested that the Conference should consider the schedules one by one, as groups.

11. The PRESIDENT expressed the Conference's warm appreciation of the valuable work done by the Technical Committee.
12. Dr. JOHNSON-ROMUALD (Togo) expressed appreciation of the leadership given to the Technical Committee by its Chairman and by Dr. Bölcs (Hungary), its Vice-Chairman.
13. The Technical Committee had achieved the best possible results in carrying out its delicate functions, and little purpose would be served by reopening the discussion on each substance in plenary.
14. He therefore proposed that the Conference should deal successively with each schedule *en bloc*.
15. Dr. DANNER (Federal Republic of Germany) supported that proposal.
16. Dr. BABAIAN (Union of Soviet Socialist Republics) said it would be a mistake to reopen the discussion on each substance; the Technical Committee had made two careful examinations of the schedules.
17. In reply to a question by Mr. INGERSOLL (United States of America), Dr. JOHNSON-ROMUALD (Togo) explained that if his proposal was adopted, speakers could, in the course of the discussion on each of the schedules, state any objection they might have to the inclusion of a substance in that schedule.
18. In reply to a question by Dr. ALAN (Turkey), the PRESIDENT said that it would also be in order for a speaker to object to the exclusion of a substance from the schedules.
19. Dr. REXED (Sweden), Chairman of the Technical Committee, said that it would not, however, be a practical proposition to consider at the present meeting proposals for the inclusion of new substances in the schedules. Any delegation could suggest such changes in future to the WHO Expert Committee on Drug Dependence.
20. The Technical Committee had consisted of the representatives of the 25 countries that had asked to send experts to it. Every opportunity had been given to the other delegations to send observers to the Committee to submit evidence.
21. Dr. MABILEAU (France) said he had closely followed the first review of the schedules by the Technical Committee and, as Chairman of the Committee on Control Measures, he had been present at the second review, made in the light of the decisions taken on the control-measures provisions. He felt that it would be most unwise to try to go over the whole ground again in plenary.
22. Dr. WALSHE (Australia) said that her delegation wished to make some general comments on the schedules.
23. With the exception of the addition of phencyclidine to schedule II, no change had been made to the lists of substances included in schedules I, II and III in the revised draft Protocol. Phencyclidine had appeared in schedule IV of that draft, but the Technical Committee had first moved it to schedule I because of its dangerous character, and had finally placed it in schedule II.
24. Her delegation had no objection to the listing of any of the substances now included in schedules I, II or III, but was of the opinion that there was enough evidence to warrant the inclusion of other substances, particularly other intermediate and short-acting barbiturates (mentioned in the foot-note to schedule III in the Technical Committee's report) and possibly other central-nervous-system stimulants. Her delegation's proposal in that connexion (E/CONF.58/C.3/L.4) had not, however, been accepted by the Technical Committee. Rather than delay the proceedings of the Conference by raising the matter at the present stage, her delegation would refer the proposal to WHO for further consideration.
25. So far as schedule IV was concerned, her delegation had no objection to the inclusion of any of the substances listed therein, but believed that certain further substances should be added.
26. Her delegation would comment on individual items and schedules if and when they came up for discussion.
27. Dr. BABAIAN (Union of Soviet Socialist Republics) urged the Conference to adopt the procedure proposed by the representative of Togo; it was not possible to go into any details at the present stage. The Technical Committee had been open to any delegation wishing to make comments during its proceedings.
28. Mr. VALDES BENEGAS (Paraguay) said that, speaking as a toxicologist with thirty years' experience, he could say that the Conference would meet with grave difficulties if it tried to discuss proposals for the reintroduction of substances in the schedules.
29. Mr. HOOGWATER (Netherlands) expressed support for the procedure proposed by the representative of Togo.
30. Dr. ALAN (Turkey) asked whether it would be possible to consider proposals for the transfer of a substance from one schedule to another.
31. Mr. KUŠEVIĆ (Executive Secretary of the Conference) pointed out that the Convention made provision for machinery for amending the schedules through the Commission on Narcotic Drugs. Since the Convention would not enter into force for some time, there would be ample opportunity to propose such amendments before it did so.
32. He would therefore suggest that no proposals should be made for additions to the schedules.
- The procedural motion of Togo was adopted by 58 votes to none, with 3 abstentions.*
- Schedule I*
33. Dr. REXED (Sweden) proposed that schedule I be adopted as it stood.
34. Dr. BABAIAN (Union of Soviet Socialist Republics) supported that proposal.
35. Mr. INGERSOLL (United States of America) said that he also supported that proposal, but wished to place on record his delegation's view regarding a suggestion made by it to the Technical Committee but not accepted by the majority.
36. There existed a very large number of isomers of tetrahydrocannabinol, and something was known about the effects on animals of a few of them, and about the

effects on man of only one (mentioned in the foot-note to schedule I), which it was therefore appropriate to include in schedule I. In the absence of evidence, the others should not have been included in that schedule, and his delegation would in due course raise the matter in the Commission on Narcotic Drugs.

37. Dr. JOHNSON-ROMUALD (Togo) said that the Technical Committee's decision on the subject had been taken by a large majority. It had been felt that all isomers of tetrahydrocannabinol should for the time being be placed in schedule I; if more information became available later and warranted the exclusion of some of them, the Commission on Narcotic Drugs could then take appropriate action.

38. Mr. CHAPMAN (Canada) associated himself with the remarks of the United States representative.

39. Dr. DANNER (Federal Republic of Germany) said that there were 32 isomers of tetrahydrocannabinol. Only one was known to have properties that justified placing it in schedule I. Since little was known concerning the other isomers of tetrahydrocannabinol, he urged that WHO should encourage research on them.

40. Dr. REXED (Sweden), Chairman of the Technical Committee, said that that discussion provided a good illustration of the uselessness of trying to consider each substance separately. One of the isomers of tetrahydrocannabinol had been proved to be a dangerous hallucinogen; and, since there was every likelihood that the others had the same properties, the WHO Expert Committee on Drug Dependence had recommended the inclusion of all those isomers in schedule I. If later experience showed that one or other of those substances was not dangerous, or had some therapeutic use, the Commission on Narcotic Drugs could take action accordingly.

41. The Technical Committee's decision on the subject had been taken on the basis of the knowledge at present available.

42. Speaking as representative of Sweden, he moved the closure of the debate on schedule I.

*The Swedish motion was adopted.*

*Schedule I (E/CONF.58/L.47) was adopted by 59 votes to none, with 2 abstentions.*

#### *Schedule II*

43. Dr. REXED (Sweden), Chairman of the Technical Committee, explained that the five substances listed in schedule II of the revised draft Protocol had been repeatedly recommended for inclusion in that schedule. The Technical Committee had added phencyclidine, a dangerous substance with limited veterinary uses.

44. Dr. JOHNSON-ROMUALD (Togo) explained that phencyclidine, originally appearing in schedule IV, had at first been placed in schedule I by the Technical Committee at the request of Canada, but had been moved to schedule II when the United States representative had drawn attention to its veterinary uses.

45. He moved the closure of the debate on schedule II.

*The motion of the representative of Togo was adopted.*

*Schedule II (E/CONF.58/L.47) was adopted by 61 votes to none.*

#### *Schedule III*

46. Dr. REXED (Sweden), Chairman of the Technical Committee, drew attention to the foot-note, which listed seven substances which had been proposed for inclusion in schedule III, but which it had been decided not to include. In accepting the Technical Committee's proposal as it stood, he thought it would be wise for the Conference to realize that other substances would inevitably be moved into the schedule in the not-too-distant future.

47. Mr. SHIK HA (Republic of Korea) said his delegation had been in favour of including the seven substances listed in the foot-note to the schedule.

48. Mr. BEEDLE (United Kingdom) said he would abstain in the vote on schedule III, because the question of placing barbiturates under stricter control in the United Kingdom was being studied by his Government, and consultations with the medical profession and other interests would not be completed for some time; at the present stage, his Government's attitude was entirely reserved.

49. Dr. WALSHE (Australia) said it had been the Australian delegation which had proposed the inclusion of the seven substances listed in the foot-note to the schedule. Her delegation would not waste the time of the Conference by pursuing the subject further at the present stage; it intended, however, to refer the matter to WHO. She would vote for schedule III, although the omissions from it made her dissatisfied with its contents.

50. Mr. HOOGWATER (Netherlands) said his delegation would abstain in the vote, because the substances in question were no real problem in the Netherlands, and the competent experts did not consider that the substances presented the kind of danger requiring the type of control envisaged.

*Schedule III (E/CONF.58/L.47) was adopted by 59 votes to none, with 3 abstentions.*

#### *Schedule IV*

51. Mr. CHAPMAN (Canada) said his delegation was disappointed at the list of substances selected by the Technical Committee for inclusion in schedule IV, which appeared to have no logical basis. He was particularly concerned at the deletion of chlordiazepoxide and diazepam, both of which appeared to meet the criteria for inclusion. Those two drugs were considered in Canada to be adult drugs, and their deletion from schedule IV would be interpreted by Canadian youth as an act to protect the interests and wishes of the adult population. Moreover, since the whole drug problem was currently under review in Canada, the removal of those substances from schedule IV might well disserve the competent authorities in the eyes of the young, the very people the Conference was trying to help.

52. As all were aware, the 18 drugs originally listed in schedule IV had been included on the recommendation of the WHO Expert Committee on Drug Dependence, which had qualified them as "drugs about which the evidence supporting a recommendation for control was

judged clear and unequivocal".<sup>24</sup> Those were the findings of the body whose assessments under the terms of the draft Convention (article 2, para. 5) "shall be determinative as to medical and scientific matters", and yet the Technical Committee had decided to delete the two substances he had mentioned. It would appear that more weight had been given to "the economic, social, legal, administrative and other factors" than to the medical and scientific aspects. The result was that the Convention would have a schedule IV which was illogical and which, in consequence, had lost much of its value, thus diminishing the value of the instrument as a whole.

53. Dr. OLGUÍN (Argentina) said he had been in favour of the schedule as it appeared in the original draft. He was concerned at the deletion of some of the substances originally listed, for in his opinion it reduced the value of the schedule. He would, however, vote for the schedule as proposed by the Technical Committee, which he believed represented the best compromise that could be achieved.

54. Mr. INGERSOLL (United States of America) said he wished to make it very clear that his delegation accepted the need for a schedule IV. It considered, however, that the original list of substances as given in the draft Protocol was better than the list proposed by the Technical Committee.

55. It had been clear from the discussions at the Conference that most delegations were in favour of a graduated scale of control measures based on the categorization of substances according to the danger they represented and their medical utility. Schedule IV provided a stage between schedule III and no control at all, and in his view should cover substances that were suspect and required watching. The surveillance made possible by inclusion in the schedule would allow statistics to be gathered and trends in manufacture and trade to be recognized, and that could lead to more definitive information on abuse. Substances considered for inclusion in the schedule would not be those presenting the hazards of drugs in the higher schedules.

56. In spite of well-developed laboratory techniques for measuring some aspects of the abuse syndrome, it was still not always possible to predict with certainty which drugs actually would be abused and to what extent. A pattern of abuse was often not apparent until a drug had been in medical use for a number of years. Controlling a drug in schedule IV according to the criteria adopted by the Conference would have the additional benefit of alerting medical practitioners to its abuse hazards and would encourage, and to some extent require, them to be more careful in their prescribing. Schedule IV might in many ways prove to be the most important and it would certainly be the most controversial, as the vote in the Technical Committee had already demonstrated.

57. The criteria adopted by the Conference for the inclusion of substances in the schedule were scientifically valid and were capable of practical application. Because the substances being placed in the different schedules at the

present stage would serve as prototypes for the test of similarity of abuse and ill-effects, it was of particular importance that the criteria should be applied in an objective manner. In placing substances in the various schedules, the Conference would be performing the task it had assigned to the Commission, and its decisions should be taken with the same deliberation and with the application of the same criteria it had prescribed for that body in the Convention.

58. As to the substances proposed by the Technical Committee for inclusion in schedule IV, he endorsed the views of the Canadian representative.

59. Dr. WALSHE (Australia) said that she, too, supported the views expressed by the Canadian representative, although she did not agree that the two substances he had mentioned were of interest only to the older age groups; young people were also abusing them, possibly because of the example being set by adults. She wished to stress the fact, moreover, that the inclusion of a substance in schedule IV would not in any way restrict medical prescribing of that substance.

60. The deletion of chlordiazepoxide and diazepam from the schedule seemed to have been due to a change of attitude on the part of some delegations between the first and second consideration of schedule IV by the Technical Committee. Yet no new pharmacological data or information on social factors had come to hand in the interval to justify such a change. The reasons for it therefore seemed to be of a pharmaco-political or pharmaco-sociological nature. She wondered, incidentally, why votes had been recorded for the substances in schedule IV, but not for those in the other schedules, either in the Technical Committee or in the Committee on Control Measures.

61. She formally proposed that chlordiazepoxide and diazepam should be added to the list of substances in schedule IV.

62. Mr. CERECEDA ARANCIBIA (Chile) said that, not being a member of the Technical Committee, his delegation had not taken part in the Committee's decisions to delete chlordiazepoxide and diazepam from schedule IV. Those two benzodiazepines, however, did not constitute typical or model psychotropic substances, and the Technical Committee's decisions were fully in accordance with the provision of article 2, paragraph 4. Moreover, there was no evidence that either of them had given any rise to significant public-health or social problem or had led to any considerable abuse. No dangerous dependence-producing liability had been established. In Chile, the official pharmacopia included the two benzodiazepines in question, and no cases of dependence had been reported by the medical profession, despite the extended use made of those substances in psychiatric treatment.

63. His country had established a strict control over those psychotropic substances which were really dangerous; the control measures included the absolute prohibition of hallucinogens. Chile was a party to the 1961 Single Convention on Narcotic Drugs and to all the previous international narcotics treaties, which it applied most strictly. It was not a producer of medicaments, and

<sup>24</sup> World Health Organization, *Technical Report Series*, 1970, No. 437, sect. 4.3.



the preparations produced in State and private laboratories were derived from imported raw materials.

64. The Chilean medical profession was strongly of the opinion that there was no justification for applying international control to the benzodiazepines, which had been so widely used for over ten years throughout the world in psychiatric therapy. Compulsory medical prescription had provided a sufficient safeguard.

65. In conclusion, he urged the adoption of schedule IV as proposed by the Technical Committee after careful study.

66. Dr. PENGSRITONG (Thailand) said he had attended the meeting of the WHO Expert Committee on Drug Dependence which had resulted in that body's seventeenth report. While he appreciated the fact that the proposals of the Technical Committee were by and large comparable to those of the Expert Committee, he was very concerned at the deletion of chlordiazepoxide and diazepam from schedule IV, since those substances were already causing a dependence problem in his country. He thought the two substances should be included in schedule IV, not only because they were likely to give rise to an abuse problem in the very near future, but also because they were as dangerous as meprobamate, which had been included in the schedule, and would without doubt replace it in abuse if left uncontrolled.

67. Dr. MABILEAU (France) said he would vote for the Technical Committee's proposal for schedule IV, although he shared the view of preceding speakers about the deletion of chlordiazepoxide and diazepam. The decision of the Technical Committee in respect of those two substances was difficult to understand, when meprobamate had been left in the list.

68. Dr. ALAN (Turkey) said he shared the views of the representatives of Canada, Argentina, the United States of America, Australia, Thailand and France. He was extremely sorry that chlordiazepoxide and diazepam were not to be included in schedule IV, particularly since they were already causing abuse problems.

69. Dr. HOLZ (Venezuela) said he would vote for schedule IV, although he was not very happy about its composition. The deletion of chlordiazepoxide and diazepam would have repercussions, particularly since other, no more dangerous, substances had been included.

70. Dr. THOMAS (Liberia) said it was very difficult to establish schedules under limitative criteria, and he thought the Technical Committee's proposals for schedule IV must be accepted as the best possible in the circumstances. Like previous speakers, however, he regretted the deletion of chlordiazepoxide and diazepam; it made him wonder whether the Conference was indeed meeting to protect mankind.

71. He moved the closure of the debate.

*The motion of closure of the debate was carried by 59 votes to 1, with 1 abstention.*

*Schedule IV (E/CONF.58/L.47) was adopted by 54 votes to 3, with 4 abstentions.*

72. Dr. BERTSCHINGER (Switzerland) said he had not been a member of the Technical Committee, and he

regretted that no records had been made of that body's discussions. It would have been useful to know the reasons behind the deletion of certain substances. He appreciated the need for economy, but economy in that instance was wrong.

73. The PRESIDENT observed that the rules of procedure of the Conference, which had been adopted unanimously, made provision (rule 57) only for summary records of plenary meetings and for minutes of meetings of the General Committee and the Committee on Control Measures.

74. Mr. BEEDLE (United Kingdom) said that, although his delegation was in favour of retaining schedule IV as part of the structure of the Convention, it had voted against the proposals of the Technical Committee because it was not convinced that there was sufficient evidence that the substances were being or were likely to be abused so as, in the words of article 2, "to constitute a public health and social problem warranting the placing of the substance under international control". He agreed with the representative of Switzerland that it was unfortunate that the discussions of the Technical Committee had not been reported any more fully than those of the WHO Expert Committee which had first prepared the provisional lists for the schedule in 1969; it was important that the reasons for placing substances under international control should be clearly and fully recorded so as to ensure the reliability of the decision-making process and to safeguard both the authority of the international organizations and the interests of parties.

The meeting rose at 7.35 p.m.

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## TWENTY-SEVENTH PLENARY MEETING

*Thursday, 18 February 1971, at 9.5 p.m.*

*President: Mr. NETTEL (Austria)*

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### AGENDA ITEM 11

**Consideration of the revised draft Protocol on Psychotropic Substances adopted by the Commission on Narcotic Drugs, in accordance with Economic and Social Council resolution 1474 (XLVIII) of 24 March 1970 (continued)**  
(E/4785, chap. III)

**SCHEDULES I-IV (concluded)**  
(E/CONF.58/L.47)

1. Mr. INGERSOLL (United States of America), explaining his delegation's vote on schedule IV, said that it had abstained because of the schedule's illogical composition. To exclude the benzodiazepines while including meprobamate was, he believed, a serious mistake. In the United States, long and extensive hearings with dozens of expert witnesses, all under skilled cross-examination, had adduced clear evidence of dependence

on chlordiazepoxide and diazepam, with an abstinence syndrome of the barbiturate type, the effects and characteristics produced being euphoria, drowsiness, ataxia, increased dosage, impairment of judgement and motor co-ordination and other manifestations of central-nervous-system disturbance, in addition to conjunctive use with LSD and amphetamines. The independent hearing examiner had recommended that the two substances should be controlled. Similar public-health and social problems in connexion with those drugs existed, he believed, in other countries too. The evidence gathered in the United States had been presented at a public hearing, and the record of the findings had been published in the *Federal Register*. On 8 February 1971, a final rule had been issued, placing the two substances under stricter control, thus bringing them into line with meprobamate. That had been done even though both were high on the list of frequently prescribed drugs (though they had had warning labels for several years), and notwithstanding the fact that their total sales in 1969 had exceeded \$150 million. The decision to move for stricter controls had been based solely on the risk to public health and the degree of abuse. The United States delegation, therefore, took strong exception to the Technical Committee's decision.

2. Dr. DANNER (Federal Republic of Germany) explained that his delegation had abstained in the vote on schedule IV for reasons with which the Conference was now familiar.

3. Dr. HOLZ (Venezuela) explained that his delegation had voted for the Technical Committee's report (E/CONF.58/L.47) on schedule IV in the interests of public health, but it deplored the fact that no provision had been made for precursors, the most important of which was undoubtedly lysergic acid, because it was so very easily convertible into LSD. The Conference had thus prepared the way for a paradoxical situation in which there might in the future be large licit transactions in lysergic acid. He hoped that lysergic acid would be kept under observation internationally.

4. Mr. OBERMAYER (Austria) explained that he had abstained from voting because phenobarbital had been included in schedule IV. It was widely used in Austria in the treatment of epilepsy and was combined with other drugs in many preparations for treating other diseases. The risk of dependence was very slight.

5. Dr. REXED (Sweden), Chairman of the Technical Committee, said that the Technical Committee had intended to include a foot-note to each of the schedules, as had been done in the 1961 Single Convention on Narcotic Drugs, stating that the salts of substances should be subjected to the same control as the substances themselves.

6. The PRESIDENT said that the proposal to add the foot-notes would raise awkward procedural issues at that stage of the proceedings if there were any objections to it.

7. Dr. JOHNSON-ROMUALD (Togo) said that the foot-notes would introduce a needed precision, because there was no logical reason for placing a basic substance under control, but not its salts. The only reason why the

foot-notes had not been inserted was that the Technical Committee had been hurried in issuing its final report.

8. The PRESIDENT said that if there were any discussion of the Swedish proposal, he would have to consider the debate reopened.

9. Dr. BABAIAN (Union of Soviet Socialist Republics) objected that it was quite impossible to generalize about the salts of all the substances involved and each of them would have to be specified. It was a completely new proposal, and his delegation was against reopening the debate.

10. Mr. INGERSOLL (United States of America) said that he entirely agreed with the USSR representative about the procedure. No doubt the proposal made by the Chairman of the Technical Committee was realistic, but it was far too late to introduce it at that stage. Another thorny question was whether the foot-note would apply to the substances in schedule IV.

11. The PRESIDENT asked whether the Swedish representative was proposing the reconsideration of the schedules and whether he was pressing for a vote on it.

12. Dr. REXED (Sweden) replied that he was not. He regretted the Technical Committee's omission, since the foot-note had been used in the Single Convention.

13. Dr. FATTORUSSO (World Health Organization) said that the World Health Assembly had authorized the Director-General to advise the Secretary-General of the United Nations regarding the substances to be placed under international control under the present Convention. With regard to the reports of the committees of experts, although there had been no unanimity among their members, the varying opinions had been given in the report published.

14. The PRESIDENT suggested that he might consider the discussion of the Technical Committee's report on the schedules closed.

*It was so agreed.*

#### Report of the Credentials Committee (E/CONF.58/L.52)

15. Dr. JENNINGS (Ireland), Chairman of the Credentials Committee, introduced the Committee's report (E/CONF.58/L.52).

16. Dr. THOMAS (Liberia), supported by Mr. KOFI-DAVIES (Ghana), moved that only one intervention on any proposal made to the Conference should be entertained.

*It was so agreed.*

17. Mr. KOFI-DAVIES (Ghana) proposed that the Conference should take note of the report of the Credentials Committee.

18. Dr. BABAIAN (Union of Soviet Socialist Republics) drew attention to the corrigendum (E/CONF.58/L.52/Corr.1), relating to paragraph 6 of the report.

19. The PRESIDENT observed that the corrigendum related only to the Russian text.

20. Mr. CHENG (China)\* said that, in view of the Russian corrigendum, it behoved him to make a state-

\* See introductory note.

ment concerning the credentials of the Chinese delegation. The Credentials Committee had found those credentials in order in accordance with the applicable rules of procedure. The Conference had been convened with definite and limited terms of reference, and the Chinese delegation had been invited by the Secretary-General pursuant to Economic and Social Council resolution 1474 (XLVIII). His delegation had contributed to the discussions on psychotropic substances, which alone should be the concern of the Conference. It was neither the time nor the place to enter into political discussions which had nothing to do with the aims of the Conference.

*The Conference took note of the report of the Credentials Committee (E/CONF.58/L.52).*

#### Adoption of the Final Act

(E/CONF.58/L.42 and Corr.1 and 3, E/CONF.58/L.45/Rev.1, E/CONF.58/L.48, E/CONF.58/L.51, E/CONF.58/L.53)

21. The PRESIDENT drew attention to the drafting changes embodied in the corrigenda to the Final Act (E/CONF.58/L.42/Corr.1 and 3).

22. Dr. BABAIA (Union of Soviet Socialist Republics) asked what was the procedure for submitting reservations with respect to the Final Act at the time of signature.

23. Mr. WATTLES (Legal Adviser to the Conference) replied that if any delegation had a reservation to affix to the Final Act at the time of signature, its representative should write it in beside his signature by hand.

24. Mr. HOOGWATER (Netherlands) asked the Legal Adviser whether it would be more complicated to enter a reservation regarding the Final Act if that was not done at the time of signature.

25. Mr. WATTLES (Legal Adviser to the Conference) replied that the Final Act was not a legally binding instrument. Reservations regarding it had nothing in common with reservations regarding the Convention itself. It was perfectly possible to sign the Convention subject to ratification and to make a reservation not formulated on signature of the Convention only at the time of ratification; but reservations regarding the Final Act had to be made on signature.

26. The PRESIDENT said that the actual number of resolutions and declarations would be inserted in paragraph 16.

*On that understanding, the text of the Final Act (E/CONF.58/L.42 and Corr.1 and 3) was adopted.*

#### Draft resolutions and declaration

##### DRAFT RESOLUTION E/CONF.58/L.48

27. Dr. REXED (Sweden) introducing the draft resolution concerning provisional application of the Convention, submitted by Argentina, Australia, Denmark, India, Sweden, Togo, Turkey, the United States of America and Venezuela (E/CONF.58/L.48), said that, until the conditions for entry into force had been fulfilled, it was desirable that States should apply the provisions of the Convention and achieve the international

co-operation which it sought to promote. To induce States to apply the Convention provisionally, the sponsors had also expressed the wish that the Secretary-General should have the assistance of the Economic and Social Council, the General Assembly and WHO.

28. Mr. BEEDLE (United Kingdom) said he could vote for the draft resolution if the word "able" in paragraph 1 were interpreted broadly in the sense of "agreeable".

29. Mr. HOOGWATER (Netherlands) proposed that the words "willing and" should be inserted before the words "able to do so".

30. Mr. NIKOLIĆ (Yugoslavia) said that, while he understood the United Kingdom representative's point of view, he considered that the change proposed by the Netherlands representative would deprive the paragraph of its meaning.

31. Mr. KIRCA (Turkey) suggested that the words "to the extent that they are able to do so" should be replaced by the words "if they consider it possible".

32. Mr. BOULBINA (Algeria) said he would prefer the insertion of the words "as far as possible" after the words "apply provisionally".

33. Mr. ANAND (India) said he did not think it served any useful purpose to alter the text of the draft resolution; the language used clearly showed that States would apply control measures provisionally if they could, taking all the factors into account.

34. Dr. REXED (Sweden) said he shared the point of view expressed by the Indian representative.

35. Sir John CARTER (Guyana) said that the purpose of paragraph 1 was obscure, and that the explanations which the sponsors had given were not very convincing.

36. Mr. INGERSOLL (United States of America) said that the words used in paragraph 1—"Invites . . ." and "to the extent that they are able to do so"—were sufficiently flexible in meaning to satisfy those who wished the paragraph to be interpreted in a broad sense.

37. Dr. BABAIA (Union of Soviet Socialist Republics) said he shared the point of view expressed by the United States representative; he would like the Russian text to be brought into line with the other texts by using the equivalent of "Invites" at the beginning of paragraph 1.

38. Mr. MANSOUR (Lebanon) observed that the discussion was on questions of terminology, and he therefore moved the closure of the debate.

*The Lebanese representative's motion was adopted.*

*Draft resolution E/CONF.58/L.48 was adopted by 57 votes to none, with 1 abstention.*

##### DRAFT DECLARATION E/CONF.58/L.51

39. The PRESIDENT drew attention to the draft declaration on universal participation in the Vienna Convention on Psychotropic Substances (E/CONF.58/L.51); he noted that there was no mention of the fact that the draft had been submitted by the Union of Soviet Socialist Republics.

40. Dr. BABAIA (Union of Soviet Socialist Republics), introducing the draft declaration, said that the

wish that participation in the Convention should be as wide as possible had often been expressed in the Conference; unfortunately, article 21 did not open the door to participation by all States. It was for that reason that the USSR had drawn up, for submission to the Council, a very frank declaration in favour of broad participation.

41. Mr. INGERSOLL (United States of America) said he could not support the USSR declaration. Under article 21, which had been adopted by a large majority, it was the Economic and Social Council which was to invite States to become parties to the Convention. The Conference had therefore no business to broach the matter; the members of the Council, on the other hand, would be able to do so. He therefore considered that the USSR declaration was out of place and based on irrelevant political considerations.

42. Mr. SLAMA (Tunisia) said that, like the USSR representative, he wished for universal participation in the Convention; that would be conducive to its success and effectiveness.

43. Mr. BOULBINA (Algeria) also supported the USSR initiative, and expressed the view that the proposed declaration was worded flexibly enough. Far from ignoring article 21, the USSR draft referred to it, and, while leaving the Council all latitude to act, took up a flexible position which was in accordance with the aims of the Conference.

44. Mr. NIKOLIĆ (Yugoslavia), Dr. SADEK (United Arab Republic) and Mr. OVTCHAROV (Bulgaria) also supported the declaration proposed by the USSR.

45. Mr. BEEDLE (United Kingdom) and Mr. DANER (Federal Republic of Germany) said they shared the view expressed by the United States representative.

46. Mr. ONODERA (Japan) said that he too was unable to support the USSR declaration, since it prejudged decisions by the Economic and Social Council.

47. Mr. CHAPMAN (Canada) moved the closure of the debate.

48. Mr. MANSOUR (Lebanon) and Dr. URANOVICZ (Hungary) opposed the motion.

*The motion for closure was adopted by 39 votes to 11, with 6 abstentions.*

*At the request of the USSR representative, the vote on the draft declaration was taken by roll-call.*

*Argentina, having been drawn by lot by the President, was called upon to vote first.*

*In favour:* Bulgaria, Burma, Byelorussian Soviet Socialist Republic, Chile, Holy See, Hungary, India, Iraq, Lebanon, Pakistan, Poland, Tunisia, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, United Arab Republic, Yugoslavia and Algeria.

*Against:* Argentina, Australia, Belgium, Brazil, Canada, China,\* Costa Rica, Federal Republic of Germany, France, Greece, Guatemala, Guyana, Honduras, Iran, Ireland, Italy, Japan, Netherlands, New Zealand, Nicaragua, Republic of Korea, Rwanda, South Africa, Spain, Thailand, Turkey, United Kingdom of Great Britain and Northern Ireland, United States of America, Venezuela.

*Abstaining:* Austria, Cameroon, Congo (Democratic Republic of), Denmark, Finland, Gabon, Ghana, Liberia, Sweden, Switzerland, Togo, Trinidad and Tobago.

*The draft declaration submitted by the USSR (E/CONF.58/L.51) was rejected by 29 votes to 17, with 12 abstentions.*

49. Dr. BÖLCS (Hungary) said he was sorry the Canadian delegation had moved the closure of the debate, because he had been on the point of suggesting that in paragraph 1 of the declaration the words "the participation of all States" should be replaced by the words "the widest possible participation". Besides being generally acceptable, that change would have enhanced the value of the Convention as a whole.

50. Dr. BABAIAN (Union of Soviet Socialist Republics) said he agreed with what had just been said. Those who opposed the declaration had claimed that it was motivated by political considerations, but it was they whose attitude was political, and it was for that reason that they had blocked all amendments.

51. Mr. ARCHIBALD (Trinidad and Tobago) said he had abstained from voting because the debate preceding the vote had become too charged with political sentiment. Psychotropic substances knew no politics.

52. Mr. MANSOUR (Lebanon) expressed regret that the draft declaration had been rejected; its objective had been not political, but to ensure greater success for the Conference.

53. Mr. NIKOLIĆ (Yugoslavia) said it was precisely for that reason that he had voted for the declaration, which was clearly not a political instrument.

54. Dr. JOHNSON-ROMUALD (Togo) said he had abstained from voting because, though in favour of the widest possible participation in the Convention, his Government did not consider that it was in its interests to be drawn into a political controversy.

55. Mr. INGERSOLL (United States of America) denied that his Government's position was determined by political considerations. Article 21, as adopted at the 23rd meeting, authorized the Council to invite any Government to participate in the Convention; but the proposed declaration could be regarded as an attempt to commit Governments in advance. That interjected an essentially political element into the discussion.

#### DRAFT RESOLUTION E/CONF.58/L.45/Rev.1

56. Dr. HOLZ (Venezuela), introducing the draft resolution submitted by Mexico, Turkey, the United Arab Republic, the United States of America and Venezuela (E/CONF.58/L.45/Rev.1), said that the search for less dangerous substances capable of replacing the amphetamine drugs would provide an opportunity of re-evaluating the therapeutic value, if any, which those drugs might possess.

57. Dr. FATTORUSSO (World Health Organization) said that the request in the first operative paragraph should be addressed to WHO, of which the World Health Assembly was only an organ.

\* See introductory note.



58. In reply to a question by Mr. NIKOLIĆ (Yugoslavia), the PRESIDENT said that the French text of the first operative paragraph would be brought into line with the text in the other languages.

59. Mr. BEEDLE (United Kingdom) proposed the deletion, in the first paragraph of the preamble, of the words "and certain similar substances", which did not seem to have much meaning and which were not repeated in the operative part.

60. In the first paragraph of the operative part, he suggested that the words "less dangerous" should be replaced by the more positive expression "harmless".

61. Dr. BABAIAN (Union of Soviet Socialist Republics) said that the original text was better than the revised text, firstly because in it the request was correctly addressed to WHO and not to the World Health Assembly, and secondly because the revised text confused the issue by bringing in the extraneous element of "available resources".

62. Mr. BROWN (Australia) proposed the deletion of the words "the development of" in the first paragraph of the operative part. Those words were ambiguous and might lead to misunderstandings. It was certainly not WHO's function to develop substances in the physical sense.

63. Dr. JENNINGS (Ireland) supported the United Kingdom amendment to the first paragraph of the preamble. The second paragraph could, he thought, be strengthened by omitting the words "though acknowledged". Amphetamine drugs were largely useless, and medical circles were prepared to accept their almost complete disappearance.

64. Dr. HOLZ (Venezuela) said he could accept the United Kingdom proposal to delete the words "and certain similar substances". He could also agree to the deletion of the words "the development of". The words "less dangerous", however, had been used deliberately, since no drug was absolutely safe, and he could not, therefore, agree to their replacement by the word "harmless".

65. Mr. CERECEDA ARANCIBIA (Chile) pointed out that, in the context, "harmless" would mean "not giving rise to any undesirable pharmacological activities or producing any harmful after-effects".

66. Sir John CARTER (Guyana) asked what was the point of encouraging research on amphetamine drugs if their therapeutic value was negligible.

67. Mr. OVTCHAROV (Bulgaria) said he would not vote for the draft resolution, because he considered that it had no particular merits. It mentioned amphetamines only, and its language was not sufficiently precise. Instead of "liable to abuse", for example, the expression "dependence-producing" should have been used. Similarly, the expression "the amphetamines and certain similar substances" was meaningless.

68. Mr. INGERSOLL (United States of America) said that he too could accept the amendments to which the representative of Venezuela had expressed his agreement, though he would point out that there were substances, such as methylphenidate, which, though not amphe-

tamines, were similar to them. He did not agree with the representative of Ireland that the text would be improved by deleting the words "though acknowledged" in the second sentence of the preamble, for the drugs in question had a very definite, though limited, therapeutic value. The reason why amphetamines only were mentioned was that they represented a singular kind of problem, being of limited use and high liability to abuse.

69. Dr. THOMAS (Liberia) said he would not oppose the draft resolution, but thought it could be dispensed with, since the use of amphetamines was negligible.

70. The PRESIDENT put the draft resolution to the vote, with the deletion of the words "and certain similar substances" in the first paragraph of the preamble and of the words "the development of" in the first paragraph of the operative part.

*The draft resolution (E/CONF.58/L.45/Rev.1), as amended, was adopted by 40 votes to 5, with 14 abstentions.*

71. Dr. BABAIAN (Union of Soviet Socialist Republics) said he had voted against the draft resolution, because he considered the original text was to be preferred, for the reasons he had given.

#### DRAFT RESOLUTION E/CONF.58/L.53

72. Dr. JOHNSON-ROMUALD (Togo), introducing the draft resolution submitted by Belgium, Luxembourg, Mexico and Togo (E/CONF.58/L.53), said it would be difficult for the Commission on Narcotic Drugs to cope with the extra work entailed by the operation of the Convention, especially since, by decision of the Economic and Social Council, it met only once every two years. The Council should therefore reconsider its decision.

73. Mr. BEEDLE (United Kingdom) said it was not for the Conference to express an opinion on that subject. The Council could be left to review all the problems which the adoption of the Convention would entail for the Commission.

74. Dr. BABAIAN (Union of Soviet Socialist Republics) said that a request for the Council to reconsider its decision would not be in line with the measures that were being adopted to improve the financial position of the United Nations. A correct organization of work would allow the Commission to carry out its tasks, even if it continued meeting only biennially. No experience of the operation of the Convention had yet been gained. He agreed with the United Kingdom representative that the Council would find time to discuss the matter if necessary.

75. Mr. ONODERA (Japan) said he agreed with what had been said by the representatives of the United Kingdom and the USSR. The Council would be in a better position to discuss the matter from the point of view of the work priorities of the United Nations.

76. Mr. BOULBINA (Algeria) said that, while he did not challenge the objectives of the draft resolution, he must point out that the General Assembly had appointed a group of experts to consider measures for reducing the expenses of the United Nations. The adoption of the draft would mean increasing those expenses.

77. Mr. BROWN (Australia) said that that was a very important point. It should also be remembered that at its

session later in the year the Commission would have the opportunity to make a recommendation to the Council, should that appear to be necessary.

78. Dr. OLGUÍN (Argentina) and Mr. KOFI-DAVIES (Ghana) expressed agreement with what had been said by the previous speakers.

79. Dr. JOHNSON-ROMUALD (Togo) announced that the sponsors withdrew draft resolution E/CONF.58/L.53.

#### AGENDA ITEM 11

**Consideration of the revised draft Protocol on Psychotropic Substances adopted by the Commission on Narcotic Drugs, in accordance with Economic and Social Council resolution 1474 (XLVIII) of 24 March 1970 (concluded)**  
(E/4785, chap. III)

#### REPORT OF THE DRAFTING COMMITTEE (E/CONF.58/L.4/Add.10)

80. Mr. NIKOLIĆ (Yugoslavia), Chairman of the Drafting Committee, said he wished to take that opportunity of thanking his colleagues on the Drafting Committee, the Legal Adviser and the secretariat for their co-operation. The Committee's latest and last report should not give rise to any objections, but he would point out that in the second sentence of paragraph 3 of article 27, as adopted at the 25th meeting, the Committee had inserted the words "signed without reservation of ratification" before the words "ratified or acceded to this Convention".

#### ARTICLE 14 bis

##### (FUNCTIONS OF THE COMMISSION)

*(resumed from the 22nd meeting and concluded)*

*Article 14 bis was adopted unanimously.*

**ARTICLE 20 (EXPENSES OF INTERNATIONAL ORGANS INCURRED IN ADMINISTERING THE PROVISIONS OF THE CONVENTION)** *(resumed from the 14th meeting and concluded)*

*Article 20 was adopted unanimously.*

**ARTICLE 21 (PROCEDURE FOR ADMISSION, SIGNATURE, RATIFICATION AND ACCESSION)** *(resumed from the 23rd meeting and concluded)*

81. Dr. BABAIAN (Union of Soviet Socialist Republics), Mr. KIRCA (Turkey) and Mr. ANAND (India) expressed the view that the word "admission" in the title of the article was meaningless and therefore unnecessary. There was no legal precedent for its inclusion.

82. Mr. CHENG (China)\* said that the word was quite in order in the Chinese text, where it meant "admission to signature, ratification and accession". He had voted in the Drafting Committee for its inclusion in the title because it had formed part of an amendment submitted by the delegation of Cameroon and adopted by a large majority at the 23rd meeting.

83. The PRESIDENT said that the title could not be changed unless the Conference decided to reconsider the decision it had adopted at the 23rd meeting.

84. Dr. BABAIAN (Union of Soviet Socialist Republics) put the motion for reconsideration.

85. Mr. KOFI-DAVIES (Ghana) and Mr. ARCHIBALD (Trinidad and Tobago) opposed the motion.

*The motion for reconsideration of the decision on the inclusion of the word "admission" in the title of article 21 was rejected by 20 votes to 17, with 14 abstentions.*

86. Mr. NIKOLIĆ (Yugoslavia), explaining his vote, said that, as Chairman of the Drafting Committee, he could not but have voted against an attempt to go back on the Conference's decision taken by a two-thirds majority, which had referred the title in that form to the Drafting Committee.

87. Dr. BABAIAN (Union of Soviet Socialist Republics), explaining his vote, said that his delegation opposed the retention of "admission" in the title because the word would be incomprehensible to all international lawyers.

*Article 21, as a whole, was adopted by 50 votes to 5, with 1 abstention.*

#### ARTICLE 22 (ENTRY INTO FORCE)

*(resumed from the 24th meeting and concluded)*

*Article 22 was adopted unanimously.*

#### ARTICLE 23 (TERRITORIAL APPLICATION)

*(resumed from the 24th meeting and concluded)*

88. Dr. BABAIAN (Union of Soviet Socialist Republics) said he had no objection to the drafting of article 23, but could not refrain from protesting at the inclusion of a colonial clause in the Convention.

*Article 23 was adopted unanimously.*

#### ARTICLE 23 bis

**(REGIONS FOR THE PURPOSES OF THIS CONVENTION)**  
*(resumed from the 22nd meeting and concluded)*

*Article 23 bis was adopted unanimously.*

#### ARTICLE 24 (DENUNCIATION)

#### AND ARTICLE 25 (AMENDMENTS)

*(resumed from the 24th meeting and concluded)*

*Articles 24 and 25 were adopted unanimously.*

#### ARTICLE 26 (DISPUTES)

*(resumed from the 24th meeting and concluded)*

89. Dr. BABAIAN (Union of Soviet Socialist Republics) said he had no objection to the drafting of article 26 but wished to reiterate his delegation's position that the agreement of the parties was essential for the submission of a dispute to the International Court of Justice.

*Article 26 was adopted unanimously.*

#### ARTICLE 27 (RESERVATIONS)

*(resumed from the 25th meeting and concluded)*

90. Mr. ANAND (India) expressed doubts regarding the words in paragraph 4 "in accordance with paragraph 2

\* See introductory note.

of the present article". The correct reference would seem to be to paragraph 3.

91. Mr. WATTLES (Legal Adviser to the Conference) explained that paragraph 4 had its origin in a Turkish oral amendment which had replaced the Mexican amendment for a new article (E/CONF.58/L.28), subsequently converted into an oral proposal to insert its substance in paragraph 4 of article 27 (25th meeting). The reference in that Turkish amendment had been to paragraph 2; if reservations under paragraph 4 were not intended to be subjected to the procedure described in paragraph 3, it should be so stated.

92. Dr. BABAIAN (Union of Soviet Socialist Republics) suggested that, in paragraph 3 the reference should be to "paragraphs 2 and 4 of this article" and not simply to paragraph 2.

93. Mr. KIRCA (Turkey) accepted that suggestion. So far as paragraph 4 was concerned, however, the reference to paragraph 2 was correct; it meant that the reservations mentioned in paragraph 4 could only be made "at the time of signature, ratification or accession" as stated in paragraph 2.

94. Mr. SEMKEN (United Kingdom) said that, in paragraph 4, it was correct to refer to paragraph 2, since the procedure set forth in that paragraph would have to be followed when exercising the right set forth in paragraph 4.

95. Mr. KOECK (Holy See) supported the USSR suggestion regarding paragraph 3; the reference in that paragraph was substantive, and it was therefore appropriate for it to cover both paragraphs 2 and 4.

96. As to paragraph 4, the reference therein to paragraph 2 was a procedural one, and he proposed that, in order to make the meaning clear and to dispel the misgivings of some delegations, the words "in accordance with paragraph 2 of the present article" should be replaced by the words "at the time of signature, ratification or accession".

97. Mr. CHENG (China)\* supported that proposal.

98. After a brief discussion in which Dr. BÖLCS (Hungary), Mr. KOCH (Denmark), Mr. HOOGWATER (Netherlands) and Mr. MANSOUR (Lebanon) took part, Dr. JOHNSON-ROMUALD (Togo) moved the closure of the debate.

99. Mr. NIKOLIĆ (Yugoslavia), speaking also as Chairman of the Drafting Committee, opposed that motion. The drafting proposals deserved careful attention.

100. Mr. INGERSOLL (United States of America) also opposed the motion. The continuation of the debate would enable a solution to be found to the two drafting problems that had arisen.

*The motion for closure of the debate was rejected by 36 votes to 9, with 7 abstentions.*

101. Mr. INGERSOLL (United States of America) proposed that the wording of paragraph 2 should be amended as suggested by the USSR representative and that the Holy See's drafting amendment to paragraph 4 should also be adopted.

102. Dr. REXED (Sweden) supported those two drafting proposals, which did not alter the substance in any way, but clarified the meaning of paragraphs 2 and 4.

103. The PRESIDENT said that, if there were no objection, he would consider that the Conference agreed to adopt article 27, with the two drafting changes proposed by the delegations of the USSR, the Holy See and the United States of America.

*It was so agreed.*

#### ARTICLE 28 (NOTIFICATION) (*resumed from the 25th meeting and concluded*) AND THE TWO CONCLUDING PARAGRAPHS OF THE CONVENTION

104. Dr. OLGUÍN (Argentina) suggested that, in the Spanish version of the paragraph beginning "IN WITNESS WHEREOF", the verb in the past tense "*han firmado*" should be altered to the present tense, "*firman*". That was more correct and in conformity with Spanish usage.

105. Mr. KIRCA (Turkey), supported by Dr. BABAIAN (Union of Soviet Socialist Republics), said that the past tense should be used in all languages, since that text constituted the solemn acknowledgment, in good and due form, that a legal act had been performed, namely, the signature of an international agreement. It could not be changed to the present tense in only the Spanish version, because all the five language versions were equally authentic and would be signed by all parties. The past tense was the correct one and had been used in innumerable treaties.

106. The PRESIDENT pointed out that, in the Spanish versions of the 1961 Single Convention, the 1969 Vienna Convention on the Law of Treaties and other treaties concluded under United Nations auspices, as well as in the United Nations Charter itself, the Spanish formula used was "*han firmado*".

*Article 28, and the two concluding paragraphs of the Convention, were adopted by 52 votes to none, with 4 abstentions.*

107. Dr. BABAIAN (Union of Soviet Socialist Republics), explaining his vote, said that his delegation had abstained because the penultimate paragraph of the Convention contained a reference to article 21, the provisions of which were discriminatory and hence totally unacceptable to his delegation.

#### ARTICLE 14

(REPORTS TO BE FURNISHED BY THE PARTIES)  
(*resumed from the 14th meeting and concluded*)

*The new sentence to be added to article 14, paragraph 4, was adopted unanimously.*

The meeting rose at 1.40 a.m.  
on Friday 19 February 1971.

\* See introductory note,

**TWENTY-EIGHTH (CLOSING) PLENARY MEETING***Friday, 19 February 1971, at 5.35 p.m.**President: Mr. NETTEL (Austria)***Adoption of the Convention on Psychotropic Substances  
(E/CONF.58/L.54 and Add.1 and 2)***The draft Convention on Psychotropic Substances as a whole (E/CONF.58/L.54 and Add.1 and 2) was adopted by 51 votes to none, with 9 abstentions.*

1. Dr. BABAIAK (Union of Soviet Socialist Republics) said, that though the Convention was most important and a great achievement, he was not satisfied with all the results obtained. In particular, he thought that the Convention had lost a great deal through article 21 (Procedure for admission, signature, ratification and accession), which barred the door to many countries. For those reasons, his delegation had abstained.
2. Dr. BERTSCHINGER (Switzerland) said that his delegation had voted for the Convention because of its value for the health of the world. His delegation would be unable to sign the Convention on the following Sunday, because its constitutional implications would have to be studied.
3. Dr. DANNER (Federal Republic of Germany) said that he had abstained from voting on the Convention as it stood because of some of its provisions. Also, the text would have to be examined by his Government in the light of the Treaty of Rome.
4. Mrs. NOWICKA (Poland) said that her delegation had abstained because of certain unacceptable articles, although it fully appreciated the Convention's importance.
5. Mr. OBERMAYER (Austria) said he welcomed the stringency of schedule I. Certain substances in schedule II had long been subject to the same kind of control as narcotics in his country. As to schedules III and IV, control measures might be necessary in some countries, but not all countries should be compelled to accept all controls. His delegation had abstained, though it approved of the Convention's aims.
6. Mr. BOULBINA (Algeria) said he had voted in favour of the Convention, but that did not mean he was completely satisfied. Some of the provisions of the Convention were not in line with General Assembly resolution 1514 (XV) containing the Declaration on the Granting of Independence to Colonial Countries and Peoples.
7. Mr. CALEDA (Italy) said that his delegation had voted for the Convention though it had reservations on certain articles. It would not sign the Convention on the following Sunday, being a party to the Treaty of Rome.
8. Mr. BEEDLE (United Kingdom) said that experts in his country were not in agreement with schedule III and the inclusion of certain substances in it, and that was the explanation for the vote he had cast at the 26th meeting. Nevertheless, he had voted for the Convention. It offered useful support, but not a substitute, for the efforts of national Governments. The powers provided for in the Convention were very large, and that would make the decision to use them more difficult. It would be wise for international bodies to proceed with caution and to adopt a practical approach. He thought that decisions taken under article 2 would be relevant only if there was a complete change in the methods adopted by international bodies; the case for controls should be properly argued in each specific case and the reasons for decisions should be suitably recorded and publicized.
9. Mr. CHENG (China)\* said that, having voted for the Convention, he would sign it on the following Sunday.
10. Dr. JOHNSON-ROMUALD (Togo) said that he had voted in favour of the Convention, whose purpose it was to do away with an evil that had not yet attained alarming proportions in Africa, but might become a problem later. He felt sure that the African countries would co-operate in implementing the Convention.
11. Mr. SLAMA (Tunisia) said that he had voted for the Convention as an effective instrument, which he hoped would rapidly enter into force. He had reservations regarding article 21 (Procedure for admission, signature, ratification and accession).
12. Mr. NIKOLIĆ (Yugoslavia) said he had voted for the Convention. He agreed, however, with what had been said by the representative of Algeria.
13. Mr. CERECEDA ARANCIBIA (Chile) said that, although the Convention contained errors and some inadmissible discrimination, it was still a step forward and of benefit to youth. He had therefore voted for it.
14. Mr. HOOGWATER (Netherlands) said that, in abstaining, his delegation had not intended to express doubt regarding the Convention. His country had always made great efforts in international control and would continue to do so; however, his Government was bound by the Treaty of Rome and must consult with its partners in the European Economic Community and the Commission on Narcotic Drugs before taking a stand.
15. Dr. MABILEAU (France) said he had voted for the Convention because it was desirable to establish minimum national regulations that were in harmony. Countries should be able to receive psychotropic substances necessary for medicine, in suitable quantities. Also, there should be no unnecessary impediments to legitimate trade in those substances. He would sign the Final Act, but fuller consultation with the other members of the European Economic Community was necessary before his country could sign the Convention.
16. Dr. OLGUÍN (Argentina) said he considered the Convention to be a necessary supplement to existing measures. He had voted for it as being constructive, though he did not consider it to be ideal.
17. Mr. PUTTEVILS (Belgium) said he was in the same position as the representative of the Netherlands so far as signing the Convention was concerned; but his delegation would sign the Final Act, though it had abstained from voting.

\* See introductory note.



18. Mr. FAJARDO FONSECA (Nicaragua) said he had voted for the Convention, since its aim was to combat a danger to youth.

**Tribute to the Federal Government of the  
Republic of Austria  
(E/CONF.58/L.55)**

19. Mr. NIKOLIĆ (Yugoslavia) introduced a draft resolution (E/CONF.58/L.55) expressing appreciation to the Federal Government of the Republic of Austria. It had been sponsored by his own delegation, together with those of Australia, Chile, France, Hungary, India, Sweden, Togo, the Union of Soviet Socialist Republics, the United Arab Republic, the United Kingdom and the United States.

20. Mr. CHENG (China)\* said he thought that the resolution should be adopted by acclamation.

*The draft resolution (E/CONF.58/L.55) was adopted by acclamation.*

21. Mr. OBERMAYER (Austria) expressed his Government's gratitude for the resolution. He hoped that delegations would have pleasant memories of their stay in Austria.

**Closure of the Conference**

22. The PRESIDENT noted that a spirit of compromise had made possible the adoption of the Convention on Psychotropic Substances. It was to be hoped that the world would find, in the future, that the Convention served the purpose for which it was designed.

23. He expressed his appreciation to the chairmen of the Committee on Control Measures, the Technical Committee, the Drafting Committee and the Credentials Committee, and also to delegations, the representatives of WHO, the International Narcotics Control Board, the International Criminal Police Organization (ICPO/ INTERPOL) and other organizations, and to the secretariat.

24. He thanked the Conference for the confidence it had placed in him.

25. Mr. INGERSOLL (United States of America), speaking on behalf of both his own and the United Kingdom delegations, said that the Convention adopted by the Conference was a well-considered and reasonable instrument, but not a perfect one. Time alone would tell how effective it was.

26. The documentation and interpretation had been good, and his delegation had been pleased to co-sponsor the draft resolution of tribute to the Federal Government of the Republic of Austria. He thanked the secretariat for its efforts. The firm leadership of the President had been of special importance. The chairmen of the committees and the members of the working parties had also made an important contribution.

27. Dr. MABILEAU (France), speaking on behalf of the delegations of Algeria, Greece, Iran, Italy, Lebanon, Monaco, Switzerland, Tunisia, Turkey, Yugoslavia and France, praised the President's qualities of competence, patience, firmness and impartiality. The success of the Conference was also the success of its President. He expressed his gratitude to the secretariat.

28. Dr. JOHNSON-ROMUALD (Togo), outlining the broader issues underlying the questions before the Conference, said that, in a world where man was becoming a creature of his own creations and was growing increasingly alienated from his fellows, psychotropic substances were being treated as a substitute for human solidarity.

29. As the world was made smaller by modern means of transport, the problem of drug abuse could no longer be looked upon as a threat only to the industrialized countries. The developing countries must prepare for the future by safeguarding the only resource by which they could assert themselves, their people.

30. The Convention on Psychotropic Substances adopted by the Conference could not be regarded as a cure for the underlying problems facing mankind, but it was an important step for humanity in seeking to regain control over its own creations.

31. Speaking on behalf of the delegations of Cameroon, the Democratic Republic of the Congo, Gabon, Ghana, Liberia, Rwanda and Togo, he thanked the President, the Austrian Government, the observers and the secretariat for their contribution to the success of the Conference. He assured the Conference that the Governments on whose behalf he was speaking would respect their undertakings under the Convention.

32. Dr. BABAIAN (Union of Soviet Socialist Republics), speaking on behalf of the delegations of Bulgaria, the Byelorussian Soviet Socialist Republic, Hungary, Poland, the Ukrainian Soviet Socialist Republic and the Union of Soviet Socialist Republics, congratulated the President on the skill and tact with which he had guided the Conference to a compromise.

33. He also expressed gratitude to the secretariat, the chairmen of the committees, the representatives of WHO and the International Narcotics Control Board and the representatives themselves, who had demonstrated such a strong desire for success.

34. Dr. EL HAKIM (United Arab Republic), speaking on behalf of the delegations of Iraq, Lebanon and the United Arab Republic, expressed sincere gratitude to the President for the wisdom, patience and competence with which he had acquitted himself of his task. He also thanked the chairmen of the committees, the representatives of the specialized agencies, the secretariat and the Austrian Government and people.

35. Mr. ANAND (India) praised the President for his sense of discipline and impartiality, which had enabled the Conference to complete its work. He also expressed gratitude to the chairmen of the committees, the Government of Austria, the Viennese authorities and the secretariat.

36. Mr. KOCH (Denmark) said that, at the beginning of the Conference, it had been hoped that the work would be completed speedily, thanks to the spirit of compromise which was becoming apparent; in fact, however, the task had proved to be long and difficult. The President had guided the discussions in a manner which had been sometimes curt but always fair; that was the best tribute that could be paid to him.

\* See introductory note.

37. Mr. RASHED AHMED (Pakistan) said that his delegation, which had supported the nomination of Mr. Nettel as President, had had occasion to congratulate itself on that choice. He thanked the secretariat and the members of the Austrian staff.
38. Mgr MORETTI (Holy See) said that his delegation did not belong to any group but represented humanity as a whole; it was therefore in the name of humanity as a whole that he thanked the President and the representatives for the undertaking to which they had subscribed and for the cordial and fraternal spirit in which they had worked. He also thanked the members of the secretariat. He believed that a commendable effort had been made in the direction of genuine international co-operation.
39. U HLA OO (Burma) said that the city of Vienna had undoubtedly made a great contribution to the success of the Conference. He thanked the secretariat and the Austrian staff.
40. Mr. EYRIES VALMASEDA (Spain) thanked the President and the secretariat. He paid a tribute to Austria and mentioned the historic ties of that country with Spain.
41. Dr. CORRÊA da CUNHA (Brazil) associated himself with the representatives who had thanked the President and secretariat.
42. Mr. SUNG HYUN (Republic of Korea) said that representatives had shown outstanding devotion, and their efforts had been rewarded.
43. Mr. KUŠEVIĆ (Executive Secretary of the Conference) said that the Conference had inspired high hopes. Every participant had endeavoured to understand, in a humanitarian spirit, the problems of others. He thanked Austria and the city of Vienna for their hospitality and expressed his appreciation to the President. He was grateful for the kind words that had been addressed to the Secretariat. The instrument which had resulted from the Conference would help to solve a disturbing problem of social pollution; it would be a living instrument for the protection of man.
44. The PRESIDENT said he had been touched by the generous tributes paid to him. He also appreciated what had been said about Vienna, and he would transmit to the Austrian Government the thanks that had been addressed to it.
45. He announced that the final text of the Convention would be ready on Sunday, 21 February 1971, at 11 a.m., and declared closed the United Nations Conference for the Adoption of a Protocol on Psychotropic Substances.

The meeting rose at 8 p.m.



## MINUTES OF MEETINGS OF COMMITTEES

### 1. MINUTES OF THE MEETINGS OF THE GENERAL COMMITTEE

#### FIRST MEETING

Tuesday, 12 January 1971, at 9.40 a.m.

Chairman: Mr. NETTEL  
(President of the Conference)

#### Organization of work (Item 10 of the Conference agenda) (E/CONF. 58/2/Rev.1)

1. Mr. BEEDLE (United Kingdom) asked which were the "principal committees" referred to in the first sentence of paragraph 22 of the note by the Secretary-General (E/CONF.58/2/Rev.1). Furthermore, he considered the wording of paragraph 15 (e) to be unsatisfactory, especially since articles 3, 4 and 8 of the draft Protocol came rather within the purview of the Committee on Control Measures.
2. Mr. ANAND (India) expressed surprise at the timing of the Technical Committee's meetings to coincide with plenary meetings, although the members of the Committee should be in a position to give their views on all articles of the draft Protocol. He also drew attention to the difficulties of adopting a detailed programme of work before the Conference had decided on the terms of article 2 on the scope of control of substances; the foot-notes to that article stressed the "public health" aspect of the problem, which should be the main criterion in allocating the various substances to one or other of the four schedules.
3. Dr. REXED (Sweden), Chairman of the Technical Committee, referring to the United Kingdom representative's observations concerning articles 3, 4 and 8, urged the desirability of not ruling out forthwith the possibility of their being studied by the Technical Committee. The Indian representative's points raised a more complex question; logical though his attitude certainly was, it might perhaps be advisable not to delay unnecessarily the study of the schedules by the Technical Committee, provided it was understood that that Committee would take the matter up again as soon as such changes as the Conference might wish to make in the wording of article 2 were known.
4. Dr. BABAIAN (Union of Soviet Socialist Republics) pointed out that what was stated in paragraph 15 (e) was that "the Technical Committee could also usefully review articles 3, 4 and 8". That did not mean that the articles could not be studied by the Committee on Control Measures.
5. The CHAIRMAN made the further point that in paragraph 16 it was stated that "the Committee on

Control Measures might accordingly study articles 2-15". Thus there was nothing to prevent the Conference from adopting the Secretary-General's suggestions as a guide.

6. Dr. MABILEAU (France), Chairman of the Committee on Control Measures, said that the Committee on Control Measures could not but benefit from the Technical Committee's views on articles 3, 4 and 8. He suggested that the latter Committee should study the articles first and make its comments directly to the Committee on Control Measures.
7. The CHAIRMAN said he considered that procedure most appropriate. He noted that opinions were still divided as to whether article 2 or the schedules should be considered first.
8. Mr. ANAND (India) submitted that the rules for substances in schedule III should be far more stringent than those for substances in schedule IV. He still felt that article 2 should be dealt with first, for a large number of other points could be studied forthwith by the two Committees.
9. Mr. NIKOLIĆ (Yugoslavia) supported the Indian representative's contention.
10. Mr. KUŠEVIĆ (Executive Secretary of the Conference) noted that the question whether control measures or the allocation of substances to one or other of the four schedules should be considered first was hardly a new one. Nevertheless, since the Conference would probably make no substantial changes in the draft Protocol, there was nothing to prevent the two Committees from going ahead.
11. Dr. MABILEAU (France), Chairman of the Committee on Control Measures, was confident that, since the matter had already been under discussion for four years, the two Committees would be able to make progress together.
12. Mr. NIKOLIĆ (Yugoslavia) observed that public health, referred to in foot-note 5 (See E/4785, chap. III), relating to article 2, was not the sole criterion. Before drawing up the schedules, the Conference would be well-advised to adopt a basic principle.
13. The CHAIRMAN drew attention to the difficulty of establishing a single basic principle valid for all the articles and the four schedules.
14. Dr. REXED (Sweden), Chairman of the Technical Committee, said he thought that question could be settled by the Committee on Control Measures. There were a number of aspects (legal, commercial, etc.) which would have to be considered. In his view, the best procedure would be to adopt the programme outlined by the Secretariat, subject to the possibility of reverting to certain points once the text of article 2 had been agreed on.



15. Dr. JOHNSON-ROMUALD (Togo) recalled that, in drafting the Protocol, it had been decided to retain, at least provisionally, the schedules as drawn up by WHO. Since to aim at unanimous acceptance of a single criterion was unrealistic, the Technical Committee should be given the task of revising the schedules if it considered such revision necessary.

16. Mr. ANAND (India) maintained that there was no reason for priority action by the Technical Committee on the schedules, which should properly flow from the principles applied in drafting the Protocol. The Conference should also first settle the vital question of the relationship between the Commission on Narcotic Drugs and WHO.

17. The CHAIRMAN noted that it was for each Committee to establish its own programme of work as it saw fit.

18. Dr. BABAIAN (Union of Soviet Socialist Republics) said there was no need to go into details which could be studied by the two other principal committees. The WHO schedules should serve as the basis for the recommendations which the Technical Committee would present to the Conference in the light not only of the social and legal aspects of the problem but also, and especially, of the therapeutic value of the substances and of the dangers they presented.

19. Mr. INGERSOLL (United States of America) endorsed the remarks of the Chairman and of the USSR representative.

20. The CHAIRMAN, summarizing the discussion, suggested that he should be authorized to inform the plenary Conference that the note by the Secretary-General should serve as a general plan of the Conference's work, and that the General Committee had decided to make no changes in it, on the understanding that articles 3, 4 and 8 would be the subject of a report by the Technical Committee to be communicated directly to the Committee on Control Measures.

*It was so agreed.*

21. Dr. MABILEAU (France), Chairman of the Committee on Control Measures, drew attention to the desirability of a clear realization on the part of the Conference that what it had to discuss was the actual text of the draft Protocol before it, and that any proposals for modification must be submitted in the form of amendments.

22. The CHAIRMAN said he thought that could be made clear, if necessary, at a later stage.

23. In reply to a point of procedure raised by Dr. REXED (Sweden), Mr. KUSEVIĆ (Executive Secretary of the Conference) Mr. NIKOLIĆ (Yugoslavia) and Mr. ANAND (India), the CHAIRMAN explained that the lists of members of the various committees were not yet closed, that the countries wishing to be represented on them with the right to vote must say so in plenary, and that participation in meetings of the committees by those desiring representation only as observers should be along the lines laid down in rule 62 of the provisional rules of procedure (E/CONF.58/1) for observers for States not participating in the Conference.

The meeting rose at 10.40 a.m.

## SECOND (CLOSING) MEETING

*Tuesday, 26 January 1971, at 9.20 a.m.*

*Chairman: Mr. NETTEL  
(President of the Conference)*

### Organization of work (Item 10 of the Conference agenda) (concluded) (E/CONF. 58/2/Rev.1)

1. The CHAIRMAN drew attention to the fact that the work of the Committee on Control Measures and the Technical Committee was lagging behind the timetable set out in the note by the Secretary-General (E/CONF.58/2/Rev.1). The Conference was in its third week and neither of the Committees had yet prepared their reports for submission to the plenary meeting. Nor had the Credentials Committee so far met. The Secretariat had drawn up a detailed paper on the status of the discussions of articles 1 to 14 (E/CONF.58/C.1/L.1). Articles 2 and 2 *bis*, in particular, were giving rise to difficulties. As to the other articles, one of them was currently being considered by the Drafting Committee and would go straight to the plenary, to be discussed together with the other articles of the draft Protocol.
2. He asked the Chairmen of the two Committees for additional information and comments on the progress of their Committees' work.
3. Dr. BÖLCS (Hungary), Vice-Chairman of the Technical Committee, said that the Technical Committee was at present engaged in considering the question of precursors and would be completing its work shortly.
4. The CHAIRMAN asked whether the Committee was also considering article 2 *bis*, paragraph 2, in that connexion.
5. Dr. BÖLCS (Hungary), Vice-Chairman of the Technical Committee, explained that his Committee was unable to take any decision on that paragraph until it had been considered by the Committee on Control Measures. The schedules, also, would have to be reviewed by his Committee after they had been submitted to the Committee on Control Measures.
6. The CHAIRMAN pointed out that procedure differed from what had been provided for in the Conference's programme of work. However, it was for the Committee to organize its work as it considered best.
7. Dr. MABILEAU (France), Chairman of the Committee on Control Measures, said that his Committee had awaited the Technical Committee's views before expressing conclusions on articles 3, 4 and 8. The consideration of article 8 was proceeding satisfactorily. As far as article 2 *bis*, paragraph 2, was concerned, it would have been preferable to have had it considered first by the Technical Committee. Reviewing what had been done so far, he reported that his Committee had considered and unanimously adopted articles 5, 9, 13 and 6 and was hoping to reach early agreement on article 7. Working groups were engaged in preparing texts for the other articles. In that connexion, he wondered whether the Committee on

- Control Measures should also deal with article 15, as envisaged in the note by the Secretary-General.
8. The CHAIRMAN confirmed that it was the Committee on Control Measures which, under the proposed plan of work, should consider that article, as also article 27.
9. Regarding article 2 *bis*, paragraph 2, he suggested that the Chairmen of the two Committees should informally consult with each other in order to decide which of the two Committees should undertake the consideration of the paragraph first.
10. Dr. BÖLCS (Hungary), Vice-Chairman of the Technical Committee, and Dr. MABILEAU (France) Chairman of the Committee on Control Measures, agreed to that suggestion.
11. The CHAIRMAN asked the Vice-Chairman of the Technical Committee whether he had to await a decision by the Committee on Control Measures on article 2 before having the question of the schedules taken up by his Committee.
12. Dr. BÖLCS (Hungary), Vice-Chairman of the Technical Committee, said that it was essential, as far as the possibility of including the precursors in a new schedule was concerned, to know the views of the Committee on Control Measures, and that the work of the two Committees on that question should be co-ordinated.
13. Dr. MABILEAU (France), Chairman of the Committee on Control Measures, pointed out that the schedules drawn up by the Technical Committee were merely provisional, and that only after the matter had been considered in plenary would it be able to produce effective results. There was a consequent danger that its work would be considerably delayed.
14. The CHAIRMAN stressed the importance, if the Conference's work was to be expedited, of ensuring that the two Committees did not refer the consideration of article 2 back and forth to each other.
15. Mr. KUŠEVIĆ (Executive Secretary of the Conference) said that if the differences of opinion on the schedules were not too great, the matter might be referred to the Commission on Narcotic Drugs, which was to meet in September. If the reverse was the case, the Conference could hold more meetings and, if necessary, night meetings in order to reach agreement.
16. Mr. MILLER (United States of America) saw the difficulties as relating mainly to the substances in schedule IV, regarding which some delegations felt that there was no need of control, or that it should at most be of a very limited nature.
17. Mr. NIKOLIĆ (Yugoslavia), Chairman of the Drafting Committee, proposed that the two Committees should meet together to consider the schedules.
18. The CHAIRMAN thought it preferable to confine the meetings to the officers of the two Committees.
19. Mr. ASANTE (Ghana), supported by Mr. BARONA LOBATO (Mexico), said that his and other delegations would not be able to be represented after 12 February and appealed to the members of the Conference to cooperate and reach agreement on the text of the draft Protocol, which had already been thoroughly considered by the Governments and experts. The text was fairly satisfactory as a document of general scope. If it was to be completed in detail, it was for the countries to take the initiative by national measures, which, in any case, were the only measures which would ensure its efficacy. The pace of the Conference's work should be accelerated and night meetings should be held if necessary, as the Executive Secretary had proposed.
20. The CHAIRMAN agreed with the representatives of Ghana and Mexico and suggested that the Chairmen should apply the rules of procedure to limit the time to be allowed to each speaker on any question. The Conference should also make full use of all the facilities at its disposal; for instance, plenary meetings might be organized simultaneously with meetings of the Committee on Control Measures when the Technical Committee was not sitting.
21. In reply to a question by Dr. MABILEAU (France), Chairman of the Committee on Control Measures, Mr. KUŠEVIĆ (Executive Secretary of the Conference) said that interpretation could be provided for four meetings daily: two in the morning, one in the afternoon and one in the evening. He assured him that the secretariat would do everything it could to assist the members of the Conference in their work.

The meeting rose at 10.10 a.m.

## 2. MINUTES OF THE MEETINGS OF THE COMMITTEE ON CONTROL MEASURES

### FIRST MEETING

*Monday, 11 January 1971, at 6 p.m.*

*Acting Chairman: Mr. NETTEL*  
*(President of the Conference)*

*Chairman: Dr. MABILEAU (France)*

#### Election of the Chairman

1. The ACTING CHAIRMAN called for nominations for the office of Chairman.
2. Mr. INGERSOLL (United States of America) proposed Dr. MABILEAU (France).
3. The representatives of Turkey, the Union of Soviet Socialist Republics, Belgium, Mexico, Iran, the United Kingdom of Great Britain and Northern Ireland, Canada, India, Sweden, Yugoslavia, Switzerland, the United Arab Republic, Australia, Spain, Poland, Ireland, Hungary, Tunisia, the Federal Republic of Germany and the Netherlands supported the nomination.

*Dr. Mabileau (France) was elected Chairman by acclamation.*

The meeting rose at 6.30 p.m.

### SECOND MEETING

*Wednesday, 13 January 1971, at 3.15 p.m.*

*Chairman: Dr. MABILEAU (France)*

#### Election of the Vice-Chairman

*On the proposal of Mr. BEEDLE (United Kingdom), which was supported by the representatives of Yugoslavia, Turkey, the USSR, the United States of America, Iran, India, Austria, Mexico, Spain, Poland, Ireland, Sweden, Denmark and the United Arab Republic, Dr. Bertschinger (Switzerland) was elected Vice-Chairman by acclamation.*

**Consideration of the revised draft Protocol on Psychotropic Substances adopted by the Commission on Narcotic Drugs, in accordance with Economic and Social Council resolution 1474 (XLVIII) of 24 March 1970 (item 11 of the Conference agenda)**

(E/4785, chap. III)

### ARTICLE 2

(SCOPE OF CONTROL OF SUBSTANCES)

#### Paragraphs 1-6

1. Mr. BEEDLE (United Kingdom) reiterated the point made by his delegation during the general debate in plenary (3rd plenary meeting) that judgments on "liability to abuse" should as far as possible be based on reliable evidence that substantial abuse had occurred justifying international action. He then made the following tentative suggestions in respect of paragraphs 4 and 5: that the role of WHO under the Protocol might be to assess the pharmacological effects of a substance, its medical value and its liability to misuse and to report its findings to the Commission on Narcotic Drugs, leaving the latter to consider social, legal and other factors and to decide in which schedule the substance should be placed; that it was questionable whether, if there were to be four schedules, it was possible to lay down rules employing three gradations of medical value and four gradations of public health risk like those in paragraph 4, to govern the selection of the schedule in which a substance was to be placed; and that if WHO were to report its findings, it would be necessary to lay down criteria.
2. Mr. NIKOLIĆ (Yugoslavia) agreed in principle that paragraph 4 could be simplified.
3. Mr. ANAND (India) pointed out that criteria understandable to all were essential for the initial grouping of substances in the four schedules. His delegation's suggestion that the criterion should be the degree of seriousness of the danger a substance represented to public health and as a social problem was worth considering.
4. Mr. HOOGWATER (Netherlands) said that the greatest possible precision was desirable in the texts; what was meant by "substances" was "dependence-producing, non-narcotic psychotropic substances".
5. Mr. ALAN (Turkey) and Dr. EL HAKIM (United Arab Republic) drew attention to foot-note 6, which indicated their Governments' attitude to paragraph 5.
6. Dr. PUNARIO RONDANINI (Mexico) said he thought the respective roles of WHO and the Commission were made clear in paragraphs 4 and 5.
7. Dr. BERTSCHINGER (Switzerland) said he would appreciate having the United Kingdom representative's suggestion, which he had found interesting, circulated in writing. He pointed out that requests for placing a narcotic substance in one of the schedules of the 1961 Single Convention on Narcotic Drugs had nearly always come from a party to the Convention and not from WHO. Restriction of the activities of WHO's expert committee

must at all costs be avoided; he feared that the present paragraph 4 would restrict those activities to some extent. Moreover, the rules so far elaborated gave no guidance as to how to deal with a substance which, while giving rise to serious dependence and other problems, had also an important therapeutic value.

8. Dr. OLGUÍN (Argentina) said that medical aspects must be decisive when considering the danger a drug represented, and WHO was the competent body to assess such aspects. Although drafting improvements might possibly be made to paragraphs 4 and 5, the present attribution of responsibility to the two bodies which would participate in the implementation of the Protocol was correct.

9. Mr. SHEEN (Australia) said his Government favoured a situation in which the Commission could adopt or reject recommendations made by WHO in their entirety. Care should be taken to avoid any risk of conflict between WHO and the Commission. As to the criteria, his delegation would be interested to study the United Kingdom proposals. His delegation agreed with the United Kingdom delegation on the interpretation to be given to "liability to misuse", in that it covered substances with a high probability of abuse.

10. Mr. CHAPMAN (Canada) agreed with the United Kingdom delegation's views on the interpretation to be given to "liability to misuse". He also agreed that paragraph 4 was not sufficiently clear. He proposed that paragraph 3 (b), at present shown in square brackets, should be deleted.

11. Mr. BRATTSTRÖM (Sweden) stressed the importance of finding a compromise between the divergent views on the respective roles of WHO and the Commission. If the United Kingdom representative was suggesting that a clear distinction should be made between the medical role of WHO, to which the Swedish delegation attached great importance, and the control role of the Commission, the suggestion merited careful consideration.

12. Mr. BEEDLE (United Kingdom) explained that his earlier comments had been tentative. The first few lines of article 2, paragraph 4, indicated what kind of substances could produce similar abuse to the substances in schedules I to IV and should largely satisfy the Netherlands' representative.

13. Article 2 must provide guidelines illustrating how the machinery would operate.

14. Clearly, WHO's functions must be recognized and full advantage must be taken of that organization's help. Any collision between WHO and the Commission on Narcotic Drugs must be avoided.

15. The selection of substances for schedule I should not cause difficulties, but he did not know what was meant by WHO making recommendations concerning schedules II, III and IV "as appropriate". Removing the right to make such recommendations would not detract, and was not intended in any way to detract, from WHO's competence.

16. He supported the Canadian proposal for the deletion of paragraph 3 (b).

17. The CHAIRMAN asked the United Kingdom representative to submit his proposal in writing.

18. Mr. INGERSOLL (United States of America) expressed interest in the points raised by the United Kingdom representative and supported the Canadian representative's proposal.

19. Mr. ANAND (India) said that the United Kingdom representative seemed to think that WHO's function should be restricted to communicating its findings, so that the decision as to what substances were to be placed in the schedules would lie solely with the Commission. Not many would agree to such a conception of WHO's role, which would be wholly inconsistent with the position given to WHO under the Single Convention. There was no reason for relegating WHO to an inferior status.

20. Dr. BABAIAN (Union of Soviet Socialist Republics) said that he had great respect for WHO and its expert committees, but the Commission's function was not merely to endorse automatically WHO's recommendations. The Commission had a special status, and its members, unlike those of other functional commissions, sat as representatives of Governments appointed without consultation with the Secretary-General and without confirmation by the Economic and Social Council. The reason for that lay in the complexity of the problems it had to decide on. In deciding what substances should be included in the schedules, the Commission must consider all the medical, chemical, social, legal and economic factors.

21. He did not intend to infringe on the interests of other consultative organs, but he would conform to the existing legal and juridical instruments. In paragraph 3 of article IV of the Agreement between the United Nations and WHO, adopted on 10 July 1948 by the World Health Assembly, could be found the definition of the way in which WHO undertook to co-operate with any body which the Economic and Social Council might establish for the purpose of facilitating the co-ordination of the activities of the United Nations and its specialized agencies; in paragraph 2 of article V it was provided that WHO would furnish the United Nations with special reports, studies or information, but no clause in the Agreement stipulated that other United Nations organs, including the Commission on Narcotic Drugs, must accept the recommendations or information furnished by WHO.

22. He quoted Article 62 of the United Nations Charter, according to which the Economic and Social Council, and therefore its subsidiary organs, might make recommendations to the specialized agencies, and consequently to WHO.

23. Operative paragraph 3 of World Health Assembly resolution 21.42 stated that the Director-General of WHO was prepared to advise the Secretary-General in the elaboration of a draft international instrument and in the identification of drugs to be controlled thereunder. Such advice was important and valuable, but could not restrict the rights of the party receiving it.

24. According to article 3, paragraph 3, of the Single Convention, the Commission could accept or reject a WHO recommendation. Of course, the rights of WHO

must not be restricted by the Protocol in course of preparation. The draft as it stood clearly assigned great importance to the recommendations of WHO and provided that the Commission should receive notifications and proposals from WHO and the parties, that it should take account of them and on that basis decide whether or not a given substance was to be placed under control. The wording of article 2, paragraph 5, of the draft Protocol enabled a middle way to be found and left the door open to modification and the adoption of an appropriate decision.

25. The Commission always took the views of the parties into account; it should not be possible for those views to be ignored in the formulation of recommendations such as those of WHO. However, the Commission always heard the recommendations and explanations of the WHO representatives who attended its meetings with the greatest attention and interest.

26. Finally, he reiterated his conviction that the text of the draft Protocol was correctly based on the existing legal rules and was not in any way prejudicial to the interests of WHO. On the other hand, the adoption of WHO recommendations unreservedly would undoubtedly detract from the Commission's role and diminish its legitimate functions.

27. Mr. NIKOLIĆ (Yugoslavia) said he agreed with the Soviet Union representative. It was quite proper that WHO should consider public health questions and that the Commission should weigh up economic, administrative, legal and social factors. There was no reason why conflicts should arise between the two bodies.

28. Miss BALENCIE (France) said that her delegation was willing to study the United Kingdom proposal.

29. Mr. ANAND (India) said that the Commission could disagree with a WHO recommendation, but in that case it should try and bring that organization round to its view, and there ought to be a method of resolving differences of opinion.

30. Mr. MANSOUR (Lebanon) said that there was little likelihood of conflicts between WHO and the Commission.

31. Paragraphs 3 (b) and 5 should be omitted.

32. Mr. ASANTE (Ghana) said that paragraph 4 could be improved. As at present worded, the penultimate sentence implied the possibility of a conflict between WHO and the Commission. WHO had been assigned the proper role in the present text.

33. Dr. THOMAS (Liberia) expressed agreement with the Canadian proposal.

34. Mr. BARONA LOBATO (Mexico) said he entirely agreed with the Soviet Union representative. The text of paragraphs 4 and 5 was satisfactory, but if the United Kingdom representative could devise a clearer text it should be considered.

35. The Canadian proposal was acceptable.

36. Dr. CAMERON (World Health Organization) drew attention to the fourth paragraph of the preamble to

World Health Assembly resolution 23.42, and to paragraph 3 (ii) of the operative part.

The meeting rose at 5.35 p.m.

### THIRD MEETING

Thursday, 14 January 1971, at 10.15 a.m.

Chairman: Dr. MABILEAU (France)

Consideration of the revised draft Protocol on Psychotropic Substances adopted by the Commission on Narcotic Drugs, in accordance with Economic and Social Council resolution 1474 (XLVIII) of 24 March 1970 (item 11 of the Conference agenda) (*continued*)  
(E/4785, chap. III)

#### ARTICLE 2

(SCOPE OF CONTROL OF SUBSTANCES) (*continued*)

##### Paragraph 7

1. Mr. HOOGWATER (Netherlands) saw difficulty in expressing an opinion on paragraph 7 so long as no decision had been taken on what was to be done in respect of schedules III and IV. The Netherlands, for its part, could see no reason why those schedules should necessarily be retained. In any case, his delegation would prefer the paragraph to end at the word "communication".
2. Mr. OBERMAYER (Austria) also felt that consideration of paragraph 7 should be deferred.
3. Mr. KOCH (Denmark), referring to his delegation's stand in favour of the retention of schedules III and IV, preferred that the question of the right of non-acceptance be considered only when the other articles defining the nature of the control measures had been discussed.
4. Dr. BABAIAN (Union of Soviet Socialist Republics), supported by Mr. NIKOLIĆ (Yugoslavia), submitted that all the articles of the draft Protocol were interrelated and that the Conference would be unable to make headway in its work if it continually deferred consideration of individual articles. The Committee should immediately embark on the discussion of the substance of paragraph 7, on the understanding that it could revert to it later should changes to other articles make that necessary.
5. Mr. BEEDLE (United Kingdom) felt that the wording of the second part of the second sentence, namely, "that it undertakes to apply only the measures of control listed hereafter, and stating its reasons for this exceptional action", was far from satisfactory. It would be better to reverse the order and require first that the dissenting party should state the reasons why it could not apply a decision in full and then provide for it to undertake to apply the control measures listed.



6. Mr. NIKOLIĆ (Yugoslavia) pointed out that the Yugoslav delegation was one of those which were stated in foot-note 9 to be generally opposed to the right of non-acceptance. Were that right to be recognized, an interminable series of reservations would preclude any international application of the Protocol.
7. Mr. ANAND (India) said that his delegation was opposed to the right of non-acceptance. If that right were nevertheless retained, it should apply only to the substances in schedule IV, which were far less dangerous than those in schedule III. Moreover, dissenting parties should be required to observe the provisions of articles 10 and 14, in addition to the control measures listed in paragraph 7 (a)-(e).
8. Dr. CORRÊA da CUNHA (Brazil) supported the United Kingdom representative's suggestion.
9. In November 1970, a team of experts in Brazil had studied the problem of psychotropic substances and had concluded that the best course would be to divide them into three groups: group I (medical prescriptions to be kept by pharmacies in order to ensure strict control); group II (retention of medical prescriptions optional, strict control not being absolutely necessary); group III (substances whose sale, purchase, processing, marketing and use in any form whatever would be prohibited and for which no medical prescription could be issued). His Government was convinced that the division of psychotropic substances into three groups along those lines would permit completely satisfactory control.
10. Dr. OLGUÍN (Argentina) said that his country had no legal difficulties about accepting the text of the draft Protocol as it stood. However, not all countries might be in the same position, and a compromise must therefore be sought allowing for exceptional solutions in certain cases.
11. The right of non-acceptance should be restricted to a very short list of substances, such as that in schedule IV, and each country should state the reasons why it was not going to apply the provisions of the agreement. His delegation agreed with the Indian delegation that observance of articles 10 and 14 should be one of the requirements listed in paragraph 7.
12. Mr. KANDEMIR (Turkey) saw no reason to grant countries a right of non-acceptance which was incompatible with the international application of the Protocol. By way of compromise, his delegation might be able to accept the existence of a right of appeal restricted to substances in schedule IV, but it would have to rest with the Economic and Social Council to take the final decision on the matter. In any event, in accordance with foot-note 9, the provisions of articles 10 and 14 should be included in the requirements to be observed by the dissenting party.
13. Mr. ASANTE (Ghana) felt that the right of non-acceptance, if granted, should be applicable only to substances in schedule IV; however, it would be better not to grant it at all and to make do with three schedules.
14. Dr. BABAIAN (Union of Soviet Socialist Republics) said that he would be proposing another wording for paragraph 7 in due course. With regard to the substance of the question, he doubted the desirability of granting the right of non-acceptance, in that it would make international instruments less meaningful.
15. Mr. NASSAR (United Arab Republic) said that all decisions by the Commission should be notified to all States. The reference to schedule III in paragraph 7 should be deleted.
16. Mr. CALENDIA (Italy) regarded the problem as a health one rather than a legal one. The point was whether a substance might have harmful effects, regardless of the schedule in which it was placed. Countries could have differences of opinion on the subject without reducing the Protocol's value. If a country decided, for example, to prohibit the consumption of alcoholic beverages, it did not necessarily follow that all countries should imitate it.
17. Mr. INGERSOLL (United States of America) explained that the need for the right of non-acceptance flowed from the complexity of the problems created by scientific and technical advances. International legislation had not always been capable of keeping pace with modern discoveries in the matter of drugs, and it was therefore essential to construct agreements whose scope was broad enough to cover that development. He reviewed the history of international drug legislation, pointing out that controls over new substances became binding under the 1925 Treaty only when a party accepted them. Later treaties controlling narcotic drugs were binding on parties in respect of new drugs, but the types of drugs covered were very limited in scope. It was hard to know in advance, however, what substances would be misused in the future, as the WHO Expert Committee on Drug Dependence had recognized. Moreover, chemical products used in industry might one day be of use in therapy. In view of those difficulties, it was understandable that many States were reluctant to waive their sovereign rights in favour of an international organ. It would be better to follow the procedure proposed in 1967 by the Permanent Central Narcotics Board, whereby the new instrument would give only a very broad definition of the substances placed under international control; the decision taken by the international organ to place a new substance under control would be binding only on States which had not expressly stated their inability to accept it. Such cases would in any event be exceptional. He understood that WHO agreed with that approach. He agreed with that philosophy, believing that such a procedure would help to ensure wide acceptance of the instrument. So far as the United States was concerned, it was not at all likely that it would have to resort to the right of non-acceptance, since the measures of control which it was applying to psychotropic substances were very strict and even more extensive than those laid down in the Protocol. On the contrary, it was probable that it would take the initiative in the international control of new drugs. He said that the United States might be able to accept a few minimum measures, despite non-acceptance, but it considered that the philosophy of non-acceptance applied to all schedules, not just schedules III and IV as at present drafted. He was prepared to co-operate in an effort to solve that difficult problem.

18. Mr. BEEDLE (United Kingdom) was in favour, in principle, of paragraph 7 as it stood, and of foot-note 11.
19. While it would undoubtedly be preferable to drop entirely the right of non-acceptance, the provisions of the Protocol should, for the reasons stated by the United States representative, be kept fairly flexible.
20. It should also be noted that unlike the 1961 Single Convention on Narcotic Drugs, the Protocol made no provision for transitional measures. Each country should be free to consider in the light of circumstances how far it could apply the decisions taken by an international body.
21. Mr. SHEEN (Australia) agreed with the United Kingdom representative.
22. He also agreed with the Argentine representative that a country not in a position to apply the measures laid down in the Protocol should clearly specify the reasons therefor and undertake to apply the measures as soon as it could.
23. Lastly, the provisions of articles 10 and 14, or at least those concerning the obligation to keep national statistics, should be included in paragraph 7.
24. Dr. THOMAS (Liberia) was in favour of the right of non-acceptance, which should not be confined to schedule IV.
25. Mr. NIKOLIĆ (Yugoslavia) stressed the necessity of clearly defining the respective competences of the Commission on Narcotic Drugs and WHO in the Protocol. He was against any right of non-acceptance, since it would considerably reduce the Protocol's effectiveness; where a proposed provision was found to be inapplicable by a given country, it was better to work out a compromise by which it could be eliminated.
26. Dr. BABAIAN (Union of Soviet Socialist Republics) said that an assimilation of alcoholic beverages to psychotropic substances was untenable from the legal standpoint, since the former were associated with foodstuffs and the latter were not.
27. Mr. OVTCHAROV (Bulgaria) felt that only in exceptional cases, which should be specified in the text, should the right of non-acceptance be considered. He supported the position of the Soviet Union delegation as set out in foot-note 8. He was prepared to accept a compromise regarding the substances in schedule IV. While not denying the importance of secondary effects, he believed that the Conference should confine itself to preventing the abuse of psychotropic substances.
28. Dr. AZARAKHCH (Iran) questioned the desirability of the principle of recognition of a right of non-acceptance; in any case, he would support it with regard only to substances in schedule IV.
29. Mr. CHAPMAN (Canada) endorsed the statements by the representatives of Australia, the United Kingdom and the United States of America; he agreed with the USSR representative that the right of non-acceptance should be tolerated in exceptional circumstances only.
30. Mr. HOOGWATER (Netherlands) said that the efficacy of measures taken nationally would depend on the number of parties to the Protocol. It was therefore

desirable that exceptions should be provided for. The same reasons led him to conclude that schedules III and IV were not strictly necessary.

31. Mr. HENSEY (Ireland) appreciated the difficulties some States might find in applying all the control measures which might be adopted, particularly with regard to the substances in schedules III and IV. He considered the present wording of paragraph 7 acceptable, but felt it desirable that some exceptions should be allowed for in it.

32. Mr. KOCH (Denmark) said that, since it was impossible to foresee the future, the criteria for including new substances in the schedules should be as vague as possible. He would leave himself free to revert to the question of the right of non-acceptance when the control measures relating to the substances in schedules III and IV were discussed.

33. The CHAIRMAN, summing up the discussion, noted that some delegations were in favour of paragraph 7 as it stood, whereas others were opposed to the right of non-acceptance; among the latter, however, some were prepared to consider a compromise.

The meeting rose at 12.25 p.m.

#### FOURTH MEETING

Thursday, 14 January 1971, at 3.15 p.m.

Chairman: Dr. MABILEAU (France)

Consideration of the revised draft Protocol on Psychotropic Substances adopted by the Commission on Narcotic Drugs, in accordance with Economic and Social Council resolution 1474 (XLVIII) of 24 March 1970 (item 11 of the Conference agenda) (*continued*)  
(E/4785, chap. III)

#### ARTICLE 2

(SCOPE OF CONTROL OF SUBSTANCES) (*continued*)

##### Paragraph 8

1. The CHAIRMAN invited the Committee to consider paragraph 8 of article 2 and drew attention to foot-note 11, which set forth the text proposed by the minority of the Commission on Narcotic Drugs.
2. Mr. ANAND (India) said that, since paragraph 8 made provision for review by the Economic and Social Council of decisions taken by the Commission on WHO recommendations, the right of non-acceptance would imply that an individual country could consider itself wiser than those three bodies, which spoke for the international community as a whole. If such a right were to be recognized in paragraph 7, the exercise of it should therefore be restricted to very exceptional circumstances, and a country invoking such circumstances should, within a reasonable time, bring its position into line with

that of the countries complying with the Protocol. The present discussion on paragraph 8 provided an opportunity to introduce a time limit in that connexion, and he suggested that the right of non-acceptance should end as soon as the Council confirmed the Commission's decision in accordance with paragraph 8. That suggestion would in practice give the non-accepting State a period of one to two years in which to comply with the Protocol, and should provide a satisfactory compromise.

3. Mr. BEEDLE (United Kingdom) said that those arguments applied to the case in which a country had doubts regarding the wisdom of a decision taken by the Council. They were not relevant to the question of non-acceptance discussed in connexion with paragraph 7, which related to circumstances that prevented a country from complying fully with an obligation set forth in the Protocol. Broad transitional provisions had been included in the 1961 Single Convention on Narcotic Drugs in a similar context, and it would be realistic to provide in paragraph 7 for some means of allowing partial compliance with the Protocol in the case of a country which was placed in exceptional circumstances and publicly explained its difficulties. Those circumstances and difficulties could prove to be of very long duration, and it would be quite unrealistic to introduce into paragraph 8 an arbitrary time limit for a situation of partial compliance.

4. Dr. THOMAS (Liberia) said he was opposed to the inclusion of the right of non-acceptance. The psychotropic substances were produced by the industrialized countries, and the Protocol was aimed at the protection of public health. It should not have any loop-holes.

5. Mr. KIRCA (Turkey) supported the text contained in foot-note 11, but suggested that the concluding words it suggested for paragraph 8 (*d*) "notice of non-acceptance that it has made" should be replaced by wording on the following lines: "notice that it has made under paragraph 7 above". Paragraph 7 did not establish a so-called "right" of non-acceptance. The notifying State would still be a party to the Protocol and would be bound by it. He also suggested, as a compromise solution, that paragraph 8 (*d*) in foot-note 11, which enabled the Council to confirm or alter the decision of the Commission, should be amended so as to give it the further possibility of introducing a provisional régime for a specified period in order to take into account the internal difficulties of the notifying State.

6. Mr. BRATTSTRÖM (Sweden) suggested that the Secretariat should produce a document setting forth the obligations which would be avoided by a non-accepting State. Paragraph 7 specified in sub-paragraphs (*a*) to (*e*) the international obligations which should be complied with in all cases. If a list of the other obligations could be drawn up, the concept of partial acceptance would become clearer.

7. Mr. ASANTE (Ghana) supported that request. His delegation favoured the text contained in foot-note 11. It had, however, misgivings with regard to the three-tier system of review which gave an unfair advantage to those countries that were permanent members of the

Commission on Narcotic Drugs and of the Economic and Social Council.

8. Mr. INGERSOLL (United States of America) supported the United Kingdom position. The question which arose was that of the difficulty of complying with an international decision on a national basis. Insurmountable difficulties could arise precisely in a system of government in which the national executive was subject to control by Parliament and in which individuals had the right to contest executive decisions in court. When his country entered into an international agreement, it wished to do so in the certainty that it could live up to the requirements of the agreement. His delegation was therefore opposed to the minority proposal for paragraph 8 appearing in foot-note 11.

9. Mr. ANAND (India) said it was unthinkable that a State party to an international instrument should be the sole judge of the circumstances in which the provisions of that instrument would apply. When a country became a party to an international agreement, it undertook thereby to institute the necessary municipal legislation to give effect to the provisions of the agreement. In the circumstances mentioned by the United Kingdom and United States delegations, the remedy would seem to be for the country concerned to use its influence in WHO and the Commission on Narcotic Drugs to prevent the substance in question from being brought under international control. He accordingly urged those delegations to accept the compromise proposal which he had made earlier in the meeting.

10. Mr. SHEEN (Australia) stressed that his proposals at the 3rd meeting had related exclusively to paragraph 7. Paragraph 8 dealt with a completely different situation. He believed it would be absurd to suggest that it was possible to foresee a period of time in which the difficulties of a non-accepting country could be overcome. In conclusion, his delegation found paragraph 8 generally satisfactory and was opposed to the proposal to introduce into it the text of sub-paragraph (*d*) given in foot-note 11.

11. Mr. HOOGWATER (Netherlands) said that a Government had to be sure before entering into international agreements that it would be able to comply with the obligations it would incur thereunder. Many Governments would have difficulty in obtaining parliamentary acceptance of the Protocol unless provision were made in it for a degree of non-compliance with decisions by WHO and the Commission that might place obligations upon them which could not be predicted. His delegation could not accept sub-paragraph (*d*) of the alternative text for paragraph 8 shown in foot-note 11.

12. Dr. OLGUÍN (Argentina) said that the decision-making powers of national authorities were an inalienable part of national sovereignty. By signing a treaty under which international bodies were given decision-making powers, Governments signified their acceptance of that situation. During the discussion of paragraph 7, he had stressed the importance of the exceptional character of any circumstances that might justify non-acceptance of any decision of the Commission. Any such exceptional circumstances existing in a country would be subject to consideration by its national authorities, which would

take international interests into account in deciding to make the notification of partial compliance. He thought the present possibility of appeal at three stages, namely, to WHO, to the Commission and to the Council, provided sufficient safeguard; the Council's decision should be binding on the parties.

13. Mr. ASANTE (Ghana) said a distinction should be made between situations that were peculiar to a given country and indisputable medical and scientific findings. In the former case, inability to comply with a decision of the Commission could not be easily overcome. When faced with indisputable medical and scientific findings, however, any review of a decision of the Commission would itself be based solely on factual considerations. It was difficult to envisage a situation in which a party would not comply with a decision of the Commission that was based on facts. He supported the setting up of a working group.

14. Mr. CHAPMAN (Canada) said he still thought there might be exceptional circumstances in which Governments would be prevented from applying all the provisions of the Protocol, and he agreed that such exceptional circumstances were unlikely to change within a reasonable period. Consequently, he was unable to accept the Indian representative's suggestion that a time limit should be set for the period during which non-acceptance could apply. His delegation considered it desirable to provide for an appeal to the Council and was prepared to accept paragraph 8 as it stood; the alternative text shown in foot-note 11 was unacceptable.

15. Mr. NIKOLIĆ (Yugoslavia) suggested that a working group should be established.

16. Mr. BRATTSTRÖM (Sweden) agreed with the Yugoslav representative that the best way of obtaining a compromise text would be to set up a working group. It would, however, be premature, he thought, to set up such a group immediately. The Committee should first complete its consideration of all the suggested control measures before having the question of exceptions dealt with by a working group. Informal consultations might be held in the meantime to prepare the ground for the working group.

17. Dr. BERTSCHINGER (Switzerland) drew attention to article 2, paragraph 1. From experience under the Single Convention, it seemed likely that requests for placing a substance under control would in almost all cases come from States. It was inconceivable that if a State made such a request in respect of a substance, it would not then comply with a decision taken by the Commission to place it under control.

18. The CHAIRMAN said he thought the Swedish representative's suggestion was a wise one. In the absence of any objection, he would assume that the Committee agreed that a working group should be set up later to try to reach a compromise on the problems raised by paragraphs 7 and 8. In the meantime, he would be at the disposal of any delegations wishing to hold informal consultations on the subject.

*It was so agreed.*

#### ARTICLE 5 (SPECIAL ADMINISTRATION)

19. Mr. INGERSOLL (United States of America), Mr. BEEDLE (United Kingdom) and Dr. BÖLCS (Hungary) said they could accept the text of article 5 as it stood.

20. Mr. KOCH (Denmark) recalled that the report to the 1961 Conference of the joint *Ad hoc* Committee on the corresponding article in the Single Convention had contained a note saying it was understood that the term "special administration" did not mean a single administration; it had accepted the fact that the special administration need not be a single authority. He requested that the same remarks should apply in the case of article 5 of the Protocol.

*Article 5 of the draft Protocol (E/4785, chap. III) was approved unanimously.*

The meeting rose at 5.15 p.m.

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#### FIFTH MEETING

*Friday, 15 January 1971, at 10.10 a.m.*

*Chairman: Dr. MABILEAU (France)*

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**Consideration of the revised draft Protocol on Psychotropic Substances adopted by the Commission on Narcotic Drugs, in accordance with Economic and Social Council resolution 1474 (XLVIII) of 24 March 1970 (item 11 of the provisional agenda) (continued)**  
(E/4785, chap. III)

#### ARTICLE 6 (SPECIAL PROVISIONS REGARDING SUBSTANCES IN SCHEDULE I)

1. Dr. AZARAKHCH (Iran) and Mr. ASANTE (Ghana) said their delegations could accept the wording of the article without reservation.

##### *Paragraph 1*

2. Mrs. d'HAUSSY (France) said that the term "*chercheurs*" employed in the French text was rather restrictive; doctors might be called upon to participate in research without having the status of "*chercheurs*" as the term was understood in France. It might perhaps be better to speak of "*personnel d'institutions médicales ou scientifiques*".

3. Mr. CHAPMAN (Canada) said that the same difficulty arose in the English text. The words "by specifically authorized medical practitioners and research workers" might be used instead of "by research workers".

4. Dr. BABAIAN (Union of Soviet Socialist Republics) said he agreed with the Canadian representative; the word "*personnel*" suggested by the French representative might be taken to cover unqualified assistants.



5. Mr. BEEDLE (United Kingdom) observed that any attempt to exclude medical practitioners from research carried out for medical purposes would be absurd. It would be better not to make the wording too complicated and to accept the French representative's suggestion. Moreover, while it was true that the substances in schedule I had little therapeutic value, it was important not to prevent any use of them in industry. It would be wiser, therefore, if paragraph 1 were to begin in the same way as article 4, namely, with the words "Except as provided in article 3."
6. Mr. EYRIES VALMASEDA (Spain) said he thought it would be useful to review the wording of paragraph 1 in the light of the comments by the representatives of France, Canada and the Soviet Union.
7. Dr. OLGUÍN (Argentina) said that the Spanish text did not give rise to the same difficulties as the English and French versions.
8. Mr. INGERSOLL (United States of America) associated himself with the comments made by the representatives of France, Canada, the USSR and the United Kingdom. Since any risk of research being hampered by provisions of the Protocol must be avoided, it would be better to speak of "specially authorized medical practitioners and scientific researchers", without specifying whether or not they belonged to institutions.
9. Mr. BARONA LOBATO (Mexico) said he shared the view expressed by the United States representative; research in university laboratories, for example, must not be prohibited. It might also be useful to add a further clarification in respect of the body that would be competent to issue licences, by inserting the following phrase: "under the supervision of the health authorities of each Party ...".
10. Mr. OVTCHAROV (Bulgaria) said he considered the present drafting of article 6 to be sufficiently clear and balanced. He feared that its purpose would be weakened if institutions or persons over whose activities it would be impossible to exercise strict control were authorized to issue licences.
11. Mr. ANAND (India) said that the discussion, which had been started by a purely drafting proposal, had become much broader in scope. It was important not to forget the twofold basic principle, namely, that the substances in schedule I should be used only in research institutions and, generally speaking, for non-therapeutic purposes.
12. Mr. KIRCA (Turkey) said he approved the present wording of paragraph 1 in principle. Its application would however raise a problem of administrative law in countries where there were autonomous public institutions. For that reason, he would prefer the wording "by the staff of medical or scientific institutions coming directly under the government health authorities of the Parties".
13. Mr. ASANTE (Ghana) said that his Government would have difficulty in applying the provisions of paragraph 1 if amendments of substance were made to it. In his view, the present wording did not exclude university laboratories or the laboratories of large industrial concerns; moreover, the question of the issuing of licences was adequately dealt with in paragraph 2.
14. Mr. NIKOLIĆ (Yugoslavia) said that, like the French representative, he thought that a more satisfactory expression than "*chercheurs*" should be found. Furthermore, the great research potential of laboratories belonging to large industrial undertakings should not be overlooked.
15. Dr. BERTSCHINGER (Switzerland) reminded the Committee that some psychiatric clinics were already making successful use of hallucinogens in the treatment of certain neuroses; therefore, not all therapeutic use of the substances in schedule I should be prohibited. Furthermore, the licence should be given not only to the institution, but also, as was done in Switzerland, to the person medically responsible for it.
16. Dr. BABAIAN (Union of Soviet Socialist Republics) said he hoped that the various amendments proposed would be submitted in writing so that all their implications could be carefully studied.
17. The CHAIRMAN said that, to avoid an unduly lengthy discussion, he would suggest that the representatives of France, Canada, the United States, the USSR and Spain should consider, together with the Legal Adviser to the Conference, how to improve the text of paragraph 1 in the light of the discussion and to bring the different language versions into line with each other.
- It was so agreed.*
- Paragraph 2*
- Paragraph 2 was approved.*
- Paragraph 3*
18. Mr. HOOGWATER (Netherlands) proposed that sub-paragraphs (a) and (b) should be redrafted to read as follows:
- (a) That any research project on human beings be authorized in advance by the appropriate health authorities.
- (b) That notice of each other project involving use of such substances be filed in advance with these authorities.
19. Mr. BEEDLE (United Kingdom) said he doubted whether the paragraph was needed; it might well be deleted, especially in view of the provisions of paragraph 2.
20. Mr. TSYBENKO (Ukrainian Soviet Socialist Republic), Dr. OLGUÍN (Argentina), Mr. OVTCHAROV (Bulgaria), Dr. DANNER (Federal Republic of Germany), Mr. ANISCHENKO (Byelorussian Soviet Socialist Republic), Dr. CORRÊA da CUNHA (Brazil) and Dr. BABAIAN (Union of Soviet Socialist Republics) said that they were in favour of retaining paragraph 3 as it stood.
21. Mr. ASANTE (Ghana) and Dr. THOMAS (Liberia) said that they agreed with the United Kingdom representative, especially as the provisions of paragraph 3 imposed additional administrative tasks which their countries would find it hard to undertake because of their limited resources.
22. Mr. CHAPMAN (Canada) and Mr. INGERSOLL (United States of America) drew attention to the fact



- that during the past year scientists and research workers in their countries had pointed out that too strict a regulation of the substances in schedule I would hamper research. They would therefore have no objection to the deletion of the paragraph, especially as paragraph 2 provided adequate safeguards.
23. Dr. PUNARIO RONDANINI (Mexico) said that the Mexican delegation was in favour of paragraph 3, but would like the words "clinical work" inserted in sub-paragraph (a).
24. Mr. ANAND (India) gave the background of paragraph 3 and said that it referred to the conditions subject to which substances in schedule I could be used. There had to be close supervision in such cases. He was, therefore, in favour of the retention of paragraph 3 as it stood. In order, however, to meet the objections of the United Kingdom representative and other representatives who had expressed similar views, it might perhaps be preferable to combine sub-paragraphs (a) and (b) in a single paragraph.
25. Mr. HOOGWATER (Netherlands) explained that the sole purpose of his amendment had been to make it clear in the text that advance authorization was required only in the case of research projects on human beings. He, too, could accept the deletion of the paragraph.
26. Mr. OVTCHAROV (Bulgaria) said that he was against the Mexican representative's amendment, because it would be tantamount to recognizing that hallucinogens had therapeutic uses, although it had never yet been possible to substantiate that claim.
27. Replying to a question by Dr. OLGUÍN (Argentina), Mr. WATTLES (Legal Adviser to the Conference) said that all five official language versions of the final text of the Protocol would be equally authentic.
28. Mr. SHEEN (Australia), Mr. BRATTSTRÖM (Sweden), Dr. AZARAKHCH (Iran), Mr. EYRIES VALMASEDA (Spain), Mr. TERERAHO (Rwanda), Mr. CALENDIA (Italy) and Mr. NASSAR (United Arab Republic) said they were in favour of retaining paragraph 3 as it stood.
29. Mr. NIKOLIĆ (Yugoslavia) said that, although he could accept paragraph 3 as it stood, he wondered whether it was a repetition of paragraphs 1 and 2, as the United Kingdom representative had stated, or whether it in fact introduced a fresh element.
30. Mr. KIRCA (Turkey) said that, in his view, paragraph 3 specified the details of the close supervision laid down in paragraph 2. It was essential that national laws should be brought into harmony on that point, and paragraph 3 should therefore be retained. In the interests of drafting, however, the expression "close supervision" might perhaps be deleted, as it repeated the words used in paragraph 2.
31. Mr. KOCH (Denmark) said that paragraph 3 was important because it laid down that the authorization of the health authorities was required.
32. Mr. KOECK (Holy See) said that, whatever the decision on paragraph 3, it was essential to provide adequate safeguards to cover any experiments which might be made on human beings.
33. Mr. HENSEY (Ireland) said that, in view of the terms of paragraphs 2 and 4, he could see no objection to the deletion of paragraph 3.
34. Mr. ASANTE (Ghana) explained that his delegation had no objection to paragraph 3, but in practice it would give rise to administrative difficulties in Ghana which might delay or hamper university research.
35. Mr. ONODERA (Japan) said that he had no objection to the deletion of paragraph 3, but the Indian representative's proposal was worth considering.
36. Mr. BARONA LOBATO (Mexico) said that in principle he was in favour of retaining paragraph 3 as it stood, but he would be prepared to consider the possibility of deleting it if the United States delegation made a formal proposal to that effect.
37. It was not necessary to delete the words "close supervision", even though they repeated the wording of paragraph 2, since in many legal texts repetition was necessary to ensure that the meaning was perfectly clear.
38. The CHAIRMAN asked the representatives of the United Kingdom and the United States whether they were making a formal proposal. If not, the paragraph would be retained, subject to any later amendments, since the majority of the members of the Committee had said that they were in favour of that course.
39. Mr. BEEDLE (United Kingdom) said that he had not made a formal proposal and that he appreciated the merits of the Indian proposal. Nevertheless, some substances in schedule I—some of the hallucinogens, for instance—might, after thorough study, eventually prove to have therapeutic value. Research should not be hampered by the requirement of a prior authorization, nor should the admission of a substance to limited medical use be impeded by the need to transfer it from schedule I to schedule II.
40. Dr. BABAIAN (Union of Soviet Socialist Republics) said that if new substances originally included in schedule I turned out to have therapeutic value and to be not very dangerous, the Commission on Narcotic Drugs could always decide to place them in another schedule upon notification by WHO or the parties. Experiments involving the use of those substances on human beings were inadmissible; experiments on animals should be carried out under stringent control. The experimental psychoses obtained by the use of hallucinogens had not led to any satisfactory data proving their therapeutic value. Thus, the therapeutic value of the substances in schedule I had not been sufficiently established to justify experiments that might have serious consequences. Paragraph 3 should therefore be retained.
41. Mr. INGERSOLL (United States of America) said the Indian representative's proposal was well worth considering.
42. The CHAIRMAN observed that the Committee had already approved paragraph 2 and it could not now be amended. He suggested that further consideration of paragraph 3 should be deferred to enable the representatives of the United States, the United Kingdom, the Netherlands and India, to consult with the Legal Adviser

to the Conference about a possible amendment to the paragraph.

*It was so agreed.*

The meeting rose at 12.35 p.m.

## SIXTH MEETING

*Friday, 15 January 1971, at 3.15 p.m.*

*Chairman: Dr. MABILEAU (France)*

**Consideration of the revised draft Protocol on Psychotropic Substances adopted by the Commission on Narcotic Drugs, in accordance with Economic and Social Council resolution 1474 (XLVIII) of 24 March 1970 (item 11 of the Conference agenda) (continued)**  
(E/4785, chap. III)

### ARTICLE 6

(SPECIAL PROVISIONS REGARDING  
SUBSTANCES IN SCHEDULE I) (continued)

#### Paragraph 4

1. Mr. MANSOUR (Lebanon) proposed the deletion of the concluding proviso "except for distribution in the course of a single authorized research project". That could lead to abuse, since it might enable a research worker to go on obtaining the substance in question for a long time. The reasons for control were the same, whether a research project was being initiated or merely continued.

2. Mr. CHAPMAN (Canada) proposed that paragraph 4 be deleted altogether; it went into excessive detail and could hamper research. Deletion would not weaken the control of schedule I substances, since every research project would be conducted under an authorization and subject to close supervision.

3. Mr. ANAND (India) opposed that proposal. Paragraph 4 was in line with the preceding paragraphs and was based on the fact that schedule I substances involved great dangers and had no therapeutic uses.

4. Mr. BEEDLE (United Kingdom) supported the text as it stood and opposed the Lebanese delegation's proposal to delete the concluding proviso. The Committee should place on record its belief that research workers were not responsible for illicit traffic.

5. Mr. INGERSOLL (United States of America) said that, without prejudice to his position on the Canadian proposal for the deletion of paragraph 4, his delegation regarded that paragraph as yet another instance of the tendency to lay down in an international instrument detailed control measures that should be left to the national authorities.

6. Mr. NIKOLIĆ (Yugoslavia) agreed. Paragraph 4 might give the false impression that there had been abuses on the part of scientists.

7. Mr. CHAPMAN (Canada) withdrew his proposal for the deletion of paragraph 4, in view of the lack of support.

8. Mr. MANSOUR (Lebanon) also withdrew his proposal to delete the concluding proviso of paragraph 4.

*Article 6, paragraph 4, was approved unanimously.*

9. Mr. HOOGWATER (Netherlands) said that his delegation had no difficulty with paragraph 4 of article 6. In general, however, the Protocol should avoid unnecessary detail and should not impose excessive administrative burdens on the States parties, not all of which had the necessary administrative resources to comply with extensive obligations.

#### Paragraph 5

10. Dr. CORRÊA da CUNHA (Brazil) proposed that the word "persons" should be replaced by "institutions". The records concerning the acquisition and use of the substances would be kept not by the research workers themselves but by the institution where they worked.

11. Mr. CHAPMAN (Canada) favoured retaining the paragraph as it stood. It was the individuals working in the institutions, rather than the institutions themselves, who were authorized to conduct research.

12. Mr. INGERSOLL (United States of America) said he agreed with the Canadian representative. He also wished to know whether the records to be kept would be additional to and separate from the normal records kept by research workers.

13. Mr. WATTLES (Legal Adviser to the Conference) explained that the records to be kept would not necessarily have to be kept separate from a research worker's normal records; if the latter gave the information required, they would meet the requirements of paragraph 5.

14. Mr. ANAND (India) suggested that, for the sake of uniformity in drafting, the word "persons" should be replaced by "research workers" or whatever term was finally adopted for paragraph 1 of article 6. The words "performing medical or scientific functions" should be replaced by the expression "using substances for medical and scientific purposes".

15. Mr. NIKOLIĆ (Yugoslavia) suggested that the reference to "persons" should be replaced by a reference to both persons and institutions.

16. Dr. BABAIAN (Union of Soviet Socialist Republics) supported that suggestion. As for the records to be kept under paragraph 5, they must be separate records showing clearly the quantities received and used.

17. Mr. ASANTE (Ghana) supported the Brazilian representative's proposal; it was the head of the institution concerned, not the individual research worker, who would be responsible for keeping the records.

18. Mr. WATTLES (Legal Adviser to the Conference) drew attention to the relationship between paragraph 5 of article 6 and article 18 (Penal provisions). Penal responsibility attached to individuals, not to institutions. It was therefore desirable to retain the reference to "persons".

19. Mr. ANAND (India) agreed. Unless a reference to "persons" or "research workers" were retained, it would not be possible to hold anyone responsible in the event of misuse.

20. Mr. BEEDLE (United Kingdom) said that his delegation could accept the text of paragraph 5 as it stood. If, however, it were desired to introduce a reference to institutions, the wording used should be "persons or institutions". Use of the expression "persons and institutions" would lead to a duplication of records.

21. Dr. THOMAS (Liberia) supported the proposal to introduce a reference to "institutions". The research worker was covered by the institution, the secretariat of which would keep the records called for by paragraph 5.

22. Mr. KIRCA (Turkey) said that the question of determining who would be answerable for misuse could be left to the national authorities concerned. In any case, the wider term "persons" was preferable to "research workers" because the substances might be kept by a servant of the research institution other than the research worker.

23. Mr. ASANTE (Ghana) supported the introduction of the words "or institutions". In Ghana, an institution as such could be held liable.

24. Dr. PUNARIO RONDANINI (Mexico) pointed out that, when the results of scientific research were published, it was customary to give the name of the individual who had done the work, in addition to that of the institution concerned.

25. Dr. BABAIAN (Union of Soviet Socialist Republics) said he could accept paragraph 5 either as it stood or with the addition of the words "or institutions".

26. Mr. NIKOLIĆ (Yugoslavia) said that he, too, could accept paragraph 5 as it stood. In Yugoslavia, a legal entity could also be held answerable in criminal law.

27. Dr. OLGUÍN (Argentina) said that paragraph 5 was acceptable as it stood; it would be for each country to define the use of the term "person" and to determine whether it covered both individuals and bodies corporate.

28. Mr. MANSOUR (Lebanon) said he agreed with the Argentine representative. A penalty could be imposed on a body corporate.

29. Mr. NASSAR (United Arab Republic) supported the proposal to introduce the words "or institutions".

30. Mr. DANNER (Federal Republic of Germany), Dr. BERTSCHINGER (Switzerland), Mr. SHEEN (Australia), Mr. OVTCHAROV (Bulgaria), Mr. BRATTSTRÖM (Sweden), Mr. OBERMAYER (Austria), Dr. AZARAKHCH (Iran), Mr. HENSEY (Ireland), Mr. TERERAHO (Rwanda) and Mr. SHIK HA (Republic of Korea) said they supported paragraph 5 as it stood.

*Article 6, paragraph 5, was approved by 34 votes to none, with 3 abstentions.*

#### *Paragraph 6*

31. Mr. HOOGWATER (Netherlands) said that, although the text as it stood was acceptable to his delegation,

he would be prepared to accept a simplified version along the following lines: "The Parties shall prohibit the export and import of substances in schedule I except when the exporter and importer are authorized by their respective Governments".

32. Dr. OLGUÍN (Argentina) said he favoured government control of exports and imports of substances in schedule I. The text as it stood was acceptable, but he was prepared to consider a simplified version.

33. Mr. ASANTE (Ghana), Mr. INGERSOLL (United States of America) and Mr. BEEDLE (United Kingdom) said they could accept the text suggested by the Netherlands representative.

34. Mr. BARONA LOBATO (Mexico) said he was in favour of simplification. What was wanted in the case of schedule I substances was very strict control, and that could only be achieved by restricting importation and exportation to Governments. All international trade in such substances could then be regulated by the competent authorities in each country.

35. Mr. NIKOLIĆ (Yugoslavia) said he too favoured simplification. It was the inherent right of every Government to delegate part of its authority if it so wished; it was unnecessary to provide for such a possibility in an international treaty.

36. Mr. KOCH (Denmark) drew attention to an apparent difference in substance between the English and French versions of the first sentence.

37. Mr. WATTLES (Legal Adviser to the Conference) agreed that there was a difference in substance between the two versions. From the discussions in the Commission on Narcotic Drugs, he had understood that the intention was that trading should be between government institutions only, as stated in the English version, and not between any institutions, as stated in the French version. The Committee should decide which of the two concepts it wished to have included in the draft.

38. Mr. ANAND (India) said the first sentence of the paragraph should be read in conjunction with the second. If trading was only to be between Government and Government, the first sentence was necessary because import and export authorizations would be required. If, on the other hand, trading could also be between duly authorized private bodies, the first sentence was unnecessary. A decision should be taken on the question of principle involved before the drafting of the paragraph was considered.

39. In reply to a question from the CHAIRMAN, Mr. WATTLES (Legal Adviser to the Conference) suggested that the problem might be solved by taking a vote on whether non-governmental bodies, specifically authorized by Governments for the purpose, could or could not export or import substances in schedule I. If the result of the vote was negative, the Committee could then proceed on the basis that only government agencies would be able to trade in those substances.

40. The CHAIRMAN said he thought the wisest course at the present juncture would be to take an informal vote.

*By 20 votes to 16, with 3 abstentions, it was decided informally that only government agencies should be able to trade in substances in schedule I.*

The meeting rose at 5.55 p.m.

## SEVENTH MEETING

*Monday, 18 January 1971, at 10.20 a.m.*

*Chairman: Dr. MABILEAU (France)*

**Consideration of the revised draft Protocol on Psychotropic Substances adopted by the Commission on Narcotic Drugs, in accordance with Economic and Social Council resolution 1474 (XLVIII) of 24 March 1970 (item 11 of the Conference agenda) (continued)**  
(E/4785, chap. III)

### PROGRESS OF THE WORK OF THE TECHNICAL COMMITTEE

1. Dr. REXED (Sweden), Chairman of the Technical Committee, said that the Technical Committee had almost completed its consideration of article 1 and of the amendments thereto (E/CONF.58/C.3/L.1 and L.2). With regard to article 2, the Technical Committee could not take any decision before knowing what amendments would be made to it by the Committee on Control Measures. The Technical Committee had considered provisionally, however, in the light of its own members' experience, each of the substances which were to be included in the schedules. So far as schedule I was concerned, the Committee had agreed that substances 1 to 9 were very dangerous, that they should be subject to very strict control and that their use in experiments on man should be prohibited. As to the tetrahydrocannabinols (10), the Committee wondered whether they did not come under the control of the Commission on Narcotic Drugs, in view of the fact that they formed the active principle of cannabis. Furthermore, the Committee had decided to transfer substance 15 (phencyclidine) from schedule IV to schedule I; in fact, that anaesthetic was also a hallucinogen which was liable to abuse.

2. As to schedules II and III, the Committee had not thought it necessary to make any changes in the lists of substances or in the control measures provided for. On the other hand, the Committee had been unable to reach agreement on the substances in schedule IV, some members being of the opinion that they should be subject to international control and others holding that control measures at the national level were sufficient. In the view of still other delegations, the international measures should be less strict than those provided for in the draft Protocol. Several members had informed the Committee that their countries had known cases of

abuse of and illicit traffic in those substances; and the majority had been in favour of maintaining the schedule, or condition that the scope of the control measures for the substances included in it was reduced. The Committee had accordingly deleted from the schedule substances 4 (chloral hydrate), 11 (methohexital) and 14 (paraldehyde). With regard to substances 5 and 6, a minority of members had considered that they should not be included in the schedule, and that it was for the Committee on Control Measures to take a decision in the matter. Furthermore, some members had expressed doubts as to the suitability of including substances 3, 12 and 16 in schedule IV; others had raised the question whether a group of barbiturates should not be added to schedule IV or schedule III. In any event, the Technical Committee would have to reconsider those questions when the Committee on Control Measures had made known its wishes.

### ARTICLE 6 (SPECIAL PROVISIONS REGARDING SUBSTANCES IN SCHEDULE I) (continued)

#### Paragraph 6 (continued)

3. The CHAIRMAN suggested that, to produce an agreed text of paragraph 6, the Committee should set up a small working group consisting of the following countries: France, Ghana, India, the Netherlands, Turkey, the Union of Soviet Socialist Republics, the United Kingdom, the United States and Yugoslavia.

*It was so decided.*

#### Paragraph 7

4. Mr. SHEEN (Australia) said he noted that under article 3, paragraph 2, the parties might permit the use of psychotropic substances in industry. He asked whether that provision applied to paragraph 7.

5. Mr. WATTLES (Legal Adviser to the Conference) pointed out that article 6, paragraph 1, prohibited the use of the substances in schedule I except for medical and scientific purposes.

6. Mr. ANAND (India) said that the expression "for any purpose" was not clear. It seemed to imply that parties might authorize the possession of substances in the other schedules. The wording of the paragraph should be amended to conform with the terms of paragraph 1.

7. Mr. WATTLES (Legal Adviser to the Conference) said that article 6 was concerned solely with the substances in schedule I. The other substances were governed by the provisions of article 4.

8. Mr. HOOGWATER (Netherlands) said that the term "unauthorized" was confusing. In view of the contents of paragraphs 1 and 3, it would be better to delete it.

9. Mr. HENSEY (Ireland) said he had some doubts about the expression "for personal use". It seemed to him to conflict with article 4, sub-paragraph (b), which permitted the possession of such substances under legal authority.

10. Mr. KIRCA (Turkey) suggested that the order of the paragraphs should be reversed; paragraph 7 should come first, since it contained the general principle



governing the substances in schedule I, namely that the possession of those substances was prohibited except in certain cases, which would be listed in the following paragraphs. To meet the point made by the Irish representative, it would be enough to state that the parties prohibited the possession of the substances in schedule I except in cases authorized under the provisions of article 6. Moreover, persons other than scientific research workers and doctors, such as manufacturers or exporters, might possess those substances, and so paragraphs 1 and 3 (b) should come after paragraph 7. And in article 4, sub-paragraph (b) it should be stated that a party would not permit the possession of such substances except under the terms laid down in the Protocol and under legal authority.

11. The CHAIRMAN asked the Turkish representative to consult with the Irish representative with a view to preparing an appropriate amendment.

12. Mr. INGERSOLL (United States of America) asked whether it was really necessary to keep paragraph 7, since the point at issue was already covered by article 4. In respect of the entire article, the wisest course would be to leave it to Governments to prescribe detailed control measures. He was concerned about undue restrictions on medical and scientific research. Experience had not shown that researchers had been responsible for significant diversion.

13. Dr. OLGUÍN (Argentina) said that the purpose of the Protocol was clear; it was to establish a control over all dangerous substances. The Protocol included general and particular provisions for that purpose. Sub-paragraphs (a) and (b) of article 4 were very general in scope and applied to the use and possession for medical and scientific purposes of all the psychotropic substances in all the schedules. Article 6, paragraph 1, was concerned only with the substances in schedule I and stated the principle governing their use; it would be appropriate therefore to place it at the beginning of article 6.

14. Mr. KOCH (Denmark) and Mr. HOOGWATER (Netherlands) supported the United States representative's view. They would nevertheless welcome an assurance from the Legal Adviser to the Conference that paragraph 7 added nothing to article 4 (b) and was therefore superfluous.

15. Mr. BEEDLE (United Kingdom) noted that it seemed to be generally agreed that the text of article 6 was far from clear. The main concern of the Commission on Narcotic Drugs had been to ensure the strictest possible control; it had not had time to ensure that the draft it had prepared was well constructed or complete. It was for the Conference to fill any gaps there might be (for instance, there was no mention anywhere of an obligation for manufacturers and distributors of substances in schedule I to keep records) and to review the structure of each article in order to make it self-contained. That was especially important with particularly dangerous substances; administrators should not have to consult lawyers each time they tried to understand the text.

16. Dr. BABAIAN (Union of Soviet Socialist Republics) reminded the Committee that he had already stressed the need to correlate articles 3, 4 and 6. He then suggested,

in the interests of greater clarity, that paragraph 7 should read: "The Parties shall, in addition to taking the measures provided for in article 4, prohibit . . .", with the rest of the paragraph remaining unchanged.

17. Mr. NIKOLIĆ (Yugoslavia) supported the views expressed by the United States and United Kingdom representatives. He formally proposed that a drafting group should be entrusted with the revision of the whole of article 6.

18. Mr. ANAND (India) said that a decision should be taken whether the Protocol was to be divided into two parts, one laying down general provisions to apply to all psychotropic substances and the other prescribing special measures to apply to the various categories of substances, or whether each category should form the object of a self-contained section. A further point was that article 6, paragraph 7, dealt with two quite distinct things, namely "unauthorized possession" and "possession for personal use"; in the light of paragraph 3, the latter expression must be understood as applying to possession for purposes of experimenting on human beings.

19. Mr. KIRCA (Turkey) thought it essential to specify up to what point control measures were a matter for the national authorities and when they became international obligations. Unless that suggestion was adopted, he would support the proposal of the Soviet Union representative. He noted that there was no provision anywhere that exporters and importers of the substances in schedule I were required to keep records. It would therefore be advisable to entrust a working group with the revision of article 6 as a whole.

20. Dr. URANOVICZ (Hungary) took the same view. The working group would have to ensure that paragraph 7, on the possession of substances, was just as clear as paragraph 1, on their use.

21. Mr. HUYGHE (Belgium) also thought that the entire article, which contained obvious gaps, should be revised; *inter alia*, the possession of substances should already be mentioned in paragraph 2. He seemed to recall that the Commission on Narcotic Drugs, when drafting paragraph 7, had intended to make it illegal for substances to be possessed by authorized persons—certain university professors for instance—who might use them personally. In any event, it would be advisable not to go into too much detail, owing to the risk of something being overlooked.

22. Dr. WIENIAWSKI (Poland) said that he too thought that the text should be confined to generalities. Paragraph 7 was useful, but it should be made clear, as the Soviet Union representative had requested, that it complemented the provisions of article 4 (b) as far as the substances in schedule I were concerned.

23. Mr. CHAPMAN (Canada) drew attention to another omission where records were concerned: no time limit was stipulated for their preservation, whereas there was such a stipulation in article 10, paragraph 3. Like the Danish representative, he would be grateful if the Legal Adviser would express his opinion on the relationship between article 6, paragraph 7, and article 4 (b).

24. Mr. WATTLES (Legal Adviser to the Conference) said that in fact, as far as the substances in schedule I



were concerned, the second part of the paragraph placed an important limitation on the provisions of article 4 (b), which left it to national authorities to lay down conditions for possession.

25. The CHAIRMAN, in reply to a question by Mr. TSYBENKO (Ukrainian Soviet Socialist Republic), observed that three small working groups had been asked to revise article 6, paragraphs 1, 3 and 6. In the light of the discussion which had just taken place, it might be appropriate to merge those three groups into one. He suggested that the single group could be responsible for revising the whole of the wording of article 6 and might consist of the representatives of Canada, France, Ghana, India, Ireland, the Netherlands, Spain, Turkey, the Union of Soviet Socialist Republics, the United Kingdom, the United States and Yugoslavia; the Executive Secretary and the Legal Adviser to the Conference would be invited to participate in its work. The Netherlands representative could be Chairman.

*It was so agreed.*

26. Dr. BERTSCHINGER (Switzerland) proposed that the new group should in addition deal with article 4, which was closely related to article 6.

27. The CHAIRMAN pointed out that it had been decided to let the Technical Committee consider article 4 first. Of course, that would not prevent the working group from discussing it incidentally.

28. Mr. STEINIG (International Narcotics Control Board) said that the Board would be glad to join in the work of the group.

29. The CHAIRMAN said he thought it preferable not to complicate the work of what was already quite a large body. The Board's representatives would have every opportunity to maintain contact with the members of the group.

#### ARTICLE 7 (LICENCES)

30. Dr. BERTSCHINGER (Switzerland) proposed that the words "may take place" should be replaced by the words "take place" in paragraph 2 (b).

31. Mr. INGERSOLL (United States of America), referring to paragraph 3, felt that the term "adequate qualifications" called for closer definition.

32. The CHAIRMAN explained that the point was to make sure if necessary by inquiry into their moral standards, that the persons concerned possessed not only the professional qualifications but also the human and moral qualities required.

33. Mr. NIKOLIĆ (Yugoslavia), referring to the words "or other similar control measure" in paragraph 1, urged the necessity of a degree of uniformity in control measures at the international level, and suggested that the last phrase in paragraph 1 should be amended accordingly.

34. Dr. THOMAS (Liberia) saw no need to replace the words "may take place" by the words "take place" at the end of paragraph 2 (b). He was in favour of paragraph 3 as it stood.

35. Mr. KIRCA (Turkey) agreed with the United States representative that the wording of paragraph 3 was too vague and too general. The concept of "adequate

qualifications" might be differently construed by each State, thus being a possible source of dispute. A better wording would be "the qualifications prescribed by the laws of each Party".

36. Mr. BEEDLE (United Kingdom) noted that the provisions of paragraph 2 (b) might lead to difficulties in the case, for example, of private clinics, which were not yet subject, in the United Kingdom, to direct government control. Furthermore, in view of the consensus which was emerging in the Technical Committee concerning the content of the schedules, he wondered whether it might not be appropriate to exclude the distribution of the substances listed in schedule IV from the operations requiring a licence or other similar control measure, so as to draw a sharper distinction between the control measures applicable to substances in schedules II and III and those applicable to substances in schedule IV.

37. Mr. BEB a DON (Cameroon) suggested that the words "*une entreprise placée au bénéfice d'une licence*" should be replaced by the words "*une entreprise bénéficiant d'une licence*" or "*une entreprise bénéficiaire d'une licence*" in the French text of paragraph 3.

The meeting rose at 12.30 p.m.

#### EIGHTH MEETING

*Monday, 18 January 1971, at 3.15 p.m.*

*Chairman: Dr. MABILEAU (France)*

**Consideration of the revised draft Protocol on Psychotropic Substances adopted by the Commission on Narcotic Drugs, in accordance with Economic and Social Council resolution 1474 (XLVIII) of 24 March 1970 (item 11 of the Conference agenda) (continued)**  
(E/4785, chap. III)

#### ARTICLE 7 (LICENCES) (continued)

##### Paragraph 1

1. Mr. KOCH (Denmark) strongly supported the United Kingdom representative's remarks at the previous meeting on the implications of the term "distribution". The Protocol should exempt from the licensing requirement persons duly authorized to perform therapeutic or scientific functions, as was done in article 30, paragraph 1 (c), of the 1961 Single Convention on Narcotic Drugs. It would be for the Drafting Committee to decide whether that result should be achieved through the definition of the term "distribution" or by amending article 7, paragraph 1.

2. It was not really necessary to require licensing for the internal trade in substances of schedules III and IV. The Danish Government already applied to the substances of schedule II a system on the lines of article 7,

paragraph 1; and for substances in schedules III and IV it would be willing to introduce a licensing system for manufacture and production, but not for the domestic wholesale trade. It could accept a licensing system for the domestic retail trade, so long as the principle embodied in article 8 was maintained.

3. Mr. NIKOLIĆ (Yugoslavia) pointed out that the provision embodied in the concluding words "under licence or other similar control measure" was appropriate only for the control of domestic operations. So far as international transactions were concerned, it would not be possible for one country to have a licensing system while another applied a different control system. Uniformity was essential where transactions across frontiers were concerned.

4. Mr. BEEDLE (United Kingdom) suggested that the difficulty should be overcome by deleting the words in parentheses "including export and import trade". Article 7 would thus relate exclusively to activities within the national control system, like article 30 of the Single Convention. All matters of international trade would accordingly be left to be governed by article 11, corresponding to article 31 of the Single Convention.

5. Mr. CHAPMAN (Canada) agreed on the need for uniformity in the control of international trade. It was with domestic trade in mind that his delegation had supported the inclusion of the words "or other similar control measure" in paragraph 1. In Canada, trade within a particular province was the responsibility of the province concerned; the Federal Government had full responsibility for the control of imports and exports. His delegation therefore favoured the retention of the concluding words of paragraph 1 or the introduction of an opening proviso on the lines of article 17: "Having due regard to their constitutional, legal and administrative systems...".

6. Mr. KIRCA (Turkey) said he could accept the deletion of the words in parentheses provided that article 11 were amended so as to make international trade subject to the controls set forth in article 7, paragraph 2. He also expressed his understanding that the term "licence" meant a prior authorization and not an *ex post facto* endorsement of a transaction already performed.

7. Mr. WATTLES (Legal Adviser to the Conference) said that the deletion of the words in parentheses might not be sufficient to achieve the intended purpose because, unless otherwise specified, the term "trade" would cover both international and domestic trade. It would be necessary to introduce before "trade" an adjective such as "internal". Also, if it were intended to impose a licensing system for international trade, article 11 would have to be amended so as to make that requirement clear.

#### Paragraph 2

8. Mr. BEEDLE (United Kingdom) expressed misgivings as to the real meaning of paragraph 2 (b); that text, taken in conjunction with the definition of the term "distribution" in article 1, appeared to suggest that parties to the Protocol would be expected to license hospitals, nursing homes or even schools where even a small quantity of sedatives or sleeping pills was kept.

It would be preferable to remove the reference to distribution from the sub-paragraph.

9. Mr. HENSEY (Ireland) pointed out that the words in parentheses, "including export and import trade", could not be removed also from paragraph 2 (a), because that paragraph referred to licensing, which was not covered by article 11. In addition, he suggested that, in paragraph 2 (b), the words "may take" should be replaced by "takes" in order to meet the point raised by the Swiss representative at the 7th meeting.

10. Dr. BERTSCHINGER (Switzerland) said, with reference to paragraph 2 (a), that the requirement of a licence renewable every two or three years, combined with a system of inspection, would be sufficient; it would render the system of constant control superfluous.

11. Mr. NIKOLIĆ (Yugoslavia) pointed out that the provisions of paragraphs 2 (a) and 2 (b) were taken from paragraphs 1 (b) (i) and 1 (b) (ii) of article 30 of the Single Convention. He was therefore surprised that suggestions for changes should be made by delegations of countries which were parties to the Single Convention.

12. Mr. INGERSOLL (United States of America) pointed out that the Single Convention did not define the term "distribution"; it was the attempt to introduce such a definition in the Protocol which was creating difficulties for certain delegations. The problem might perhaps again be that of the prescription of too much detail in the Protocol. He agreed that in the present case the difficulty was that paragraph 1 (c) did not contain a provision comparable to article 30 of the Single Convention.

13. Dr. BABAIAN (Union of Soviet Socialist Republics) said that his delegation could accept paragraph 2 as it stood.

#### Paragraph 3

14. Mr. INGERSOLL (United States of America) said that, in the case of persons engaged in the handling of substances, the words "adequate qualifications" would seem to refer to technical competence. He asked if the provision would also apply to such persons as members of the board of directors of a company who were concerned with administrative and policy matters. He felt that national Governments could be relied upon to decide what qualifications they would require both from technicians and from administrators. He also noted that paragraph 3 extended the requirement of those qualifications to any licensed enterprise, whereas article 34 (a) of the Single Convention related only to state enterprise.

15. Mr. WATTLES (Legal Adviser to the Conference) said that, under both article 7, paragraph 3, of the Protocol and article 34 (a) of the Single Convention, the question of qualifications was a matter for decision by Governments. It was for each Government to determine not only the kind of qualifications it would impose but also the classes of persons from whom certain qualifications would be required.

16. The Single Convention dealt separately with State enterprises and with other persons and bodies. In preparing the Protocol, the Commission on Narcotic Drugs had taken the view that the distinction was unnecessary,

and provisions such as article 7, paragraph 3, had been drafted accordingly.

17. Mr. NIKOLIĆ (Yugoslavia) stressed the need to avoid unnecessary differences from the text of the Single Convention. The Protocol would probably be applied by the same national administrations as the Single Convention, and it would create difficulties in the operation of the national control systems if small differences of wording were introduced into parallel provisions of the two instruments.

18. Mr. KIRCA (Turkey) proposed that the wording of paragraph 3 should be brought more closely into line with that of article 34 (a) of the Single Convention, by replacing the words "adequate qualifications properly to perform" by the words "the qualifications required by the laws and regulations of each Party for the proper performance of" (E/CONF.58/C.4/L.3).

19. Dr. OLGUÍN (Argentina) said that the introduction into the Protocol of provisions concerning the term "distribution" was necessary, because that aspect must be subject to effective control. The reference in article 7, paragraph 3, to "adequate qualifications" was sufficiently general to enable each Government to decide what qualifications it would require, as well as the persons on whom that requirement would be imposed.

20. Mr. HOOGWATER (Netherlands) said that if the majority of the Committee wished to retain paragraph 3, his delegation would be prepared to accept it. It would, however, on the whole prefer that the paragraph should be deleted, because it seemed to suggest that a State party might license an enterprise which was managed by persons not adequately qualified.

21. The CHAIRMAN suggested that a working group consisting of representatives who had commented on article 7 should be set up to prepare a new text in the light of the discussion.

*It was so agreed.*

#### ARTICLE 9

##### (WARNINGS ON PACKAGES, AND ADVERTISING)

22. The representatives of the United Kingdom, the United States of America, India, the Federal Republic of Germany, the USSR, France, Canada, Cameroon and Yugoslavia said they were in favour of article 9 as it stood.

23. Mr. BARONA LOBATO (Mexico) supported article 9, but suggested that the Spanish text should start with the words "The Parties" instead of "Each Party".

24. Dr. BERTSCHINGER (Switzerland) said that warnings on packages and advertising should be required when they were necessary and their purpose should be to prevent abuse. Article 9 was acceptable.

25. Mr. HUYGHE (Belgium) agreed to article 9, but pointed out that some parties might be bound by other treaty obligations such as those entered into under the Treaty of Rome to ensure that packages carried a warning about secondary effects. The text of the article should not be changed.

26. Mr. BEB a DON (Cameroon) asked whether the warnings must appear both on labels and on accompanying leaflets.

27. Mr. WATTLES (Legal Adviser to the Conference) explained that, as some packages were small, it might be impossible to get the whole of the required information on the label, in which case it would have to be given on the accompanying leaflets.

28. Mr. KOCH (Denmark) favoured article 9. He noted that it was not mandatory on Governments to see that warnings were given. The prime responsibility for giving warnings should be with the prescribing physician, and it might be risky to indicate on a package that it contained psychotropic substances.

29. Mr. ANAND (India) considered that warnings should always be indicated on accompanying leaflets whether there was room on the label or not.

*Article 9 was approved by 44 votes to none and was referred to the Drafting Committee.*

The meeting rose at 4.40 p.m.

## NINTH MEETING

*Tuesday, 19 January 1971, at 10.20 a.m.*

*Chairman: Dr. MABILEAU (France)*

**Consideration of the revised draft Protocol on Psychotropic Substances adopted by the Commission on Narcotic Drugs, in accordance with Economic and Social Council resolution 1474 (XLVIII) of 24 March 1970 (item 11 of the Conference agenda) (continued)**  
(E/4785, chap. III)

#### ARTICLE 10 (RECORDS)

1. Mr. HUYGHE (Belgium) drew attention to the difficulties that would arise if the provisions of article 10 were applied in their present form, particularly in the case of the numerous substances included in schedule IV. He proposed, therefore, that those substances should be excluded from the scope of article 10 and that they should be covered by national control measures; manufacturers and importers would be required to keep records of the basic products manufactured, imported or exported, which would reflect consumption, while dispensing pharmacists would supply such substances against a medical prescription and record them in the register of prescriptions.

2. Mr. WATTLES (Legal Adviser to the Conference) said there was an error at the end of paragraph 2, where the words "and distributions" should be deleted. The addition of those words had been proposed in the Commission on Narcotic Drugs, but it had never approved their inclusion. When the text had been submitted to the Commission for final adoption, the words had been included in it by mistake, with the result that the Commission had adopted the present inaccurate version. If those words were retained in the text, there would no

longer be any difference between the system of control applicable to the substances in schedule II and the régime applicable to those in schedules III and IV, which would deprive the paragraph of any logical justification.

3. Dr. DANNER (Federal Republic of Germany) said he agreed with the Belgian representative. The provisions of paragraph 2 would be even more difficult to apply than those of paragraph 1. In his view, article 10 should cover only the substances in schedule II.

4. Mr. EYRIES VALMASEDA (Spain) said that he too thought it would be wise to exclude the substances in schedule IV from the scope of application of article 10 and to make the competent national authorities responsible for their control.

5. Dr. BERTSCHINGER (Switzerland) said that his delegation could accept article 10, on condition that the substances in schedule IV were excluded from it.

6. Dr. OLGUÍN (Argentina) said that his delegation could accept article 10 as it stood. He did not believe that the application of the provisions of that article would give rise to additional administrative complications, since the records in question could be kept by the existing administrations. Compulsory recording of the substances in schedule IV would, moreover, have the practical advantage of encouraging doctors to simplify their prescriptions.

7. Mr. ANAND (India) said he was in favour of the existing text of article 10. He could not see why the application of the article would give rise to difficulties; administrative control of the substances in question already existed in every country in one form or another, and the proposed article 10 stipulated that each party might determine the form in which the records were to be kept.

8. Mr. KOCH (Denmark) said that his delegation had no difficulty in accepting article 10 as it stood, subject to the deletion of the words "and distributions" at the end of paragraph 2; but it did not have very strong views and was prepared to consider any proposal for the amendment or even the deletion of paragraph 2.

9. Dr. BABAIAN (Union of Soviet Socialist Republics), Mr. NIKOLIĆ (Yugoslavia) and Mr. OVTCHAROV (Bulgaria) said they were in favour of article 10 as it stood.

10. Mr. BEEDLE (United Kingdom) pointed out that one purpose of article 10 was to pave the way for Governments to make reports to the International Narcotics Control Board; but for that purpose the present article 10 seemed to go too far. Another purpose was to remind parties of the value of records in checking diversion, but that should not be exaggerated, because paper-scrutiny without inspection and other surveillance could produce very little in the way of results. His delegation could accept the broad framework of the article, provided that the meaning of the last words in paragraph 2 ("records of acquisitions and distributions") and the intent of paragraph 3 were made clearer. The aim should be to specify more clearly the minimum essential requirements. His delegation shared the doubts of the representatives of Belgium and the Federal Republic of Germany about the case for a range of require-

ments in relation to substances in schedule IV. Again, that was of limited value without inspection and other safeguards.

11. Mr. TYURIN (Byelorussian Soviet Socialist Republic) and Mr. YEBOAH (Ghana) said they were in favour of the existing text of article 10.

12. Mr. INGERSOLL (United States of America) said he agreed with the Danish representative. Since the requirements in the United States with respect to the keeping of records and the distribution of psychotropic substances were even stricter than those embodied in article 10, his country would have no difficulty in applying the provisions of the article as they stood, but it was understandable that some countries might hesitate to accept those control measures, since they would greatly complicate the work of their administrations. To meet such objections, it was necessary to be realistic and not to insist upon detailed records being kept of too wide a range of substances.

13. Apart from that, article 10 as a whole could be retained as it stood, since it allowed for a certain degree of flexibility by leaving the details of the record-keeping procedure to Governments.

14. Mr. OBERMAYER (Austria) said that the provisions on keeping records in article 10 should not be applied to the substances in schedules III and IV, except in countries where those substances gave rise to special problems.

15. Mr. SHEEN (Australia) observed that if the substances in schedule IV were excluded, provision would nevertheless have to be made for keeping national statistics of their manufacture, import and export.

16. Mr. KUŠEVIĆ (Executive Secretary of the Conference) said that, in the Secretariat's view, it would be relatively easy to apply the record-keeping requirements in the case of the substances in schedules I and II, since they were distributed only in small quantities, but the position would be quite different in the case of substances in schedules III and IV, since they accounted for 25 to 35 per cent of all prescriptions and the keeping of records would give rise to administrative problems. A special administrative body would have to be set up to take copies of the prescriptions handed over to social insurance services by pharmacists or patients. Some developing countries where there was no abuse of the substances would thus have to make arrangements that would otherwise have been unnecessary. The question arose, too, whether the control over substances in schedules III and IV would be really effective, since a pharmacist who wished to procure those substances could always forge prescriptions. The better course would be to set up an inspection service to supervise the pharmacies. Whatever the solution adopted by the Committee, the essential point was that the provisions of the Protocol should be acceptable to all countries and that the Protocol itself should be concluded without delay.

17. Dr. CORRÊA da CUNHA (Brazil) said that he could accept the English text of article 10, since, as the Argentine representative had said, it would help to



reduce the number of pharmaceutical preparations containing substances in schedules III and IV.

18. Mr. HOOGWATER (Netherlands) said he did not think that article 10 should refer to substances in schedules III and IV. Furthermore, if the words "and distributions" at the end of paragraph 2 were deleted, it would seem unnecessary to require retailers, institutions for hospitalization and the like to keep records of those substances, because they would already appear in the wholesalers' records.

19. Mr. CHAPMAN (Canada) said that substantial administrative machinery had been set up in Canada to control amphetamines and barbiturates; however, he had been impressed by the remarks of those speakers who had pointed out that the substances in schedule IV were widely used in medicine and that it would be a difficult task to keep records of them in the manner provided in article 10. At the very least, the control measures prescribed for substances in schedule III should be different from those laid down for substances in schedule IV. The latter substances could be excluded from article 10 without difficulty, since adequate control measures were laid down in other articles of the Protocol.

20. Dr. AZARAKHCH (Iran) pointed out that in any case manufacturers and wholesalers kept a record of quantities sold or stocked, while institutions for hospitalization recorded acquisitions and distributions of all drugs. He therefore had no difficulty in accepting article 10.

21. Mr. HENSEY (Ireland) said that in his country, as in the United Kingdom, additional complications would arise if the supplier and the date and quantity had to be shown in connexion with each acquisition and distribution of substances. He therefore proposed that the record-keeping requirement should be done away with as far as substances in schedule IV were concerned.

22. The CHAIRMAN observed that the original text of paragraph 2 read "acquisitions or distributions", not "acquisitions and distributions". There was therefore a mistake which needed correction.

23. Mr. ONODERA (Japan) thought that, as far as substances in schedule IV were concerned, the results would be slender in relation to the additional work which the provisions of article 10 would entail.

24. Mr. BRATTSTRÖM (Sweden) said that the keeping of comprehensive records would not involve so much work in Sweden as in other countries, since Sweden did not have many pharmaceutical specialities. It would nevertheless be advisable to arrive at a compromise in order to meet the views expressed by other delegations.

25. Dr. THOMAS (Liberia) said he did not think that administrative burdens should affect the issue when it was a question of dangerous substances, whichever schedule they belonged to; in his opinion, article 10 should be accepted as it stood.

26. Mr. BARONA LOBATO (Mexico) drew attention to the difficulty of laying down control measures until it was known exactly how the various substances would be apportioned among the schedules, especially as far as schedules III and IV were concerned. But in any case,

if article 10 was redrafted, less severe control measures should be prescribed for substances in schedule IV.

27. Mr. TSYBENKO (Ukrainian Soviet Socialist Republic) said that he supported the arguments put forward by the Soviet Union and Yugoslav representatives. Article 10 should be accepted as it stood.

28. Dr. URANOVICZ (Hungary) said that he proposed to submit to the Committee a study prepared by his Government showing the practical consequences which would arise from the adoption of the present text of article 10 in the case of one barbiturate in schedule IV.

29. The CHAIRMAN thanked the Hungarian representative for his constructive offer and asked him to have the document in question circulated as soon as possible.

30. Mrs. d'HAUSSY (France) said that her delegation would be prepared to accept article 10 as it stood if paragraph 2 ended with the words "or distributions". The discussion nevertheless showed that greater flexibility would be welcome with regard to substances in schedule IV.

31. Mr. MANSOUR (Lebanon), referring to the comments of the Executive Secretary, said that the countries in which there was virtually no drug addiction problem favoured strict control, whereas the others preferred a more liberal system. His delegation's view was that humanitarian considerations should prevail over administrative ones, and it therefore favoured the existing text of article 10.

32. The CHAIRMAN, summing up the discussion, said that the majority of the thirty or so representatives who had spoken had supported the present text; some had expressed reservations and others had specifically asked for deletions. He hoped that the consideration of article 10 paragraph by paragraph would result in a unanimous decision.

33. Mr. BARONA LOBATO (Mexico) said that his delegation had not spoken in the debate on article 6 but would be glad to participate in the work of the group entrusted with its revision.

34. The CHAIRMAN said he was sure that the Mexican delegation would be able to make a thoroughly constructive contribution to the group's activities. He proposed that Mexico should be added to the list of twelve countries comprising the working group.

*It was so agreed.*

The meeting rose at 12.20 p.m.

## TENTH MEETING

*Wednesday, 20 January 1971, at 10.45 a.m.*

*Chairman: Dr. MABILEAU (France)*

**Consideration of the revised draft Protocol on Psychotropic Substances adopted by the Commission on Narcotic Drugs, in accordance with Economic and Social Council**



**resolution 1474 (XLVIII) of 24 March 1970 (item 11 of the Conference agenda) (continued)**  
(E/4785, chap. III)

**ARTICLE 11**

**(PROVISIONS RELATING TO INTERNATIONAL TRADE)**

1. Mr. BARONA LOBATO (Mexico) observed that the provisions in paragraph 1 relating to the substances in schedule II were identical with those of the relevant articles in the 1961 Single Convention on Narcotic Drugs; they had stood the test of time and there was no point in reverting to them. It should be clear, however, that they would also be applicable to substances in schedule I. The system of "declarations" proposed in paragraph 2 for substances in schedules III and IV seemed satisfactory, because it did not impose undue burdens upon the authorities.
2. Mr. KOCH (Denmark) said he was whole-heartedly in favour of the measures proposed for substances in schedule II (and in exceptional cases for those in schedule I), but he was surprised that the provisions of articles 31 and 32 of the Single Convention had not been reproduced. In drafting paragraph 2, the Commission had obviously been actuated by the highly commendable intention of making the obligations in respect of substances in schedules III and IV less strict; but it was arguable that the implementation of the proposed measures would place just as heavy a burden both on the exporters and on the authorities, especially the Customs authorities, as in the case of the substances in schedules I and II; there seemed to be hardly any difference in practice between the two systems. For paragraph 2, a more flexible system might perhaps be considered.
3. Mr. HUYGHE (Belgium) said that he too thought that the system recommended in paragraph 2 was too complicated. Furthermore, international regulation was not desirable for substances in schedule IV, which were much used in medicine; if abuses were reported, the substance or substances impugned could always be transferred either to schedule III or to schedule II.
4. Dr. OLGUÍN (Argentina) said that the problem of public health was too important for anyone to hesitate for fear of making administrative procedures too cumbersome or of incurring expense, to make investments of that kind which would be of benefit in the long run, in view of the fact that they were intended to serve in the control of those psychotropic substances which presented definite hazards, including those in schedule IV. Those substances should not be exempted from international control. He would revert to certain points of detail when the article was considered paragraph by paragraph.
5. Mr. NIKOLIĆ (Yugoslavia) said that on the whole the existing wording of article 11 was entirely satisfactory. It drew a very clear distinction between, on the one hand, the import and export authorizations to be required for substances in schedule II and, on the other, the mere declaration (subsequent to the transaction) which would be required from exporters and importers for substances in schedules III and IV. He could not see that the Customs authorities had any say in the matter. The Legal Adviser to the Conference would perhaps confirm that his reading of paragraph 2 was correct.
6. Dr. BERTSCHINGER (Switzerland) said he thought that, for the substances in schedule III, it would be sufficient to provide for an exchange of forms between the parties concerned. As for the substances in schedule IV, international trade should be subject to special control only at the request of one party, as provided for in article 12. He pointed out that the word "declaration" was already employed in a different sense by the Customs authorities; there was a risk of ambiguity.
7. Mr. KIRCA (Turkey) said he would appreciate it if the Legal Adviser to the Conference could explain why the provisions of article 31 of the Single Convention had not been employed in the present case.
8. Mr. WATTLES (Legal Adviser to the Conference) said that the first text of the draft Protocol had provided that the substances in schedules II, III and IV would all be governed by the provisions of the present paragraph 2. As the Commission on Narcotic Drugs had considered that the substances in schedule II should be subject to a special system of authorization, a new paragraph 1 had been added which repeated some of the provisions of article 31 of the Single Convention in a simplified form. No country had proposed the inclusion of the special provisions of paragraphs 8 to 15 of article 31 or of article 32. Any delegation had the right, of course, to submit an amendment to that end if it saw fit.
9. Mr. HOOGWATER (Netherlands) proposed, in order to avoid any misunderstanding, that the expression "competent authorities" in the first sentence of paragraph 2 should be replaced by "competent health authorities".
10. Mr. SHEEN (Australia) said that in his country all imports and exports came under the Customs legislation. It would thus be better not to specify which authorities were the "competent authorities".
11. The CHAIRMAN observed that the present text left each Government free to determine which were the "competent authorities".
12. Mr. BEEDLE (United Kingdom) said he did not understand the significance of the words "or imported" and "or receipt" in sub-paragraphs (iii) and (iv) respectively of paragraph 2, since the obligation under discussion was only on the exporter. Provision could, of course, be made for a corresponding obligation on importers, but in that case the "receipt" mentioned in the last sentence of paragraph 2 would no longer suffice. It would not be impossible, either, to envisage a régime for the substances in schedule III different from that for the substances in schedule IV, to which only the provisions of the first part of the paragraph might apply.
13. Mr. KUŠEVIĆ (Executive Secretary of the Conference) said that the words "or imported" and "or receipt" in sub-paragraphs (iii) and (iv) of paragraph 2 were superfluous. As to receipts, he pointed out that, at least in the States members of the Universal Postal Union, it was the postal authorities that were responsible for sending them.

14. Mr. MANSOUR (Lebanon) said he considered that control measures were essential for all psychotropic substances, since they were dangerous or presented unquestionable risks. Since it was specified elsewhere in the Protocol that the "competent authorities" were those that issued the licences, a repetition of that statement seemed unnecessary. In any event, it was highly desirable that none of those substances should escape Customs control.
15. Mr. ANAND (India) said that his delegation was taking up on its own account the suggestion made by the representative of Ghana at the first special session of the Commission on Narcotic Drugs that the provisions of paragraph 1 should apply not only to the substances in schedule II but also to those in schedule III. The system provided for in paragraph 2 was much less effective than that outlined in paragraph 1, and he stressed the need for avoiding any further dilution of the provisions of paragraph 2. His interpretation of the paragraph was the same as that of the Yugoslav representative.
16. Mr. OBERMAYER (Austria) said that his delegation could accept paragraph 1 of article 11 as it stood. He was not satisfied, however, with the present wording of paragraph 2; in his opinion, the control measures for substances in schedules III and IV should be reduced to the minimum. Only if abuse of one of those substances gave rise to a serious public health problem in a given country should stricter control measures be applied by that country to the importation of the substance. Furthermore, he wondered whether the system of declarations provided for in paragraph 2 would permit effective control of the substances exported; the paragraph did not stipulate that a copy of the export declaration should accompany the shipment, and consequently, if an exporter failed to make the declaration provided for in paragraph 2, exports of a particular substance in schedules III or IV might take place without the authorities of the importing and exporting countries concerned being aware of the fact.
17. Mr. BEEDLE (United Kingdom) spoke of the need to make paragraph 2 clearer and to indicate plainly whether its provisions concerned both importers and exporters, as the Yugoslav representative understood, or only exporters, as his own delegation maintained.
18. Mr. BARONA LOBATO (Mexico) said that a system should be laid down which would prevent shipments of the substances concerned from being diverted into the illicit traffic.
19. Mr. CHAPMAN (Canada) said that his delegation approved the general principle underlying article 11 and found the provisions of paragraph 1 satisfactory. With regard to paragraph 2, however, it shared the view of the Danish representative and the other delegations which desired a simplification of the system provided for therein. His delegation interpreted the paragraph as applying only to exporters, and it therefore considered that the words "or imported" and "or receipt" in paragraph 2 (iii) and (iv) respectively should be deleted. As for the fears expressed by the Indian and Mexican representatives, the control measures provided for in the draft Protocol as a whole would, he thought, go a long way towards preventing the diversion of substances in schedules III and IV into the illicit traffic. Like the Indian representative, he took the view that the provisions of paragraph 2 should not be diluted, although the proposed system could be simplified to reduce administrative work without undermining its effectiveness.
20. Mr. NASSAR (United Arab Republic) said that he favoured article 11 as it stood.
21. Mr. DITTERT (International Narcotics Control Board), referring to the comments of certain delegations which had pointed out that the import certificate and export authorization system had worked well in the case of narcotic drugs, said that it had done so because the trade in those substances was fairly restricted. In fact, the system could cause delays in delivery and had occasionally led to complications. A simpler system had therefore to be envisaged for substances in which the volume of trade was much greater, and that was why the export notification system had been devised.
22. That system laid obligations on importing countries indirectly, because when an importing country was notified of an export of psychotropic substances it had to verify that the person or establishment which had received the psychotropic substance was duly authorized and met the criteria laid down in the draft Protocol for the issue of licences. Article 11, paragraph 2, should be considered in conjunction with article 12, which enabled importing countries to restrict their imports.
23. Mr. HOOGWATER (Netherlands) said that, in view of the difficulties the discussion had revealed, the obligations should perhaps be imposed on the importer rather than on the exporter.
24. Mr. WATTLES (Legal Adviser to the Conference) explained that paragraph 2, as it stood, placed obligations only on exporters. The words "or imported" and "or receipt" in sub-paragraphs (iii) and (iv) respectively had appeared in an earlier version of paragraph 2 and had been reproduced in the present text by mistake. The original text, as submitted to the Commission on Narcotic Drugs at its twenty-third session in 1969, had provided for notification by both exporters and importers and for an exchange of notifications between the importing and exporting countries. The Commission had sought to simplify the original version of paragraph 2, particularly for importing countries, which would often be developing countries that did not yet have the facilities for the administrative work involved; in the Commission's view, the most important point had been that exporters should notify their exports to their Government and that exporting countries should notify importing countries of the shipment of psychotropic substances. The text had been amended to that effect at the Commission's first special session, and the present version no longer placed obligations on importers.

## ELEVENTH MEETING

Wednesday, 20 January 1971, at 3.20 p.m.

Chairman: Dr. MABILEAU (France)

Consideration of the revised draft Protocol on Psychotropic Substances adopted by the Commission on Narcotic Drugs in accordance with Economic and Social Council resolution 1474 (XLVIII) of 24 March 1970 (item 11 of the Conference agenda) (continued)  
(E/4785, chap. III)

ARTICLE 11  
(PROVISIONS RELATING  
TO INTERNATIONAL TRADE) (continued)

1. Mr. NIKOLIĆ (Yugoslavia) agreed with the Danish representative (10th meeting) that article 11, paragraph 2, should be simplified. The only obligation on exporting countries was to furnish a declaration to importing countries.
2. The CHAIRMAN said that agreement had been reached at the 10th meeting on the deletion of the words "or imported" in paragraph 2 (iii) and of the words "or receipt" in paragraph 2 (iv).
3. Dr. OLGUÍN (Argentina) said he had some sympathy with the Indian representative's desire to make substances in schedule III subject to paragraph 1. Not only article 11 but all the provisions of the Protocol stressed the need for adequate controls on both exports and imports, and the whole system would be weakened if imports were not subject to control.
4. The responsibilities of importing countries would be discharged more effectively if both exporters and importers were required to furnish a declaration to the competent authorities.
5. In order to impose controls on imports, he proposed the insertion of the words "and importers" after the words "that exporters" in the first sentence of paragraph 2 and the insertion of the words "or import" after the words "regarding export" in the same sentence. The wording of the sub-paragraphs should remain unchanged.
6. Mr. KOCH (Denmark) said that the main purpose of paragraph 2 was to protect importing countries against illegal exports. The exporter could hand in the declaration after the despatch of the goods, but his Government must see to it that the declaration was sent within ninety days, and endorsement by the Customs authorities might be a means of checking compliance with that requirement.
7. The procedure should be simplified so as not to be too burdensome, and that would require co-operation between the exporting and importing countries. The Government of the exporter would require him to provide, say once a year, a list of the quantities exported, showing the destination and the date of despatch; and those lists should be sent to the importing countries for checking against their records.
8. Mr. BEB a DON (Cameroon) asked who was to issue the authorizations mentioned in paragraph 1.
9. Mr. WATTLES (Legal Adviser to the Conference) explained that it was for each Government party to the Protocol to decide which was the competent authority to issue authorizations. Presumably that would be done by law or regulation.
10. Dr. DANNER (Federal Republic of Germany) said that paragraph 1 was acceptable. Only substances listed in schedule III should be covered by paragraph 2, which ought to be simplified.
11. Mr. KIRCA (Turkey) said that there could be cases in which import formalities had not yet been completed and the goods had been placed by the buyer in a bonded warehouse. The Commission would not have wished to prohibit that. The working group on article 11 should review all the technical provisions in article 31, paragraph 9, of the 1961 Single Convention on Narcotic Drugs to see whether any needed to be incorporated in the draft Protocol so that there should be no interference with international trade.
12. Mr. BRATTSTRÖM (Sweden) said that for internal reasons his Government favoured strict controls over the substances in schedule II under paragraph 1.
13. Administrative difficulties could perhaps be avoided by simplifying paragraph 2.
14. There was nothing in the draft Protocol analogous to the special provisions, contained in article 32 of the Single Convention, concerning the carriage of drugs in first-aid kits of ships or aircraft engaged in international traffic, and he wondered whether article 11 would apply to such first-aid kits.
15. The CHAIRMAN observed that the secretariat's text on the subject had not been retained when the draft was prepared.
16. Mr. WATTLES (Legal Adviser to the Conference) said that the Commission had thought it unlikely that substances in schedule II would be carried in first-aid kits.
17. Mr. INGERSOLL (United States of America) said that Governments should keep a close watch on exports and imports of psychotropic substances. He contested the point made by the representative of the International Narcotics Control Board that a system of import and export authorizations could cause delays in getting medicines to their destination. A balance must be struck between the need to deliver supplies to where they were needed and the need to prevent their being diverted. A system of notification rather than authorization could be applied to the substances in schedules II, III and IV. He said that the representative of the Board might usefully participate in a working group on the matter.
18. Mr. HENSEY (Ireland) said that paragraph 1 of article 11 was acceptable, but should be extended to cover the substances in schedule I, so as to bring it into line with the revised text of article 6.
19. The purpose of paragraph 2 should be to ensure that substances were being imported by licensed firms or persons, and for that detailed records would be needed.

20. Mr. HOOGWATER (Netherlands) said that the working group on article 11 must consider the question of transit trade, in which a consignment might be placed in a bonded warehouse by a buyer who then, instead of importing it into his own country, would send it to a third country. In such a case, he could not be forced to notify the authorities of his own country of the transaction.

21. Mr. KOCH (Denmark) said that he had an open mind as to the schedules which ought to be covered by paragraph 2, but the procedure laid down in that paragraph must be simplified.

22. Mr. ANAND (India) said that the point mentioned by the Netherlands representative had been dealt with in article 31, paragraph 9, of the Single Convention.

23. The CHAIRMAN suggested that article 11 should be referred to a working group, which should also be asked to consider article 12.

*It was so agreed.*

#### ARTICLE 12 (PROHIBITION OF AND RESTRICTIONS ON THE IMPORT AND EXPORT OF PSYCHOTROPIC SUBSTANCES)

24. Mr. HUYGHE (Belgium) said he could accept the principle embodied in article 12, which was of fundamental importance. His Government would co-operate with any other which had special difficulties over a particular substance, but the primary need would be for national measures to combat such difficulties.

25. Mr. NIKOLIĆ (Yugoslavia) said that article 12 was acceptable. Some mention could, however, be made of the fact that a country might admit only a certain number of substances.

26. Mr. HOOGWATER (Netherlands) said that the provisions of article 12 would not constitute an effective safeguard for an importing country. It would be sufficient for an international trader to obtain an export licence from a country which was not a party to the Protocol in order to avoid the provisions of article 12 altogether. The only real safeguard was a careful watch over imports by the importing countries. It was for that reason that his delegation, during the discussion on article 11, had stressed the importance of the control of imports.

27. Mr. HENSEY (Ireland) said that his delegation could support article 12 with the United Kingdom amendment, proposed in foot-note 20 (C/4785, chap. III), to replace the word "export" in the last sentence of paragraph 1 by the word "import".

28. Dr. BABAIAN (Union of Soviet Socialist Republics) said that his delegation supported article 12, which expressed the sovereign right of a country to prohibit the import of a substance. Where a party to the Protocol introduced such a prohibition, it would be the duty of the other parties to assist it in applying the prohibition. The formulation of article 12 had been thoroughly discussed in the Commission on Narcotic Drugs.

29. Mr. SHEEN (Australia) said that his delegation was generally in agreement with the text of article 12, and felt some sympathy with the Belgian representative's position that an importing country wishing to prohibit the import of a substance should show its good faith by imposing national controls on that substance. The

fact that some countries would not accede to the Protocol would certainly create problems, but the Conference should work on the assumption of a broad participation.

30. Mr. NIKOLIĆ (Yugoslavia) said that the provisions of article 12 afforded sufficient protection to an importing country by allowing it to prohibit the entry of a substance.

31. Mr. KIRCA (Turkey) suggested that paragraph 1 should be simplified by replacing the last three sentences by a reference to the system laid down in article 11, paragraph 1, which would thus apply in cases where a party authorized the import of a prohibited substance.

32. Dr. THOMAS (Liberia) said that his delegation supported article 12 in principle.

33. Mr. BEEDLE (United Kingdom) said that his delegation supported the general lines of article 12, except for the point recorded in foot-note 20. He would prefer, however, to see the provision for special imports (after a general prohibition) made much more restrictive. Otherwise, it would conflict with the intentions of article 11.

34. He expressed interest in the Turkish representative's suggestion for the amendment of the last three sentences of paragraph 1, which might be found to provide a solution for the difficulty raised in the foot-note.

35. Dr. OLGUÍN (Argentina) said that his delegation was in general agreement with the text of article 12.

36. Mr. ONODERA (Japan) said that the text of article 12 was acceptable to his delegation, with the amendment proposed by the United Kingdom detailed in foot-note 20.

37. Mr. CHAPMAN (Canada) pointed out that for substances in schedules III and IV, only a notification was required and not an export licence. A situation could thus arise in which an exporter might not be aware that the import of a substance was prohibited in a particular country. As it stood, article 12 would impose on the exporting countries the burden of keeping a careful list of the substances the importation of which was prohibited in all the other countries.

38. Mr. INGERSOLL (United States of America) said that his delegation agreed with the spirit and the principle of article 12 and supported the United Kingdom amendment set forth in foot-note 20 of the draft Protocol. For an importing country, the co-operation of exporters was essential. In the case of narcotic drugs, for example, his country had banned the import of certain drugs, but it was still flooded by them.

39. Mr. ANAND (India) said that his delegation found acceptable the principle embodied in article 12. The notification system envisaged in paragraph 2 of article 11 was not effective enough in cases in which a country considered a particular substance dangerous and wished to prohibit its importation. He also supported the suggestion by the Turkish representative, provided that the reference was clearly to paragraph 1 of article 11 and not to paragraph 2 of that article. Lastly, he stressed that where a Government received notification of an import prohibition in another country, it had the duty to inform accordingly the exporting firms in its own country; it



would have to circulate lists showing the substances of which the importation into the various foreign countries was prohibited.

40. Mr. MANSOUR (Lebanon) supported the text of article 12 as it stood. With reference to the remarks of the Netherlands representative, he observed that abuses were always possible. In that connexion, he supported the USSR delegation's view that all States should be invited to sign the Protocol; a wide acceptance of that instrument would reduce the possibilities of abuse to a minimum.

The meeting rose at 5.5 p.m.

## TWELFTH MEETING

Thursday, 21 January 1971 at 3.15 p.m.

Chairman: Dr. MABILEAU (France)

**Consideration of the revised draft Protocol on Psychotropic Substances adopted by the Commission on Narcotic Drugs, in accordance with Economic and Social Council resolution 1474 (XLVIII) of 24 March 1970 (item 11 of the Conference agenda) (continued)**  
(E/4785, chap. III)

**ARTICLE 6 (SPECIAL PROVISIONS REGARDING SUBSTANCES IN SCHEDULE I) (resumed from the 7th meeting and concluded) (E/CONF.58/C.4/L.2, E/CONF.58/C.4/L.7)**

1. Mr. HOOGWATER (Netherlands), Chairman of the Working Group on article 6, introduced the Group's redraft of the article (E/CONF.58/C.4/L.7). In paragraph 1, the new wording "scientific and limited medical purposes" represented a compromise; the Group had considered it undesirable to introduce the concept of "experimental" medical and scientific purposes proposed by the Mexican delegation (E/CONF.58/C.4/L.2), because of the difficulty of defining it. The Group had also not adopted the Mexican proposal to introduce a reference to the parties' health authorities; the words "control of their Governments" covered whatever internal authority was competent.

2. In paragraph 2, a reference had been introduced to "possession" of the substances in schedule I, a change which had made it possible to drop the original paragraph 7. The new paragraph 3 covered the substance of the former paragraphs 3 and 4. The wording of the new paragraph 5 was intended to ensure control at all stages. The intention of paragraph 6 was to place both imports and exports under full control.

3. Mr. BARONA LOBATO (Mexico) withdrew his delegation's amendment (E/CONF.58/C.4/L.2); his delegation accepted the Working Group's text as a compromise proposal and was satisfied that the reference to the control by Governments would cover both the health

authorities and any other authorities—such as those under the Ministry of Justice—entrusted with control.

4. In reply to a question by Mr. MANSOUR (Lebanon) Mr. HOOGWATER (Netherlands), Chairman of the Working Group on article 6, explained that the Working Group had been unanimous in endorsing the view of the Legal Adviser that the substance of the former paragraph 7 was covered by the introduction of the term "possession" in paragraph 2.

5. Dr. CORRÊA da CUNHA (Brazil) said he fully supported the Working Group's text.

6. Dr. BABAIAN (Union of Soviet Socialist Republics) suggested that the words "their Governments" in paragraph 1 should be replaced by "Governments of the Parties".

7. The CHAIRMAN said that the suggestion would be referred to the Drafting Committee.

8. Mr. SHEEN (Australia) proposed the introduction of the word "very" before the words "limited medical purposes" in paragraph 1. It was important to emphasize that the use of substances in schedule I for medical purposes should be exceptional.

9. Dr. BABAIAN (Union of Soviet Socialist Republics), Mr. NIKOLIĆ (Yugoslavia) and Mr. BRATTSTRÖM (Sweden) supported that proposal.

10. Dr. OLGUÍN (Argentina) said that he too supported the Australian proposal, which was in keeping with the view expressed by the WHO Expert Committee on Drug Dependence that the drugs in schedule I had only very limited therapeutic uses, if any.

*The Australian amendment was adopted unanimously.*

11. Mr. KOCH (Denmark) drew attention to an apparent ambiguity in the English text of paragraph 1. The words "or specifically approved by them" were intended to apply to "scientific establishments", but they could be misread as referring to the "duly authorized persons" in those establishments.

12. Dr. DANNER (Federal Republic of Germany) said that the new wording of paragraph 1 excluded a scientist who was not in a medical or scientific establishment from working with a substance in schedule I. It might be desirable to allow a scientist working individually to use such substances, in connexion with botanical studies, for example.

13. Mr. BRATTSTRÖM (Sweden) and Dr. BABAIAN (Union of Soviet Socialist Republics) strongly opposed that suggestion. It would be dangerous to broaden the provisions of paragraph 1.

14. Mr. ANAND (India) said that, like other members of the Working Group, he had supposed that the concluding words "or specifically approved by them" clearly referred to "establishments" and not to "persons".

15. Mr. HOOGWATER (Netherlands), Chairman of the Working Group, confirmed that that was so.

16. Mr. INGERSOLL (United States of America) stated that the English text could be made clearer by introducing a comma after the words "scientific establishments".

17. The CHAIRMAN said that that suggestion would be referred to the Drafting Committee.

*The text of article 6 proposed by the Working Group (E/CONF.58/C.4/L.7), as amended, was approved by 40 votes to none, with 1 abstention.*

ARTICLE 10 (RECORDS)  
(resumed from the 9th meeting)  
(E/CONF.58/C.4/L.4-L.6)

18. Mr. BEEDLE (United Kingdom), introducing his delegation's redraft of article 10 (E/CONF.58/C.4/L.5), said that the words "of amounts manufactured and produced" should be inserted at the end of the first sentence of paragraph 1 of the proposal.
19. The United Kingdom delegation and others accepted that requirements for records were advantageous in enabling Governments to check whether diversions took place from legitimate channels and also to provide appropriate reports for the international bodies, but the Committee was all too well aware of the burden which record-keeping involved for industry, distributors and administrations.
20. The purpose of his text was to provide for a system of record-keeping that would be reasonable, economic, distinctively varied for each schedule and without significant gaps.
21. Schedule IV was no longer mentioned in paragraph 1, otherwise there was no change of substance.
22. The application of paragraph 2 was restricted to schedule II and it was proposed that records should be kept of drugs supplied to retailers and hospitals but not of disposals through those channels to individual patients.
23. Paragraph 3 reproduced part of the original paragraph 1 and imposed a limited range of obligations on manufacturers, producers, importers and exporters in respect of substances in schedule IV. The records obtained would enable Governments to keep an eye on those substances and to make modest statistical returns to the Secretary-General and the International Narcotics Control Board.
24. Paragraph 4 contained a new element which had not been present in the original paragraph 4. In his view, it would be more realistic to leave it to the parties to judge how long the records should be preserved. The period of at least two years stipulated in the original text seemed too arbitrary.
25. Mr. BARONA LOBATO (Mexico) said that the United Kingdom text for article 10 was better than the original and would be less burdensome.
26. The title of the article should be reinstated, and, in the Spanish text of paragraph 4, the word "*conveniente*" should be substituted for the word "*oportuno*".
27. Mr. ANAND (India) said that records of some kind were essential for purposes of control and for the inspection envisaged in article 13. He presumed that even a small retailer would keep records of goods bought and sold so as to know the level of his stocks and to enable him to complete income tax returns. The United Kingdom delegation seemed to be advocating half-hearted measures that would not result in effective controls. He favoured the original text, which was quite adequate, though it needed a few drafting changes.
28. Dr. BABAIAN (Union of Soviet Socialist Republics) said that if the Committee endorsed the footnote in the Working Group's text of article 6 (E/CONF.58/C.4/L.7), then strict controls over substances in schedule I must be provided for in article 10.
29. He asked for an explanation of paragraph 4 of the United Kingdom text. He would have thought it preferable that the various provisions of the draft should specify obligations.
30. Dr. AZARAKHCH (Iran) said that the United Kingdom text was acceptable, provided that paragraph 2 were made applicable to schedule III.
31. Mr. HENSEY (Ireland) said that substances in schedule I ought to be covered by article 10. Otherwise, the United Kingdom text was acceptable and would result in a practical system of record-keeping.
32. He suggested that the word "produced" be inserted after the word "manufactured" in paragraph 3.
33. Mr. HUYGHE (Belgium) said that he was in favour of the United Kingdom text.
34. Nearly all psychotropic substances used in medical preparations were very strictly controlled in Belgium and for twenty-five years amphetamines had been subject to the same régime as narcotic drugs.
35. There would be very great difficulties in keeping records of substances in schedule IV, as was shown by the study submitted by the Hungarian delegation (E/CONF.58/C.4/L.4). In Belgium, for example, there were no less than 143 preparations containing phenobarbital. He wondered what kind of record-keeping the Indian representative had in mind.
36. Dr. OLGUÍN (Argentina) said that he preferred the original text of article 10, which was linked to the rest of the draft Protocol.
37. It was absolutely essential to maintain records of all psychotropic substances, and the effort entailed was entirely justified. Moreover, some of the substances included in the schedules were less widely used in treatment than others and the burden of keeping records would not necessarily be great.
38. Dr. THOMAS (Liberia) said that the United Kingdom text for article 10 should be accepted. All countries should be in a position to comply with it.
39. The second sentence in paragraph 1 would be clearer if a comma were placed after the word "despatched" and the word "and" were deleted.
40. Paragraph 2 should be made to apply also to schedule III.
41. U HLA OO (Burma) agreed with the Indian representative. He regretted that the United Kingdom proposal did not mention distribution, which had been clearly defined in article 1. He feared that the United Kingdom text would not make for strict control.

The meeting rose at 5.10 p.m.

### THIRTEENTH MEETING

Friday, 22 January 1971, at 11 a.m.

Chairman: Dr. MABILEAU (France)

**Consideration of the revised draft Protocol on Psychotropic Substances adopted by the Commission on Narcotic Drugs, in accordance with Economic and Social Council resolution 1474 (XLVIII) of 24 March 1970 (item 11 of the Conference agenda) (continued)**  
(E/4785, chap. III)

STATEMENT BY THE REPRESENTATIVE OF THE  
INTERNATIONAL NARCOTICS CONTROL BOARD  
ON ARTICLES 10, 12, 14 AND 15  
OF THE REVISED DRAFT PROTOCOL

1. Sir Harry GREENFIELD (International Narcotics Control Board), referring to article 14, reminded the Committee that all the treaties concerning the international control of narcotic drugs since 1912 had stipulated that the parties must furnish statistical reports on the substances concerned, and since 1925 the reports had had to be sent to an international body. He explained in detail the purposes and utility of those reports as the working tool of the international bodies concerned. Similarly, reports should be furnished in one form or another for each substance covered by the draft Protocol, though if the system was to be efficient they should be mainly devoted to the most important information. The extent of that information should depend on the danger presented by the substances brought under control.

2. The Board welcomed the inclusion of article 12 in the draft Protocol, because it did away with the need for a system of estimates; in view of the large number of transactions, covering an infinite variety of substances and preparations, such a system would impose an excessive administrative burden on national authorities.

3. As to the substances in schedules I and II, the Conference would certainly agree that the information to be furnished by the parties should be similar to that provided for in the 1961 Single Convention on Narcotic Drugs. For the substances in schedule III, owing to their wide use in medicine the statistical information to be furnished by the parties could and should be limited, to avoid giving national authorities too much work. Nevertheless, at least a minimum of information should be supplied on those substances—annual reports on manufacture and production, and on imports and exports giving the country of origin or destination. It would be useful, too, for information to be supplied, if possible, on the quantities held by manufacturers and wholesalers. So far as the substances in schedule IV were concerned, the necessary minimum of information to be furnished should comprise statistics on manufacture and export. Statistical information on imports would also be useful.

4. He was in favour of article 15 as it stood.

ARTICLE 10 (RECORDS) (continued)

5. Mr. ANAND (India), referring to the Belgian representative's remarks at the 12th meeting, said that records in any form would have satisfied his delegation,

particularly since article 10 stipulated that the form might be determined by each party. In fact, his delegation preferred the existing text of article 10. In a spirit of compromise, however, it was prepared to accept the United Kingdom text for the substances in schedule IV (E/CONF.58/C.4/L.5, para. 3).

6. He suggested that paragraph 2 of the United Kingdom text should cover the substances in schedules II and III and that it should not be confined to receipt but should include also despatch. In the amended form, paragraph 2 would be acceptable. Furthermore, if record-keeping for each receipt and each despatch proved too difficult, his delegation could agree to records being kept for total daily receipts and despatches.

7. He understood paragraph 1 of the United Kingdom text to refer to each amount received and despatched. If that were correct, he could accept the paragraph, but if not he could only accept it provided it were amended in that sense.

8. Mr. OBERMAYER (Austria) said he considered that paragraph 1 of the United Kingdom text should apply to the substances in schedule II in every case, but that it should apply to the substances in schedules III and IV only if abuse of one of those substances created a serious public health problem in a given country. The same argument held good for paragraph 3 of the text.

9. Mr. KIRCA (Turkey) said he was in favour of the existing text of article 10, but could agree to substances in schedule IV being excluded from the scope of paragraphs 1 and 2, and to a new paragraph being inserted between those two paragraphs. The new paragraph would reproduce paragraph 3 of the United Kingdom text for article 10 with the addition of the word "wholesalers". He shared the opinion expressed by the delegations mentioned in foot-note 18 of the revised draft Protocol.

10. Mr. HOOGWATER (Netherlands), Mr. EYRIES VALMASEDA (Spain), Mr. BORSY (Hungary), Mr. CHENG (China)\* and Mr. TAKANO (Japan) supported the United Kingdom text.

11. Mr. KOCH (Denmark) said he understood the term "records" in the sense in which it had been used in the Single Convention, namely "separate books".

12. So far as the United Kingdom text was concerned, he would prefer substances in schedule III to be covered by paragraph 3 rather than paragraph 1. As to paragraph 3 of the United Kingdom text, he believed that in view of the provisions of article 11, paragraph 2, records should also indicate the supplier, the recipient, the date of receipt and the date of despatch.

13. He saw no objection to paragraph 2 of the United Kingdom text being made applicable also to the substances in schedule III. With reference to paragraph 1 of that text, which stipulated that exporters should keep records showing the amount received by the recipient, he said it would be useful to specify that "recipient" meant the person or institution actually receiving the consignment, so as to prevent a consignment's being despatched to a fictitious recipient, such as a postal box. Referring to the Indian representative's remarks concerning the

\* See introductory note.

- words "each receipt" in paragraph 2 of the United Kingdom text, he suggested that the wording of article 34 (b) of the Single Convention should be used.
14. Mr. CHAPMAN (Canada) said that his delegation could accept paragraphs 1, 3 and 4 of the United Kingdom text. So far as paragraph 2 of that text was concerned, he agreed with the delegations which considered that it should be made applicable to the substances in schedule III.
15. Mr. BRATTSTRÖM (Sweden) said he had no difficulty in accepting article 10 in its existing form. He could also accept paragraph 1 of the United Kingdom amendment. As to paragraph 2, since the substances in schedule II must be placed under strict control, like that provided for in the Single Convention, the record should indicate the recipient in the case of a retail sale.
16. Dr. BERTSCHINGER (Switzerland) said that, although he was prepared to accept the text proposed by the United Kingdom, which had the great advantage of differentiating clearly between substances in schedules II, III and IV, it would be premature to take a decision on substances in schedule IV before the Technical Committee had made a final pronouncement as to whether that schedule should be retained. Perhaps the words "in a form which may be determined by each Party" should be repeated in paragraph 2. Also, certain difficulties would be avoided if a minimum period was stipulated in paragraph 4 for the preservation of records.
17. Mrs. d'HAUSSY (France) said she agreed with the Turkish representative that a compromise should be sought between the text prepared by the Commission on Narcotic Drugs and the new text proposed by the United Kingdom delegation.
18. Mr. BEB a DON (Cameroon) said he could support the United Kingdom proposal if a reference to substances in schedule III was made in paragraph 2, and if a minimum period was prescribed for the preservation of records.
19. Mr. OBERMAYER (Austria) supported the Swedish representative's suggestion that the recipient's name should be recorded for retail sales of substances in schedule II.
20. Mr. NIKOLIĆ (Yugoslavia) thought that the text of article 10 prepared by the Commission on Narcotic Drugs was acceptable. The same would be true of the text proposed by the United Kingdom if the words "of amounts manufactured and produced", whose omission had been pointed out by Mr. Beedle, were inserted at the end of the first sentence in paragraph 1, if paragraph 2 provided that the names of recipients of substances in schedule II in retail sales should be recorded, and if the duration of the periods mentioned in paragraphs 3 and 4 was specified.
21. Mr. SHEEN (Australia) said he could support the United Kingdom proposal if the provisions of paragraph 2 applied to substances in schedule III as well, and if a minimum period was specified for the preservation of records.
22. Dr. BABAIAN (Union of Soviet Socialist Republics) said he shared the view of those who considered that the statement concerning the period of at least two years in paragraph 3 of the draft Protocol should be repeated in paragraph 4 of the new text. If it were, the reservation he had made at the 12th meeting regarding the foot-note in the Working Group's text of article 6 (E/CONF.58/C.4/L.7) would not apply.
23. Dr. OLGUÍN (Argentina) observed that he had already signified his agreement to the adoption of the Commission's text, which took account also of the recording of the substances in schedule IV. He would find the United Kingdom proposal equally commendable provided the terms of its paragraph 2 were also applicable to substances in schedule III, and provided it was stipulated that the recipient's name should be recorded in the case of retail sales. In addition, he thought it desirable to specify the length of the period for which records should be preserved.
24. Dr. DANNER (Federal Republic of Germany) congratulated the United Kingdom representative on having submitted a text which was a considerable improvement on the original draft. In his opinion, it was unnecessary for the provisions of paragraph 2 to be applicable to substances in schedule III. Moreover, he did not see the point of paragraph 3, since the danger from substances in schedule IV was hypothetical rather than real.
25. Mr. INGERSOLL (United States of America) said he would gladly accept the new text submitted by the United Kingdom. In his view, only a minimum of international control was necessary for substances in schedule IV, each party being perfectly free to back up any internationally agreed measures with such legislation as it thought appropriate.
26. Mr. HUYGHE (Belgium) withdrew his amendment (E/CONF.58/C.4/L.6), since he found the new text prepared by the United Kingdom delegation fully satisfactory. He nevertheless suggested that, in order to forestall any difficulties, the words "retailers, institutions for hospitalization and care and scientific institutions" in paragraph 2 should be replaced by the words "persons authorized by law to distribute or administer psychotropic substances".
27. Dr. WIENIAWSKI (Poland) said he was prepared to accept the United Kingdom text, although stricter measures should be prescribed for records of substances in schedule III. It would also be advisable to specify a minimum retention period.
28. Dr. PUNARIO RONDANINI (Mexico) unreservedly supported the text prepared by the United Kingdom representative. He said that the medical profession made widespread use of substances in schedules III and IV, in particular tranquillizers, which could not be treated simply as toxic substances.
29. The CHAIRMAN suggested the formation of a working group, consisting of the representatives of Argentina, Belgium, Cameroon, Canada, Denmark, France, India, Iran, New Zealand, Sweden, Turkey, the United Kingdom, the United States and the Soviet Union, to draw up a unanimously acceptable text. The group could be chaired by the Turkish representative.

*It was so decided.*

The meeting rose at 12.25 p.m.



## FOURTEENTH MEETING

Monday, 25 January 1971, at 10.40 a.m.

Chairman: Dr. MABILEAU (France)

Consideration of the revised draft Protocol on Psychotropic Substances adopted by the Commission on Narcotic Drugs, in accordance with Economic and Social Council resolution 1474 (XLVIII) of 24 March 1970 (item 11 of the Conference agenda) (continued)  
(E/4785, chap. III)

## ARTICLE 8 (PRESCRIPTIONS)

1. The CHAIRMAN reminded the Committee that the Technical Committee had informed the Committee on Control Measures that it had no comment to present concerning that article (E/CONF.58/C.3/L.10/Add.2).
2. Mr. BEB a DON (Cameroon) said that he would like to be sure that the exceptions mentioned in paragraph 1 would not be likely to open the way to abuses.
3. Mr. WATTLES (Legal Adviser to the Conference) pointed out that the word "lawfully" had been included precisely in order to obviate any danger of abuse.
4. Mr. McCARTHY (Canada) said he feared that the wording of paragraph 1 might give rise to confusion unless the meaning of the words "supply" and "dispensing" were made quite clear. Obviously, it could not be stipulated that substances must be "supplied" (that was to say, delivered to pharmacists) only on medical prescription.
5. Dr. THOMAS (Liberia) supported the Canadian representative's observations. It would be better, in his opinion, to delete the word "supply".
6. Mgr. MORETTI (Holy See) observed that the phrase "in accordance with sound medical practice" in paragraph 2 was too loose. It was only too well known that many medical practices accepted in certain quarters today violated the principles of natural law, upon which every international agreement ought to be based. It might be preferable to say "in accordance with the rules of medical ethics", or perhaps, in the French version, "*conformément à la bonne pratique médicale*".
7. Mr. LOSANA MÉNDEZ (Spain) said that the words "other retailers" in paragraph 3 were too vague. He proposed the phrase "authorize persons holding licences issued by the authorities responsible for public health".
8. Mr. GAZZARRA (Italy) said that the provisions of paragraph 3 of article 8 were justified by their exceptional character, however article 10 was finally worded.
9. Dr. PUNARIO RONDANINI (Mexico) suggested that the provisions of paragraph 1 should not be applicable solely to substances, but also to preparations and specialities and that it should simply be stated that they could be supplied to individuals only on medical prescription.
10. Mr. KOCH (Denmark) said that he was quite prepared to recognize that local circumstances might justify the exceptions mentioned in paragraph 3. He

asked whether the fact that the English text read "supply or dispensing" where the 1961 Single Convention on Narcotic Drugs used the words "supply or dispensation" had any particular significance.

11. Mr. WATTLES (Legal Adviser to the Conference) explained that the term "dispensation" used in the Single Convention was not quite correct; "dispensing" was the proper word in English. The idea was the same.

12. Mr. ANAND (India) said that he was in general agreement with the text of the article, but felt that a distinction should be drawn in paragraph 3 between substances in schedule III, which required stricter control, and substances in schedule IV. Perhaps schedule III could be omitted from paragraph 3 altogether, or if it was to be retained, the dispensing of the substances in that schedule could be entrusted to pharmacists only and not to retailers.

13. Mr. YEBOAH (Ghana) said that, although he sympathized with the doubts expressed by the Canadian and Liberian representatives with regard to paragraph 1, the use of the words "supply or dispensation" in paragraph 2 (b) of article 30 of the Single Convention should suffice to dispel them. With regard to paragraph 3, while he shared the Indian representative's view, he did not think it necessary to go into too much detail in an international instrument. However, he would like to know whether the "other licensed retailers" mentioned would require a special licence.

14. Mr. WATTLES (Legal Adviser to the Conference) said that the licences to be issued to those retailers should state that they were authorized to supply small quantities of substances in schedules III and IV.

15. Mr. NASSAR (United Arab Republic) said he did not think that substances in schedule III should in any way be supplied by persons other than pharmacists.

16. Dr. BABAIAN (Union of Soviet Socialist Republics) agreed. The point was one to which attention should be paid.

17. Mr. OBERMAYER (Austria) approved the obligation placed on parties in paragraph 2 with regard to the number of times prescriptions were refilled and the duration of their validity. As to the provisions of paragraph 3, in his opinion only pharmacists were qualified to dispense substances in schedules III and IV; if exceptions were necessary, it would be better to leave it to the countries concerned to make a reservation under article 27.

18. Dr. OLGUÍN (Argentina) supported the second suggestion of the representative of the Holy See concerning the French text; there was only one kind of medical practice that was entitled to be called "sound", namely, that which conformed to scientific and deontological principles: good medical practice. With regard to paragraph 3, he thought that the ideal would be for pharmacists to be the only persons authorized to supply small quantities of substances without prescription, and then only in the case of substances in schedule IV, since substances in schedule III were too dangerous to be exempted from the prescription requirement. However, he appreciated the difficulties certain countries had in that connexion.

19. Dr. AZARAKHCH (Iran) said that he would be prepared to accept paragraph 3 if it stipulated that "other licensed retailers" should not be authorized to supply substances in schedule III without prescription.
20. Mr. CHENG (China)\* observed that the second sentence of paragraph 3 was sufficient to ensure control over the supply without prescription of the substances concerned.
21. Dr. BERTSCHINGER (Switzerland) said he shared the concern expressed by the representative of the Holy See; perhaps it would be better just to say "only to the extent permitted by scientific knowledge". With regard to paragraph 3, he considered that only pharmacists should be authorized to supply substances in schedules III and IV without prescription, otherwise a very precise definition would have to be given of the expression "other licensed retailers", which would probably be extremely difficult.
22. Mr. KIRCA (Turkey) said that he was prepared to support the suggestion of the representative of the Holy See. He reminded the Committee that paragraph 3, which admittedly was not very satisfactory, was the outcome of a compromise arrived at after lengthy discussion in the Commission on Narcotic Drugs.
23. Mr. SAMSOM (Netherlands) said that quite a number of countries did not have a very highly developed distribution system for pharmaceutical substances; consequently, if the right to sell substances in schedules III and IV was confined to pharmacists, it would be impossible in practice to obtain those substances outside large towns.
24. Dr. CORRÊA da CUNHA (Brazil) said he was afraid that the unnecessarily detailed provisions of paragraph 3 might prevent international control from being exercised effectively. In his view, the requirements should be simplified.
25. Mr. MILLER (United States of America) said that his country did not intend to have recourse to the provisions of paragraph 3, although he understood that many countries whose medical services were not yet widely developed would need to do so. Consequently, he did not oppose the paragraph and his delegation therefore approved article 8 in its entirety.
26. Mr. NIKOLIĆ (Yugoslavia) suggested another solution: that article 8 should stipulate that substances should be supplied only on medical prescription and that States unable to accept that provision could make a reservation.
27. The CHAIRMAN said it would be better to arrive at a text which commanded general agreement; reservations should be regarded as a last resort. He suggested that a working group consisting of the representatives of Argentina, Brazil, Denmark, France, the Holy See, Hungary, India, Iran, Liberia, Mexico, the Soviet Union and the United States should be set up to consider article 8. The Legal Adviser to the Conference and the representative of WHO would participate in the work of the group, whose chairman would be the Argentine representative. The group would briefly consider para-

graphs 1 and 2, to which no serious objections had been raised, and concentrate on the wording of paragraph 3.

*It was so agreed.*

28. At the request of Mr. BARONA LOBATO (Mexico), the CHAIRMAN suggested that the Chairman of the Working Group should invite the representative of Togo in his personal capacity to take part in its work, as he had made an active contribution to the Commission's discussion of that article.

*It was so agreed.*

#### ARTICLE 13 (INSPECTION)

29. The representatives of Cameroon, Hungary, Iran, Sweden and Yugoslavia said that they were in favour of article 13 as it stood.
30. Mr. ANAND (India) said that he also approved of the existing wording of article 13, but he wondered whether there was any difference of meaning between the words "wholesale and retail distributors" used in that article and the words "wholesalers and retailers" used in other articles of the draft.
31. Mr. WATTLES (Legal Adviser to the Conference) said that both terms meant the same. The Drafting Committee could be asked to ensure that the same terminology was used throughout the draft Protocol.
32. Mr. SAMSOM (Netherlands), referring to the second sentence in article 13, said that it was a matter of controlling the activities of all persons engaged in the wholesale and retail distribution of psychotropic substances, and that could not be achieved merely by inspecting premises, stocks and records. In his opinion, the wording of article 13 should be more explicit about the purposes of inspection.
33. Mr. ANAND (India) agreed with the Netherlands representative.
- Article 13 was approved by 42 votes to none.*

#### ARTICLE 14

##### (REPORTS TO BE FURNISHED BY THE PARTIES)

34. Mr. DITTERT (International Narcotics Control Board) recalled the gist of the statement made by Sir Harry Greenfield on article 14 at the 13th meeting.
35. Mr. BEEDLE (United Kingdom) said he had reservations concerning the suggestion by the representative of the International Narcotics Control Board that it would be desirable for information to be provided about the stocks held by manufacturers and wholesalers in the case of substances in schedule III.
36. Mr. SHEEN (Australia) said that, generally speaking, he found article 14 acceptable, but the present wording of paragraph 1 did not make clear what kind of information the Commission might request.
37. Mr. NIKOLIĆ (Yugoslavia) said that in principle he approved article 14, but he preferred the wording of the corresponding article (article 18) in the Single Convention, which seemed to him to be clearer. It should at least be specified in paragraph 1 that information was needed on legislation and regulations "relating to psychotropic substances".

\* See introductory note.

38. Mr. SAMSOM (Netherlands) proposed adding either in paragraph 1 or in paragraph 2 a reference to the information required in article 18, paragraph 1 (d), of the Single Convention, namely the names and addresses of the governmental authorities empowered to issue export and import authorizations or certificates. As to paragraph 3, the Netherlands would be prepared to furnish the information required if it were of a kind likely to give an idea of the consumption of the psychotropic substances in question. His Government considered it important to know what was the licit consumption of psychotropic substances, so as to enable the health authorities to formulate and, if necessary, modify the policy governing their distribution. Referring to the suggestion by the representative of the International Narcotics Control Board, he said that his delegation could accept the addition of information on the quantities held by manufacturers and wholesalers for substances in schedule III—but not for those in schedule IV—provided it were possible to devise a system for controlling international trade which was really effective; that was not the case with the system of notification. Thus, his delegation could contemplate placing the substances in schedule III under the régime applicable to substances in schedule II as far as international trade was concerned, provided that the substances in schedule IV were not made subject to international control.

The meeting rose at 12.35 p.m.

## FIFTEENTH MEETING

Tuesday, 26 January 1971, at 10.45 a.m.

Chairman: Dr. MABILEAU (France)

**Consideration of the revised draft Protocol on Psychotropic Substances adopted by the Commission on Narcotic Drugs, in accordance with Economic and Social Council resolution 1474 (XLVIII) of 24 March 1970 (item 11 of the Conference agenda) (continued)**  
(E/4785, chap. III)

### ARTICLE 7 (LICENCES)

(resumed from the 8th meeting and concluded)  
(E/CONF.58/C.4/L.18)

1. Mr. KIRCA (Turkey) pointed out that although paragraph 2 of article 6, which related to substances in schedule I, contained provisions comparable to those of sub-paragraph (a) of paragraph 2 of article 7 as proposed by the Working Group (E/CONF.58/C.4/L.18) it had nothing similar to the provisions of sub-paragraphs (b) and (c) of that paragraph. However, since the scope of the control of substances in schedule I could not conceivably be less wide than that for substances in schedules II, III and IV, the provisions of paragraph 2 (b)

and (c) of the new article 7 must necessarily apply to substances in schedule I also. His delegation could accept the new article 7 if it was thus construed.

Article 7 (E/CONF.58/C.4/L.18) was approved by 43 votes to none.

### ARTICLE 10 (RECORDS)

(resumed from the 13th meeting and concluded)  
(E/CONF.58/C.4/L.20)

2. Dr. BABAIAN (Union of Soviet Socialist Republics) and Mrs. d'HAUSSY (France) said that their delegations could accept the Working Group's proposed wording of article 10 (E/CONF.58/C.4/L.20), if the drafting amendments to the Russian and French versions of the text which they had suggested at the meetings of the Working Group were taken into consideration by the Drafting Committee and if the Drafting Committee brought the various versions into concordance.

3. Dr. DANNER (Federal Republic of Germany) said that his delegation would abstain from voting on the proposed wording of article 10, because it considered record-keeping unnecessary for substances in schedule IV.

Article 10 (E/CONF.58/C.4/L.20) was approved by 39 votes to none, with 4 abstentions.

### ARTICLE 14

(REPORTS TO BE FURNISHED BY THE PARTIES) (continued)

4. Mr. O'NEILL (Ireland) urged the advisability, in view of the large number of substances in schedule IV and their many therapeutic uses, of either deleting the reference to those substances in article 14, paragraph 3 (b), or of confining the information called for on those substances to the quantities manufactured. His delegation would have little difficulty in accepting the rest of the article.

5. Dr. OLGUÍN (Argentina) thought that substances in schedule III should be mentioned in sub-paragraph (a) of paragraph 3 rather than in sub-paragraph (b), for the reasons he had already expressed in his comments on the various schedules.

6. Mr. MANSOUR (Lebanon) was in favour of article 14 as it stood. He questioned the need for the amendment proposed by the Yugoslav representative at the 14th meeting to the effect that the words "concerning psychotropic substances" should be inserted in paragraph 1 after the words "their legislation and regulations", since the entire contents of the draft Protocol dealt with psychotropic substances.

7. Mr. NIKOLIĆ (Yugoslavia) was unable to agree with the Lebanese representative and pointed out that article 18, paragraph 1 (b), of the 1961 Single Convention on Narcotic Drugs read: "...of all laws and regulations from time to time promulgated in order to give effect to this Convention;".

8. Dr. DANNER (Federal Republic of Germany) said that his delegation could accept article 14 as it stood, provided that the reference in paragraph 3 (b) to substances in schedule IV was deleted.

9. Mr. ASANTE (Ghana) favoured the existing wording of article 14.

10. Mr. MILLER (United States of America) said that the only really essential statistical data, for subjecting psychotropic substances to international control, were for manufacture, imports and exports; obtaining information on quantities held by wholesalers would present too much difficulty and would be of minimal value. He therefore proposed the deletion of the words "and wholesalers" at the end of paragraph 3 (a). His Government was prepared to supply the other information called for in paragraph 3, regarding manufacture, exports and imports, and, as far as substances in schedule III were concerned, it would even be prepared to report the names of the countries and the quantities exported to each country.
11. Mr. NASSAR (United Arab Republic) thought that substances in schedule III should be mentioned in paragraph 3 (a) rather than in paragraph 3 (b).
12. Mr. OBERMAYER (Austria) said that statistics provided under article 14 should be furnished with regard to substances in schedules I and II but not in respect of substances in schedules III and IV.
13. Mr. CAMPANINI (Switzerland) referred to the seventeenth report of the WHO Expert Committee on Drug Dependence, in which no recommendations were made in respect of substances in schedule IV, and proposed that those substances should not be mentioned in paragraph 3 (b).
14. Mr. McCARTHY (Canada) said that his country faced the same difficulties as the United States, though to a lesser degree. Consequently, although he would not formally seek the deletion of the words "and wholesalers" in paragraph 3 (a), he would not oppose it.
15. Mr. KOCH (Denmark) agreed with the Yugoslav representative that it would be desirable to bring the texts of article 14 of the draft Protocol and article 18 of the Single Convention into line. That could be done by referring in paragraph 1 to legislation and regulations "promulgated in order to give effect to the Protocol" and by providing that the parties should communicate to the Secretary-General "the names and addresses of the governmental authorities empowered to issue export and import authorizations or certificates". He wholeheartedly supported the proposal by the United States representative; he very much doubted whether statistics relating to anything other than manufacture could be of real use as far as substances in schedule III were concerned, and he had even greater reservations about the value of statistics at all in respect of substances in schedule IV. Although he would not urge, as some representatives had done, that those substances should be excluded from the Protocol altogether, for he was firmly of the opinion that they should be supplied on medical prescription only, he saw no point in mentioning them in article 14.
16. The CHAIRMAN dwelt on the fact that tons of barbiturates intended for sale for non-medical purposes were flooding the international market, with disastrous effect. Many delegations, meanwhile, had stressed the need for close attention to developments with regard to the substances in schedule IV.
17. Mr. NIKOLIĆ (Yugoslavia) supported the United States representative's proposal; he too thought that some countries would find it impossible in practice to give statistical information on the quantities held by wholesalers. On the other hand, he disagreed with the Danish representative concerning substances in schedule IV; statistics of them should be kept and the provisions in paragraph 3 (b) retained.
18. Mr. KIRCA (Turkey) thought it as well, judging from the experience acquired since the Single Convention's entry into force, to insert a provision to the effect that any party which had made a seizure should immediately inform the other parties directly concerned through the diplomatic channel, thus ensuring considerable time-saving all round.
19. Dr. THOMAS (Liberia) supported the Yugoslav representative's proposal concerning paragraph 1. He also supported the United States representative's proposal for the deletion of the words "and wholesalers" in paragraph 3 (a), but the words "exported, imported" ought to be retained.
20. Mr. BEEDLE (United Kingdom) pointed out that much of the illicit traffic in psychotropic substances and especially in LSD, was derived from illicit manufacture. No statistics of licit manufacture and distribution, however comprehensive, could give much insight into those major aspects of the problem. The right course, therefore, was to examine the essential needs for statistics with caution and care and to refrain from saddling national authorities with burdens disproportionate to any benefits that could reasonably be expected. His delegation thought the existing wording of paragraph 3 (a) represented a generally satisfactory formula, but would not oppose the United States representative's proposed amendment. The suggestion by the International Narcotics Control Board that information should be supplied on stocks of substances in schedule III seemed hardly necessary; it might of course be argued that it would be useful to know the names of the countries of destination of exports of those substances, but that would certainly not be so with regard to substances in schedule IV.
21. Mr. BRATTSTRÖM (Sweden) characterized the existing text of article 14 as lying midway between the two extreme views which had emerged during the debate, favouring stricter requirements for substances in schedule III on the one hand, and greater flexibility with regard to those in schedules I and II on the other.
22. Mr. ANAND (India) was in favour of keeping to the minimum of statistical information permitting international trade to be controlled. He proposed that the provisions of paragraph 3 (a) should be applicable to substances in schedules I, II and III, for which the import and export figures should be given; the requirements by country with regard to substances in schedule IV could be less strict but some control would be needed, and it might be desirable to have the figures supplied by country in that case also.
23. Mr. SHEEN (Australia) had misgivings about the present wording of paragraph 1, which seemed to give the Commission on Narcotic Drugs unlimited authority. The information to be given to it might perhaps be restricted to developments in legislation and the illicit traffic in psychotropic substances.



24. Mr. ASANTE (Ghana) saw no grounds for the Australian representative's misgivings; the Commission on Narcotic Drugs was a responsible body and might be relied on implicitly. His delegation considered the existing text of article 14 quite acceptable but would not oppose the amendments submitted by the representatives of Yugoslavia and the United States.

25. Mr. NIKOLIĆ (Yugoslavia) supported by Dr. BABAIAN (Union of Soviet Socialist Republics), proposed that the Committee, in order to avoid prolonging what might prove to be a fruitless discussion, should set up a working group representing the two conflicting lines of thought.

26. The CHAIRMAN suggested that delegations which had amendments to propose should submit them in writing before 5 p.m. The Committee would examine them at the beginning of its next meeting and might then set up a working group.

*It was so agreed.*

The meeting rose at 12.30 p.m.

## SIXTEENTH MEETING

*Wednesday, 27 January 1971, at 9.50 a.m.*

*Chairman: Dr. MABILEAU (France)*

**Consideration of the revised draft Protocol on Psychotropic Substances adopted by the Commission on Narcotic Drugs, in accordance with Economic and Social Council resolution 1474 (XLVIII) of 24 March 1970 (item 11 of the Conference agenda) (continued)**  
(E/4785, chap. III)

### ARTICLE 14

**REPORTS TO BE FURNISHED BY THE PARTIES) (continued)**

1. The CHAIRMAN noted that six amendments had been submitted within the proper time-limits and suggested that they be considered by a small working group consisting of representatives of the following countries and the representative of the International Narcotics Control Board: Turkey, India, Liberia, Ghana, United States of America, Switzerland, Denmark, the United Kingdom and France. The representative of Ghana might act as Chairman of the working group.

*It was so decided.*

### ARTICLE 15

**(REPORTS OF THE BOARD)**

*Article 15 was approved unanimously.*

2. Mr. BEEDLE (United Kingdom) drew the Committee's attention to the difficulties that article 15 might present if the Commission on Narcotic Drugs was to meet only once every two years.

3. Dr. BABAIAN (Union of Soviet Socialist Republics) said that the adoption of article 15 did not mean that the position of the USSR on the practice of the Commission meeting once every two years had changed in any way. He felt that, as the Board had indicated, written annual reports might be submitted to the Economic and Social Council.

4. Mr. DITTERT (International Narcotics Control Board) said that the matter had already been discussed in the Commission. The Economic and Social Council had examined the Board's report for 1969 before the Commission, and it had also decided to consider the Board's report for 1970 before it was considered by the Commission.

5. Mr. BARONA LOBATO (Mexico) said that the word "*indicación*" in paragraph 1 of the Spanish text was not very appropriate; he then proposed that the Conference go on record as saying that the Commission on Narcotic Drugs should meet annually and not biennially.

6. The CHAIRMAN suggested that the delegations interested in that proposal should prepare a draft resolution which could be submitted for adoption by the Conference at the end of its work.

The meeting rose at 10.20 a.m.

## SEVENTEENTH MEETING

*Thursday, 28 January 1971, at 10.40 a.m.*

*Chairman: Dr. MABILEAU (France)*

**Consideration of the revised draft Protocol on Psychotropic Substances adopted by the Commission on Narcotic Drugs, in accordance with Economic and Social Council resolution 1474 (XLVIII) of 24 March 1970 (item 11 of the Conference agenda) (continued)**  
(E/4785, chap. III)

### PROGRESS OF THE WORK OF THE WORKING GROUPS

1. Dr. OLGUÍN (Argentina), Chairman of the Working Group on article 8, said that, while a consensus had been reached on the general idea and purposes of article 8, the wording for paragraph 3, concerning exceptional cases, was still being debated. Specific proposals had, however, been submitted by the representatives of Hungary and Liberia, and he hoped that the Group's work would soon be completed and that he would be able to report to the Committee on Control Measures shortly.

2. Dr. BABAIAN (Union of Soviet Socialist Republics), Chairman of the Working Group on articles 11 and 12, said that, so far as article 11 was concerned, the Working Group had reached agreement on paragraph 1 and had prepared an acceptable text for paragraph 2. A proposal

had been made, however, for the addition to that paragraph of provisions similar to those of article 31 of the 1961 Single Convention on Narcotic Drugs, relating to substances in transit. The question was currently being considered by a working sub-group, with the help of the Legal Adviser to the Conference.

3. Several amendments had been proposed to article 12.

4. Mr. ANAND (India), Chairman of the Working Sub-Group on articles 11 and 12, said that, although delegations were still unable to agree on how many provisions of the Single Convention should be incorporated in article 11, the consideration of that article was making good progress.

5. Mr. ASANTE (Ghana), Chairman of the Working Group on article 14, said he was not in a position to report to the Committee on Control Measures on paragraphs 1, 2 and 3, but he hoped that his Group would be able to complete the consideration of paragraphs 1 and 2 shortly.

6. Mr. BEEDLE (United Kingdom), Chairman of the Working Group on article 2, said that, in consultation with WHO and the Secretariat, two or three amendments to article 2, paragraphs 4 and 5, had been prepared, and the text would be ready for consideration by the Committee at the end of the week.

**ARTICLE 2 bis**  
(SPECIAL PROVISIONS REGARDING  
THE CONTROL OF PREPARATIONS)

7. The CHAIRMAN said that the entire article was too controversial to be considered as a whole, and it had better be examined paragraph by paragraph.

8. Dr. REXED (Sweden), Chairman of the Technical Committee, said that the Technical Committee had not given any technical opinion on the article, which did not come within its terms of reference. The Technical Committee would simply review the article after the Committee on Control Measures had discussed it.

*Paragraph 1*

9. Mr. SHEEN (Australia) observed that the article was closely linked with article 2, particularly so far as the criteria for the addition of substances to the schedules and the role of WHO and the Commission on Narcotic Drugs were concerned. Any discussion could only be provisional before the Committee had taken a decision on article 2.

10. Mr. MILLER (United States of America), after noting that the subject of exempt preparations had been a difficult one to deal with, said he would like to clarify the principle of exemption. To begin with, there could be no question of exempting preparations containing psychotropic substances from all control, since they would still be subject to all the control requirements listed in sub-paragraphs (i) to (vii) of paragraph 3.

11. Moreover, it should be remembered that the preparations involved were preparations in which the proportion of pharmacologically inactive elements was high enough almost wholly to eliminate the danger of abuse to which the small quantities of psychotropic substances

in them might give rise. In support of those arguments, he gave examples of the chemical composition of some preparations. The exceedingly numerous pharmaceutical preparations sold in the United States were essential to the treatment of certain illnesses and presented virtually no danger of abuse. Provision for exemption was absolutely essential. It was for the parties, rather than an international body, to take reasonable decisions in that respect, in the light of the views of physicians and the manufacturers of pharmaceutical preparations and in the interests of medicine. No provision should be included in the Protocol that was likely to weaken the parties' right to determine their own medical practices.

12. Dr. REXED (Sweden) said that the article gave rise to few difficulties in his country, because so few preparations came into that category. He realized, however, that the article might be a source of difficulties for other countries, and he could accept control measures which would enable countries that had different recording systems to continue their present practice. He agreed with the United States representative's view that it was not for an international conference to alter national medical practice. When it was established that a preparation gave rise to little liability to abuse or illicit traffic, the control measures to which it was subject should be mitigated as a matter of course. Consequently, the Swedish delegation was prepared to consider any amendment to article 2 bis to that effect.

13. The CHAIRMAN remarked that drug addicts who abused preparations sought to extract the active principle from them and used various methods of administration. That was why those preparations could be dangerous.

*Paragraph 1 was approved by 40 votes to none, with 1 abstention.*

14. Dr. BABAIAN (Union of Soviet Socialist Republics) and Mr. SHEEN (Australia) said that, although they had voted in favour of paragraph 1, they reserved the right to reconsider their positions after article 2 bis had been discussed in its entirety.

*Paragraph 2*

15. Mr. BEEDLE (United Kingdom) observed that the paragraph contained a number of repetitions; it should be reviewed by the Drafting Committee.

16. Mr. McCARTHY (Canada) proposed that the words "in the opinion of a Party" should be added after the words "does not constitute".

17. Mr. ASANTE (Ghana) questioned the need for that change, since paragraph 3 clearly indicated that it was for the parties to decide whether a preparation constituted a public health problem.

18. Mr. WATTLES (Legal Adviser to the Conference) said that, although paragraph 3 left it to individual parties to judge the matter, paragraphs 4 and 5 obliged the parties to comply with the decisions of the Commission and the recommendations of WHO. Paragraphs 4 and 5 should therefore be revised if the Canadian proposal was adopted.

19. Mr. McCARTHY (Canada) said he was afraid that paragraph 2, as it stood, might prevent parties from taking

exemption steps under paragraph 3 unless the substance concerned was one that did not constitute a public health problem. Furthermore, any steps possible under paragraph 3 would come after the stage contemplated in paragraph 2.

20. Dr. PUNARIO RONDANINI (Mexico) said he did not think that paragraph 2 was clear, since substances in schedule IV could be used concurrently with substances in schedule III; amphetamines, for instance, were always accompanied by barbiturates. Consequently, he could not approve the wording of the paragraph.

21. The CHAIRMAN suggested that, in view of the doubts which had been expressed about the paragraph, it would be advisable to postpone a final decision on it. He would therefore take it that paragraph 2 was approved only provisionally.

### Paragraph 3

22. Dr. SHIMOMURA (Japan) questioned the desirability, or even the feasibility, of subjecting preparations that complied with the criteria in paragraph 2 to the requirements enumerated in paragraph 3; there were many such preparations, and measures of control should be kept to a minimum. Depending on how the discussion went, his delegation might wish to propose an amendment on that point.

23. In reply to a question put by Mr. ASANTE (Ghana) Mr. WATTLES (Legal Adviser to the Conference) said that the wording of paragraph 3 specified beyond all doubt that each party was entitled to take an exemption decision, regardless of what might have been decided by an international body under paragraph 4. In reply to a question by Mr. McCARTHY (Canada), he explained that the words "foregoing obligations" in sub-paragraph (vii) referred to the six preceding sub-paragraphs. In reply to a further question, put by Dr. THOMAS (Liberia), he said that the existing wording would not prevent a party from authorizing a preparation to be supplied without medical prescription.

24. Mr. OBERMAYER (Austria) said he did not think that the requirements specified in sub-paragraphs (i) to (vii) should be prescribed in respect of preparations containing, as indicated in paragraph 2, a substance from among those listed in schedules III or IV only.

25. The CHAIRMAN noted that it seemed premature to take a decision on paragraph 3.

### Paragraphs 4 and 5

26. Mr. BEEDLE (United Kingdom) observed that paragraphs 3 and 4 were closely connected, and that most of the doubts expressed about the former applied to the latter as well. His fear was that the words "it shall notify" at the beginning of the penultimate sentence of paragraph 3 and in paragraph 4 would result in burdensome procedures whose complications could not at first be fully appreciated. In his view, it should be left to each party to decide for itself the exemptions it wished to grant, with WHO playing, as it were, the role of monitor. The responsibilities involved should be properly apportioned and there should be no unnecessary work for national and international authorities. His delegation could not commit itself on the substance of paragraph 4 until the

articles to which the paragraph referred had received their final form. In any case, the provisions of the fourth sentence seemed to him to overdo the need for flexibility.

27. Mrs. d'HAUSSY (France) pointed out that the words "has information" in the first line of paragraphs 4 and 5 attributed a merely passive function to WHO. It would be better to replace them by the word "finds".

28. Mr. CAMPANINI (Switzerland) proposed that the fourth sentence of paragraph 4 should be amended to read:

The Commission ... may decide to exempt the preparation or group, in respect of all Parties, from one or more of the following requirements:

[(i) to (iii) unchanged]

The Commission may also exempt the preparation or group from any or all of the measures of control in respect of which exemptions under paragraph 3 of the present article are not prohibited.

29. The CHAIRMAN suggested that it might be advisable to set up a working group to consider, in the light of the comments made, the various amendments that had been proposed. He drew the Committee's attention to the fact that, as stated in foot-notes 14 and 15, the USSR and some other delegations had proposed that the Commission's decisions should be communicated to "all States".

30. Mr. SAMSOM (Netherlands) and Dr. URANOWICZ (Hungary) said that their Governments could not accept the whole of article 2 *bis* unreservedly. Their delegations would therefore like to form part of any working group that was entrusted with its revision.

31. Mr. KOCH (Denmark) said that his delegation would reserve its position on article 2 *bis* until work on articles 12, 13 and 14 had been completed.

32. Mr. ANAND (India) said he would like to participate in the work of the proposed new group.

33. Dr. BABAIAN (Union of Soviet Socialist Republics) said he had not spoken in the discussion because, as the Chairman had pointed out, his delegation's position was explained in foot-notes 14 and 15.

34. The CHAIRMAN proposed that a working group should be set up consisting of representatives of the United States of America, Canada, Japan, the United Kingdom, Switzerland, Sweden, India, Liberia, the Soviet Union, the Netherlands, Hungary and France, together with representatives of the International Narcotics Control Board and WHO. The United States representative might be asked to chair the group.

*It was so decided.*

35. Dr. OLGUÍN (Argentina) said that his delegation would be glad to have an opportunity of speaking in the working group on certain points to which it attached particular importance.

36. The CHAIRMAN said he was sure the working group would accede to the Argentine delegation's request and also hear the views of any other delegation that expressed the same wish.

The meeting rose at 12.10 p.m.

**EIGHTEENTH MEETING***Friday, 29 January 1971, at 10.20 a.m.*

Chairman: Dr. MABILEAU (France)

**Consideration of the revised draft Protocol on Psychotropic Substances adopted by the Commission on Narcotic Drugs, in accordance with Economic and Social Council resolution 1474 (XLVIII) of 24 March 1970 (item 11 of the Conference agenda) (continued)**  
(E/4785, chap. III)

**ARTICLE 8 (PRESCRIPTIONS)***(resumed from the 14th meeting and concluded)*

1. The CHAIRMAN drew the Committee's attention to the text for article 8 proposed by the Working Group (E/CONF.58/C.4/L.37).
2. Mr. KIRCA (Turkey) asked whether the Working Group had considered the question of the maximum quantities that could be medically prescribed.
3. Dr. OLGUÍN (Argentina), Chairman of the Working Group, replied that it had. In general, the Group had taken the view that that was a matter for decision by each party and that there was no need to make specific reference to it in the Protocol.
4. Mr. McCARTHY (Canada), referring to paragraph 1, said that it was essential that the text should make it clear that it applied solely to substances supplied or dispensed to individuals.
5. Dr. OLGUÍN (Argentina), Dr. BABAIAN (Union of Soviet Socialist Republics), Dr. THOMAS (Liberia), Mr. ASANTE (Ghana) and Mr. CHENG (China)\* said that the point raised by the Canadian representative was a matter for the Drafting Committee.

*It was so agreed.**Article 8 (E/CONF.58/C.4/L.37) was approved by 37 votes to none, with 4 abstentions.*

6. Mr. OBERMAYER (Austria) explained that his delegation had abstained because, though it was in favour of paragraphs 1 and 2 of the new text for article 8, it was not in favour of paragraph 3.

**ARTICLE 3****(OTHER SPECIAL PROVISIONS  
REGARDING THE SCOPE OF CONTROL)***Paragraph 1*

7. Dr. CORRÊA da CUNHA (Brazil) said that the meaning of the expression "small quantities" should be made clearer; quantities regarded as small in one country might be regarded as large in another, and that might give rise to difficulties.
8. The CHAIRMAN said that, in his recollection of the preparatory work, the expression had been construed to mean the quantities needed by a patient to continue his treatment.
9. U HLA OO (Burma) said he agreed with the Brazilian representative. There was a danger that lack of

precision in the present wording of paragraph 1 might lead to smuggling, which, even if on a small scale, would nevertheless be dangerous. His delegation therefore reserved its position on the paragraph.

10. Mr. KOCH (Denmark) said that, since paragraph 1 was in fact a derogation from the provisions relating to the importation and exportation of the psychotropic substances referred to in the draft Protocol, it would be more logical to give it a place in the text that was closer to those provisions.
11. Dr. BABAIAN (Union of Soviet Socialist Republics) said that he was in favour of article 3 in its present form. In his view, the words "small quantities" meant the reasonable quantities necessary to enable a patient to continue his treatment while abroad.
12. Mr. NIKOLIĆ (Yugoslavia) said that the present wording of paragraph 1 was not satisfactory. Since its provisions were permissive, certain countries would authorize international travellers to carry small quantities of psychotropic substances and others would not, thereby creating considerable difficulties for travellers who wished to visit a number of countries in succession, for example. The provisions of paragraph 1 as at present worded would therefore be impossible to apply in practice. They should be given a more general character.
13. Dr. OLGUÍN (Argentina) suggested that, in order to rule out any possibility of that traffic, the text should be made more precise by inserting the words "of a medical nature" after the words "for personal use". The remarks of the Yugoslav representative seemed to him to be well founded.
14. Dr. THOMAS (Liberia) said that he favoured the present wording of paragraph 1. The fears expressed by certain representatives regarding the possible danger of smuggling seemed to him to be groundless; physicians in all countries knew very well that a patient who was going abroad should be prescribed only the quantity of medicaments necessary for treatment during a limited period—say five days at the most—and should also be provided with a prescription enabling him to continue treatment in the country of destination. There seemed to be no reason, therefore, why a person carrying medicaments for five days should have any difficulties with the Customs authorities.
15. Mr. OBERMAYER (Austria) said that it was essential that patients should be able to carry the psychotropic substances they needed for treatment, but it should be specified that the quantities involved would be small and would be related to the duration of their journey as far as the place of their stay. He would submit an amendment to that effect at a later stage.
16. Mr. BARONA LOBATO (Mexico) said that there had been cases where the codeine and phenobarbital needed by certain patients proceeding from Mexico had been confiscated on entry into the United States. Since it was sometimes very difficult to distinguish between genuine patients and traffickers, agreement should be reached on the quantities permitted to be carried and provision made for cases where a patient did not have on his person the medical prescriptions providing proof of his condition and of his need to take certain medica-

\* See introductory note.



ments. The paragraph should therefore be reworded by the Drafting Committee.

17. Dr. ALAN (Turkey) associated himself with the remarks of the Yugoslav representative. It was desirable that the laws should be the same in every country, so that each party to the Protocol could authorize the carrying of small quantities of psychotropic substances. To that end, he proposed that the words "a Party may under its laws permit ..." should be replaced by the words "the Parties shall permit ...".

18. Mr. HOOGWATER (Netherlands) said that he too agreed with the Yugoslav representative. The explanations given by the Legal Adviser to the Conference did not apply in the case of a traveller who, for example, was a passenger in an aircraft which, owing to adverse weather conditions, had to land in a country other than that intended.

19. Dr. DANNER (Federal Republic of Germany) said that in his view it was necessary to draft a new text which would take into account the provisions of article 12 and specify that the carrying of small quantities would not be considered by the parties as an import or an export of psychotropic substances.

20. Mr. KOECK (Holy See), supporting the representatives of Turkey and the Netherlands, said that he was prepared to accept the Turkish representative's amendment. He had no objection to the article being moved elsewhere in the draft.

21. Dr. CORRÊA da CUNHA (Brazil) stressed that the text of paragraph 1 provided a loop-hole for traffickers, who could obtain psychotropic substances in a number of different countries by consulting several doctors.

22. It was necessary to reach agreement on the meaning of the expression "small quantities" and to bring national laws on the subject into line.

23. Mr. NIKOLIĆ (Yugoslavia) proposed that the text of paragraph 1 should be amended to read as follows:

Notwithstanding the provisions of this Protocol, international travellers may be permitted to carry small quantities of psychotropic substances other than those in schedule I when they have an assurance from their competent national authorities that they were legally obtained for personal use.

24. The CHAIRMAN suggested that the representatives of the Federal Republic of Germany, Turkey, Austria and Italy, who wished to submit amendments, should consult with the representative of Yugoslavia after the meeting in order to formulate a joint text.

25. Dr. REXED (Sweden) said that the problem now under discussion was not a new one. Although it had not been considered necessary to include provisions relating to psychotropic substances in the 1961 Single Convention on Narcotic Drugs, in practice Customs authorities allowed private individuals to carry licitly small quantities of those substances. Moreover, national laws differed according to the drugs involved. In Sweden, for instance, it was impossible to obtain amphetamines and substances in schedule II even on medical prescription and the Customs authorities were responsible for deciding whether an exception could be made. In his view,

paragraph 1 provided an adequate framework and it was not necessary to go into detail.

#### *Paragraph 2*

26. Dr. REXED (Sweden), Chairman of the Technical Committee, explained that the Technical Committee had deemed it necessary to amend paragraph 2 (E/CONF.58/C.3/L.10/Add.3), for the sake of simplicity and in order to deal more specifically with the use of psychotropic substances in industry.

27. The CHAIRMAN suggested that the Committee should consider the text of paragraph 2 as amended by the Technical Committee.

*It was so agreed.*

28. Mr. ASHFORTH (New Zealand), explaining the amendment proposed by his delegation (E/CONF.58/C.4/L.19), said that the use of psychotropic substances in New Zealand was not a matter for industry; it was a craft process, over which it was hard to exercise strict control.

29. Furthermore, deer were so abundant in the New Zealand forests that they had to be captured, and psychotropic substances were in fact currently being used for the purpose.

30. Dr. BABAIAN (Union of Soviet Socialist Republics) said that there could hardly be said to be any production of psychotropic substances under craft conditions. Some other wording would therefore have to be devised.

31. Mr. ANAND (India) observed that the Technical Committee's amendment would have to be altered if the Committee accepted the New Zealand amendment. In view of the New Zealand representative's explanations, he thought that there was no need to mention industry. The passage concerning the capture of animals should be placed in a separate paragraph.

32. The CHAIRMAN suggested that the representatives of New Zealand, the Soviet Union and India should consult together after the meeting and work out a new text.

The meeting rose at 12.45 p.m.

### NINETEENTH MEETING

*Monday, 1 February 1971, at 2.50 p.m.*

*Chairman: Dr. MABILEAU (France)*

**Consideration of the revised draft Protocol on Psychotropic Substances adopted by the Commission on Narcotic Drugs, in accordance with Economic and Social Council resolution 1474 (XLVIII) of 24 March 1970 (item 11 of the Conference agenda) (continued)**  
(E/4785, chap. III)

#### ARTICLE 3

(OTHER SPECIAL PROVISIONS  
REGARDING THE SCOPE OF CONTROL) (concluded)

#### *Paragraph 1 (continued)*

1. Mr. BEEDLE (United Kingdom) said that although he had no objection in principle to the new text for

- paragraph 1 proposed by the representatives of Austria, France, Italy, the Federal Republic of Germany, Turkey and Yugoslavia (E/CONF.58/C.4/L.43), he thought the requirement that a medical prescription should be produced by a traveller might give rise to difficulty. In many countries, including the United Kingdom, prescriptions had to be retained by the dispensing pharmacist for official accounting purposes.
2. Dr. BABAIAN (Union of Soviet Socialist Republics) said he was in exactly the same position as the United Kingdom representative. A more general term than "medical prescription" might be found.
  3. The CHAIRMAN observed that the problem might be overcome simply by deleting the words "by requiring the presentation of a medical prescription".
  4. Mr. MILLER (United States of America), Mr. ASANTE (Ghana) and Dr. MÅRTENS (Sweden) said they were prepared to agree to the deletion of those words.
  5. Dr. ALAN (Turkey) said that, unless a traveller was in possession of some sort of document, he would be unable to prove he had obtained the preparations in question legally. If the reference to a medical prescription was to be deleted, it must be replaced by a reference to some other document.
  6. Dr. THOMAS (Liberia) agreed with the representative of Turkey.
  7. Mr. ANAND (India) said he was inclined to agree with the view expressed by the Swedish representative at an earlier meeting that the provision was unnecessary. If such a provision was to be included in the draft Protocol, however, he would prefer the text as it stood to that proposed. It would be unwise to include a requirement that medical prescriptions should be produced.
  8. Mr. NIKOLIĆ (Yugoslavia) said he was prepared either to accept the deletion of the reference to medical prescriptions in the joint text or to revert to the original text.
  9. Dr. OLGUÍN (Argentina) said he thought the original text was more satisfactory than the amended version proposed. While he had no objection to the latter in principle, he thought the reference to medical prescriptions should be replaced by some such term as "adequate certification".
  10. Mr. McCARTHY (Canada) and Dr. AZARAKHCH (Iran) said they could accept either the original text or the joint text with the deletion of the reference to medical prescriptions.
  11. Mr. KOCH (Denmark) recalled that in 1961 the United Nations Conference for the adoption of a Single Convention on Narcotic Drugs had abandoned an attempt to find a solution for a similar problem in respect of travellers carrying narcotic drugs for personal use, and the absence of a provision permitting travellers to carry such drugs had not given rise to any difficulty in practice. He formally proposed the deletion of paragraph 1.
  12. U HLA OO (Burma) said he wholeheartedly supported that proposal.
  13. Mr. HOOGWATER (Netherlands) said he was prepared to accept that proposal. He could also, however, accept the joint text with the deletion of the specific reference to medical prescriptions.
  14. Dr. WALSH (Australia) said that her delegation would have great difficulty in accepting a reference to medical prescriptions and did not see that the problems involved would be solved by substituting for it a reference to medical certificates or other documentation. As to the Danish representative's proposal, she pointed out that psychotropic substances were used in the treatment of a very large number of people; a true parallel with narcotic drugs could not be drawn. She favoured the retention of paragraph 1 as it stood.
- The Danish proposal to delete paragraph 1 was rejected by 24 votes to 14, with 5 abstentions.*
- The proposal to delete the words "by requiring the presentation of a medical prescription" in the amendment to paragraph 1 (E/CONF.58/C.4/L.43) was adopted by 37 votes to none, with 6 abstentions.*
- The amendment to paragraph 1 (E/CONF.58/C.4/L.43), as thus amended, was adopted by 24 votes to 8, with 13 abstentions.*
- Paragraph 1, as amended, was approved.*
- Paragraph 2**
15. Mr. HOOGWATER (Netherlands) said that the purpose of the Netherlands amendment (E/CONF.58/C.4/L.44) was to strike a balance between the need for adequate controls and the interests of industry.
  16. Dr. ALAN (Turkey) said that he preferred the text recommended by the Technical Committee (E/CONF.58/C.3/L.10/Add.3) to that of the Netherlands.
  17. Dr. BABAIAN (Union of Soviet Socialist Republics) questioned whether the Technical Committee's text was an improvement on the original, which was precisely worded and covered all cases in which the use of psychotropic substances in industry might be permitted.
  18. Dr. BÖLCS (Hungary), Vice-Chairman of the Technical Committee, said that the Technical Committee's text was based on a United Kingdom amendment whose purpose was to make clear the conditions in which the use of psychotropic substances could be authorized in industry. The Technical Committee had found the text of the draft Protocol, and particularly the parts relating to transformation and denaturing, somewhat complicated. Another objection to it had been the impossibility of foreseeing all the substances which in future might be used by industry for producing substances that were not psychotropic.
  19. Mr. BEEDLE (United Kingdom) said that his delegation's amendment had sought to simplify a text which appeared to be unnecessarily complicated and rigid.
  20. Mr. MILLER (United States of America) said that one of the difficulties had been to determine how a precursor was transformed or denatured.
  21. Mr. HOOGWATER (Netherlands) withdrew his amendment.

*The Technical Committee's amendment (E/CONF.58/C.3/L.10/Add.3) was adopted by 41 votes to none, with 4 abstentions.*

*Paragraph 2, as amended, was approved by 42 votes to none, with 4 abstentions.*

*New paragraph 3*

22. Mr. ASHFORTH (New Zealand) said that his delegation's new proposal for the addition of a new paragraph to article 3 (E/CONF.58/C.4/L.41) was designed to overcome certain translation difficulties to which the first New Zealand proposal (E/CONF.58/C.4/L.19) would have given rise. His delegation interpreted article 3 as referring to any industry, however small.

23. Mr. CALANDA (Italy) asked whether the New Zealand text referred to all animals or only wild animals, and whether it would apply to the practice of administering tranquillizers to farm animals about to be slaughtered for human consumption.

24. The CHAIRMAN said he assumed the text applied to all animals.

*The New Zealand proposal (E/CONF.58/C.4/L.41) was adopted by 34 votes to 1, with 9 abstentions.*

*Article 3 as a whole, as amended, was approved by 42 votes to none, with 3 abstentions.*

The meeting rose at 4.45 p.m.

## TWENTIETH MEETING

*Thursday, 4 February 1971, at 9.20 a.m.*

*Chairman: Dr. MABILEAU (France)*

**Consideration of the revised draft Protocol on Psychotropic Substances adopted by the Commission on Narcotic Drugs, in accordance with Economic and Social Council resolution 1474 (XLVIII) of 24 March 1970 (item 11 of the Conference agenda) (continued)**  
(E/4785, chap. III)

### ARTICLE 4

(LIMITATION OF USE TO MEDICAL AND SCIENTIFIC PURPOSES)

1. Mr. McCARTHY (Canada) referred to the extensive efforts made by his Government over the past 25 years to deal comprehensively with the whole problem of drug abuse, and said that if the mere possession of substances in schedule II was not to be exempted from the provision in sub-paragraph (b) in the same way as substances in schedules III and IV, many of the policies developed by his Government would be stultified. Many

people, and particularly the young, simply experimented with the substances in schedule II and could not be classified as drug abusers in the true sense of the term. His Government was therefore against insisting that persons found in possession of such substances should in all circumstances be regarded as committing a criminal offence. It was the firm and considered view of the competent Canadian authorities that mere possession of the substances in schedule II should not automatically lead to legal prosecution, and it was for that reason that his delegation had submitted its amendment (E/CONF.58/C.4/L.34). If the Conference decided not to exempt substances in schedule II, in so far as possession was concerned, in the same way as those in schedules III and IV, his Government would have to make a reservation regarding article 4 when signing the Protocol.

2. Mr. MILLER (United States of America) said that his delegation supported the Canadian amendment; the United States Government would be reluctant to accept a provision imposing on Governments the permanent obligation to maintain penalties for the possession of substances in schedule II for personal use. He then drew attention to the amendment he had submitted (E/CONF.58/C.4/L.47), the effect of which would be to ensure that possession for distribution was not accorded the leniency that could be accorded to possession for personal use.

3. Dr. BABAIAN (Union of Soviet Socialist Republics) pointed out that some reference should be made in subparagraph (a) to the provisions of article 6, which limited the use of substances in schedule I to medical and scientific purposes under very specific conditions. He did not consider it necessary to propose a formal amendment; the matter could, he thought, be dealt with by the Drafting Committee.

4. The CHAIRMAN concurred.

5. Mr. BEEDLE (United Kingdom) said he supported both the Canadian and the United States amendments. With reference to the former, he pointed out that legal systems varied considerably from country to country, and it would be unrealistic to draft a protocol which assumed that the laws on possession would be the same in every country. The attitude of the public to the criminality of possession had also to be taken into account. Governments should be in a position to assess the situation in their own countries and to decide whether the public health problem was so serious as to warrant making simple possession a criminal offence. Stricter control than that provided for under the draft Protocol was, in any case, possible.

6. Mr. HOOGWATER (Netherlands) associated himself with the views of the United Kingdom representative. He pointed out, moreover, that under the provisions of article 18, it was clear that parties would have the right to deal with addicts as they saw fit. If that principle was acceptable in relation to article 18, there was no reason why it should not be acceptable in the case of article 4. His delegation could not in any circumstances agree to a text which would confine the possibility of exemption from the provision in article 4 (b) to substances in schedules III and IV.

7. With reference to sub-paragraph (a), he pointed out that no country could limit the manufacture and production of substances to medical and scientific purposes in the absence of estimates of the amounts required for such purposes; the paragraph required redrafting.
8. Mr. BEB a DON (Cameroon) said he had had no difficulty with the text as it stood, but he agreed with the USSR representative and was prepared to accept the Canadian and United States amendments.
9. Dr. DANNER (Federal Republic of Germany) said he supported the Canadian and United States amendments.
10. Mr. CHENG (China)\* said that, while his delegation had no difficulty with the present wording of sub-paragraph (b), it was prepared to take the difficulties experienced by others into account in the interests of obtaining an effective international instrument; and it would, therefore, accept the Canadian amendment. The United States amendment was purely a matter of drafting.
11. Mr. NIKOLIĆ (Yugoslavia) proposed that sub-paragraph (b) should be redrafted to read: "shall not permit ... except under the conditions laid down in its laws and regulations".
12. Mr. ANAND (India) and Dr. BERTSCHINGER (Switzerland) supported that proposal.
13. Dr. ALAN (Turkey) said he would have no difficulty in accepting the Canadian and United States amendments. The Yugoslav proposal, however, required further consideration.
14. Dr. BABAIAN (Union of Soviet Socialist Republics) pointed out that the wording proposed by the Yugoslav representative was very similar to that employed in article 33 of the 1961 Single Convention on Narcotic Drugs. He would have no difficulty in agreeing to the replacement of the present wording of sub-paragraph (b) by the wording of that article.
15. Mr. NIKOLIĆ (Yugoslavia) said that in the present instance he preferred the wording he had proposed to that used in the Single Convention. The conditions under which different substances could be legally possessed would be laid down in national laws and regulations.
16. Mr. KOCH (Denmark) said he doubted whether the Yugoslav proposal would serve the purpose desired. It would be difficult for Governments to lay down in legislation the conditions under which possession of substances would not be a criminal offence. His delegation preferred the text as it stood, with the amendment proposed by the United States representative. It could not, however, accept the Canadian amendment. The obligation of parties to make the possession of substances in schedule II a criminal offence would serve as a useful preventive measure. Moreover, even if it was decided not to prosecute a schoolboy for possession, the fact that possession was a criminal offence would bring him under police jurisdiction and make it easier for the police to have access to information which would help in tracing the illicit traffic.
17. Dr. WALSHE (Australia) agreed with the USSR representative that some reference to article 6 should be made in sub-paragraph (a). She could accept sub-paragraph (b) as amended by the United States proposal, but not the Canadian amendment. While it was true that young people experimented with substances in schedule II "for kicks", they also did so with substances in schedule I and with narcotic drugs. In her view, the intravenous injection of amphetamines in large quantities was at least as hazardous as, and possibly more hazardous than, the oral ingestion of LSD. If the majority was in favour of its not being compulsory to regard possession of substances in schedules III and IV as criminal offences, she would be prepared to accept the Yugoslav proposal.
18. Mr. ASANTE (Ghana) said he could accept article 4 as it stood. Read in conjunction with article 18, it gave national authorities wide discretion in the matter of prosecution. As far as his country was concerned, where an act was specifically made punishable by law, it was not mandatory for the Attorney-General to prosecute offenders; but he understood the difficulties experienced by the delegations of Canada and the United States of America and would abstain from voting on their amendments. He would like to know, however, whether those delegations might not be prepared to accept the Yugoslav oral amendment.
19. Mr. MILLER (United States of America) said that his country had experienced serious difficulties with article 33 of the Single Convention precisely because the meaning of the words "under legal authority" was not clear. Those words, as now used in sub-paragraph (b) of article 4 of the revised draft Protocol, seemed to suggest that specific legislation would have to be passed authorizing possession of the substances in question. His difficulties would not be overcome by the Yugoslav oral amendment, and he therefore pressed for the adoption of both the Canadian and United States amendments.
20. Dr. BABAIAN (Union of Soviet Socialist Republics) stressed that the central idea of the Protocol was that there should be a gradation according to the schedules, the strictest measures being applied to substances in schedule I and the most lenient ones to substances in schedule IV. The provisions of article 4, sub-paragraph (b), were inconsistent with that idea, on which many articles already adopted were based; those provisions, particularly if the Canadian amendment were incorporated, would not discriminate between the different schedules. He would therefore be in favour of replacing the sub-paragraph by a text on the lines of article 33 of the Single Convention.
21. Mr. NIKOLIĆ (Yugoslavia) stressed that his oral amendment did not imply that a special authorization would be required in order to make possession lawful. If the Canadian amendment were put to the vote, his delegation would vote against it, because it would bring the second part of sub-paragraph (b) into flagrant contradiction with the first.
22. Mr. ANAND (India) said that the intention of article 4 was to state that the parties to the Protocol would not treat possession as unlawful unless it was specifically made an offence by the national legislation concerned. The Yugoslav oral amendment did not bring out that intention clearly enough.

\* See introductory note.



23. Mr. ZETTERQVIST (Sweden) said that he associated himself with the Danish representative's remarks and supported the United States amendment, but he was opposed to the amendments submitted by Canada and Yugoslavia.

24. Mr. McCARTHY (Canada) pointed out that if the United States amendment was adopted without the Canadian amendment, the provisions of sub-paragraph (b) would become much more restrictive. He could not accept the Yugoslav amendment, which would require parties to the Protocol to create the offence of possession. The only way in which the provisions of that amendment could be carried out would be for each party to make possession unlawful and to enact exceptions (however numerous) to that prohibition. In Canada, the courts were flooded with criminal cases against persons charged with possession of narcotic drugs; those numerous prosecutions had had no effect on the incidence of drug abuse, thereby showing that the approach was not adequate. Young persons and even children were being charged with the criminal offence of possessing drugs; since they thus had a criminal record, those young persons would in future have difficulty in obtaining a passport to travel or in getting jobs.

25. The adoption by the Commission on Narcotic Drugs at its first special session of the provisions of article 4, sub-paragraph (b), implied the recognition that the present situation bore no resemblance to that which had prevailed in 1961, when the Single Convention was adopted. If it were desired to achieve the aim of gradually diminishing, and perhaps eradicating, a great social evil, a more flexible approach would have to be adopted, and the reproduction from the Single Convention of wording which was no longer appropriate must be avoided.

26. Mr. HOOGWATER (Netherlands) said that, as he understood it, the effect aimed at by the Yugoslav amendment was that possession should be governed by the national laws of the parties. That purpose could equally well be achieved by deleting the whole of sub-paragraph (b) and the words "possession of" in sub-paragraph (a). He wished to know whether the Yugoslav representative and the Legal Adviser shared that interpretation.

27. Mr. WATTLES (Legal Adviser to the Conference) said that, from the purely drafting point of view, the purpose of the Yugoslav amendment would be served by that deletion.

28. Dr. AZARAKHCH (Iran) supported the Yugoslav amendment. If it were not adopted, his delegation could accept the United States amendment. It could not, however, accept the Canadian amendment, because of the very dangerous character of substances in schedule II.

29. Dr. OLGUÍN (Argentina) said that the provisions of sub-paragraph (a) of article 4 of the draft Protocol were acceptable to his delegation, because they were consistent with those of a number of articles in the text of the Protocol, some of which were already approved. As to sub-paragraph (b), however, his delegation was concerned about the exceptions which might be allowed. It considered it essential that it should be the national

legislation in each country that regulated the use of the substances concerned.

30. U HLA OO (Burma) said it was undesirable to include in the Protocol a provision which suggested that the possession for personal use of psychotropic substances in schedules II, III and IV was not an offence. Such a provision could have the indirect effect of spreading the evil of abuse. He was therefore inclined to favour the Yugoslav amendment, which would leave the whole problem of possession to the national authorities.

31. Mr. MILLER (United States of America) said that difficulties over the interpretation of article 33 had delayed ratification by the United States of the Single Convention. He was not sure, in fact, what the words "under legal authority" meant. If they meant that when a party had not enacted a law prohibiting the possession of psychotropic substances for a person's own use then that person was not in unlawful possession, he could accept the Yugoslav proposal.

32. Mr. WATTLES (Legal Adviser to the Conference) said that the French text of article 33 of the Single Convention seemed to contemplate something in the nature of a legal authorization. The parties could not render possession legal by merely refraining from enacting legislation prohibiting possession. If, then, article 33 meant that possession was legal if not forbidden by law, it would be meaningless, would impose no obligation on the parties and would have no place in an international convention. One of the rules of interpretation was that the provisions of a treaty must have some meaning.

33. The words "under legal authority" must therefore refer to something like licences or prescriptions.

34. Mr. BEEDLE (United Kingdom) said that the main argument on article 4 had centred round the question whether or not the possession of substances in schedule II or those to be included in that schedule in future was to be made an offence. He was not sure that experience bore out the Danish representative's contention that failure to make unauthorized possession an offence would render the detection of traffickers more difficult. If public opinion was really mobilized in the campaign against trafficking, and young people were not in danger of prosecution, teachers, parents and others concerned would go to the police more readily with information. He questioned whether making simple possession an offence was always as efficacious as was claimed.

35. The USSR representative was in favour of differential treatment for the substances in the various schedules, and a number of countries were already trying to devise legislation that discriminated between the different purposes of possession, such as personal use, distribution and the intention to supply others.

36. The question that arose from article 4 was whether the Commission on Narcotic Drugs should be empowered to decide for each party that simple possession was to become a criminal offence for any substances added to schedule II, with all the implications and costs that had been mentioned by the Canadian representative. In his opinion, such a move would be unrealistic and quite unacceptable. Apparently no problem would arise in

countries such as Denmark and Ghana, where the authorities had discretion to prosecute or not; but the situation in the United Kingdom was quite different, and public confidence in the law rested on the assumption that enforcement was not capricious.

37. With those considerations in mind, his delegation had drafted a new text for sub-paragraph (b) which read:

Each Party shall prohibit the possession of psychotropic substances otherwise than under legal authority, provided that nothing in this paragraph (read with article 18) shall be regarded as requiring a Party to make it a criminal offence to have possession of such substances otherwise than for purposes of distribution.

38. The CHAIRMAN said that the United Kingdom oral amendment was too complicated to be accepted. He would have preferred not having to appoint a working group on article 4, but that now seemed unavoidable, because the discussion had become so involved.

39. Mr. NIKOLIĆ (Yugoslavia) said he agreed with the Netherlands representative that each Government would have to decide whether or not possession of psychotropic substances should be made an offence.

40. Mr. MANSOUR (Lebanon) said that it was a general rule of law that anything was permissible provided it had not been explicitly prohibited. Any State ratifying the Protocol would regard the possession of psychotropic substances as an offence except under the conditions permitted by its national law.

41. He agreed with what had been said by the Legal Adviser to the Conference.

42. Dr. THOMAS (Liberia) said he considered that article 4 was acceptable, with a few changes. Each party would have to decide, according to internal conditions, whether possession should be made an offence. He was strongly opposed to the creation of a working group, on account of the delay it would cause.

43. The CHAIRMAN proposed that a working group should be set up to consider article 4.

*It was so agreed.*

The meeting rose at 12 noon.

## TWENTY-FIRST MEETING

Saturday, 6 February 1971, at 10.25 a.m.

Chairman: Dr. MABILEAU (France)

**Consideration of the revised draft Protocol on Psychotropic Substances adopted by the Commission on Narcotic Drugs, in accordance with Economic and Social Council resolution 1474 (XLVIII) of 24 March 1970 (item 11 of the Conference agenda) (continued)**  
(E/4785, chap. III)

### ARTICLE 4

(LIMITATION OF USE TO MEDICAL AND SCIENTIFIC PURPOSES) (concluded)  
(E/CONF.58/C.4/L.52)

1. Dr. WALSHE (Australia), introducing the Working Group's text for article 4, sub-paragraph (b) (E/CONF.58/

C.4/L.52), said it had been apparent from the discussion that the original text of that sub-paragraph was unacceptable and might create legal difficulties for some countries. The Working Group had decided that the intention of that provision would be adequately conveyed by a text similar to that of article 33 of the 1961 Single Convention on Narcotic Drugs, with the insertion of the words "it is desirable" to meet the legal difficulties that some States might encounter.

*The Working Group's text of sub-paragraph (b) was approved by 27 votes to none, with 1 abstention.*

2. The CHAIRMAN said that sub-paragraph (a) in the original text had not given rise to objections, but some delegations had considered that it should be brought into line with article 6 by the Drafting Committee.

3. Dr. BABAIAN (Union of Soviet Socialist Republics) said that a proviso should be inserted at the beginning of sub-paragraph (a) to the effect that it was subject to the provisions of article 6.

4. The CHAIRMAN suggested that that point should be referred to the Drafting Committee.

*Sub-paragraph (a) of article 4 was approved by 25 votes to none, with 4 abstentions.*

*Article 4, as amended, was approved by 26 votes to none, with 3 abstentions.*

ARTICLE 2 *bis* (SPECIAL PROVISIONS REGARDING THE CONTROL OF PREPARATIONS) (resumed from the 17th meeting and concluded) (E/CONF.58/C.4/L.50)

5. Mr. MILLER (United States of America), introducing the Working Group's text for article 2 *bis* (E/CONF.58/C.4/L.50), said that the problem of exempting preparations containing small amounts of psychotropic substances had been a thorny one from the outset, and at an early stage in the discussions there had even been a suggestion that a schedule V should be established for them.

6. The Working Group had agreed that the procedure in the original text of article 2 *bis* was too cumbersome, and that the controls imposed in paragraph 3 were too severe. It considered that, for preparations containing small amounts of psychotropic substances and not constituting a public-health hazard, control measures should be minimal. The parties could be relied upon to apply the provisions of the article in good faith and with prudence. Presumably no State would ratify the Protocol if it was unable to conform to its letter and spirit. The responsibility for compliance with the article lay on the parties, subject to the system of review by WHO and the Commission on Narcotic Drugs laid down in paragraph 4.

7. Paragraphs 1 and 2 did not differ from the original text, but paragraph 3 had been completely re-drafted; it clearly differentiated between the substances listed in the schedules and preparations exempted from full controls.

8. The requirements as to record-keeping and reporting were somewhat uncertain, and would depend on the final decisions reached for articles 10 and 14. The text

proposed for article 10 by the Working Group on that article (E/CONF.58/C.4/L.20) did not make it clear whether manufacturers of exempt preparations should keep records of the amounts of psychotropic substances used in such preparations. Some delegations might interpret paragraph 2 of that text as requiring records to be kept of all "disposals", including substances used in exempt preparations, and since that interpretation was in accordance with what was clearly the draft Protocol's intention, the matter could be left to the Drafting Committee.

9. So far as statistical reports were concerned, on the other hand, the Working Group on article 14 had decided that reports to the Board on quantities of substances in schedule IV used in exempt preparations should not be required, and consequently such a requirement should not be imposed in article 2 *bis*.

10. The last two sentences of paragraph 3, concerning the notification of exemptions, had been taken from the original text of the article.

11. Paragraph 4 was nearly identical with paragraph 5 of the original text; it allowed any party, or WHO acting of its own accord, to consider whether a party had gone too far in exempting a preparation or group of preparations. If that were found to be the case by WHO and the Commission, the exemption would cease to exist.

12. Some delegations had been of the opinion that decisions regarding such termination should be communicated to "all States", but had agreed to the wording proposed by the Working Group pending consideration of other articles.

13. The Working Group considered that the process of decision-making by WHO and the Commission under article 2 *bis* should be the same as that provided for in article 2.

14. Dr. ALAN (Turkey), after noting that under paragraph 3 a party could decide unilaterally to exempt a preparation from control measures, asked what the situation would be if such a preparation then found its way into international trade, and what would be the obligations of parties which had not exempted the preparation. Presumably the provisions of article 11 would be applicable.

15. Mr. MILLER (United States of America) said that the point had been considered by the Working Group, and it had been agreed that the preparations in question had a very low abuse potential because of the presence of admixtures or because they had been greatly diluted. If a party felt that preparations exempted by another party were causing a public-health problem in its own country, it would prohibit imports under article 12.

16. Dr. BABAIAN (Union of Soviet Socialist Republics) said that all States must know what preparations had been exempted, for the preparations in question would then be circulating freely and might become dangerous. To restrict information concerning exemptions to a narrow circle of States would be discriminatory and would be a political manoeuvre.

17. He asked the Legal Adviser to the Conference to explain what was meant by "territories" in paragraph 3.

If the word was used in the sense given to it in article 23, he would strongly object, for such a practice would be wholly contrary to General Assembly resolution 1514 (XV) containing the Declaration on the Granting of Independence to Colonial Countries and Peoples.

18. Mr. WATTLES (Legal Adviser to the Conference) said that he interpreted the word "territory" in paragraph 3, for the purposes of the application of the Protocol, in the sense in which it was used in article 23 *bis*. Article 23 *bis* did not refer to article 2 *bis*, but that must be an oversight, which presumably could be remedied by the Drafting Committee.

19. Dr. BABAIAN (Union of Soviet Socialist Republics), referring to the review of paragraph 4 which was to take place after article 2, paragraphs 4 and 5, had been reconsidered, said that nothing must be done to detract from the rights of WHO and the Commission on Narcotic Drugs, which were clearly set out in paragraph 4 of article 2 *bis*.

20. Mr. KOCH (Denmark) said that the text of the provision (b) in paragraph 3, concerning the furnishing of statistics, could only be accepted with reserve. The matter could not be settled until a decision had been reached on article 14.

*At the request of the USSR representative, the Working Group's text for article 2 bis was put to the vote paragraph by paragraph.*

*Paragraph 1 was approved by 30 votes to none, with 2 abstentions.*

*Paragraph 2 was approved by 29 votes to none, with 3 abstentions.*

*Paragraph 3 was approved by 24 votes to none, with 8 abstentions.*

*Paragraph 4 was approved by 23 votes to none, with 10 abstentions.*

*Article 2 bis (E/CONF.58/C.4/L.50), as a whole, was approved by 24 votes to none, with 8 abstentions.*

21. Dr. BERTSCHINGER (Switzerland) explained that he had abstained from voting on paragraph 3, because article 14 had not yet been considered.

22. Dr. BABAIAN (Union of Soviet Socialist Republics) said he had voted for paragraph 3 on the understanding that it would be reviewed and brought into line with article 14.

**ARTICLE 14 (REPORTS TO BE FURNISHED BY THE PARTIES)**  
*(resumed from the 16th meeting and concluded) (E/CONF.58/C.4/L.42/Rev.1)*

23. Mr. BEEDLE (United Kingdom), in the absence of the Chairman of the Working Group on article 14, introduced the text proposed by that Group for article 14 (E/CONF.58/C.4/L.42/Rev.1). The Working Group had had to compare paragraphs 1, 2 and 4 of that article with article 18 of the Single Convention to determine in what respects the problems raised by psychotropic substances called for different wording and perhaps for different methods of administration. The Working Group had agreed that the amount of information to be furnished by the parties concerning their laws, the

working of the Protocol, abuse and illicit traffic would be much larger than in the case of narcotic drugs and that there was a risk of the machinery becoming clogged with unimportant details and of some parties being unable to provide as much information as others. It was therefore necessary to indicate what kind of information was important.

24. The Working Group's most difficult task had been to draft paragraphs 4 and 5. The representatives of the International Narcotics Control Board had stated that the statistical reports it received provided essential background information about the working of the Single Convention and that the figures indicated where the controls were not working properly. There was a strong argument in favour of comprehensive statistics without differentiating between the different schedules, but the Board's representatives had recognized that there was good reason for the objections to comprehensive statistics for all schedules and that there was no guarantee that such information would be as illuminating for psychotropic substances as it was for narcotic drugs, because more movements were involved in the case of the former. It might be difficult to persuade parliaments that elaborate record-keeping and collection of statistics would not be unduly burdensome for national administrations and industry. Accordingly, a minimum level of reporting had been set in paragraph 4 (a) and 4 (b) and had been accepted, though with some reluctance, by the representatives of the Board.

25. Under paragraph 5, the Board was provided with the opportunity to obtain further information, for example when it became apparent from the statistics or the information published by the Secretary-General that there was a special problem in some particular region involving the movement of psychotropic substances from another part of the world. The problem could be analysed and solved more quickly if the Board had the right to ask a party or parties, and even in extreme circumstances all the parties, for supplementary information on movements of substances in schedules III and IV.

26. The Working Group had included the last sentence in paragraph 5 to enable a party, if it so desired, to request the Board to treat information as confidential. There was a corresponding provision in the Single Convention.

27. The new text represented a substantial concession both by the representatives of the Board and by manufacturing and exporting interests. The addition of any further requirements would upset a delicate balance that had been achieved only with difficulty.

28. Mr. DITTERT (International Narcotics Control Board), said that there had indeed been a difference of opinion between members of the Working Group and the Board regarding the need to furnish information to the Board on exports and imports of schedule III substances on a country-by-country basis. The Board would, however, have no difficulty in accepting the provision in the second sentence of paragraph 5; discretion on its part had been essential in order to obtain the full co-operation of parties to the Single Convention, and without it the Board could not have performed the role assigned to it under that instrument properly.

29. Mr. ANAND (India) said that the Conference should ensure that the Board, a United Nations organ maintained with United Nations funds, was given the minimum quantity of tools it required for carrying out its functions. Refusal to accede to the Board's request for statistical information on exports and imports of schedule III substances on a country-by-country basis would prevent the Board from functioning as it should. As to paragraph 5, the present text imposed no obligation on parties to accede to any request for supplementary information, and he therefore proposed that the word "request" in the first sentence should be replaced by the word "require".

30. Dr. BABAIAN (Union of Soviet Socialist Republics) said he wished to make it quite clear that the request for annual reports in paragraphs 1 and 4 did not imply any change in the present periodicity of meetings of the Commission on Narcotic Drugs. His delegation had supported the Economic and Social Council resolution providing for biennial meetings of the Commission, and its support of those two paragraphs should not be taken to mean that its attitude had in any way changed. He also wished to know why stocks held by wholesalers had been omitted from paragraph 4 (a) and why it had been considered necessary to include the provision in the last sentence of paragraph 5. Lastly, he thought that the references to times and dates should be phrased more precisely; expressions such as "as soon as possible" in paragraph 3 and "in such manner and by such dates" in paragraph 6 were open to different interpretations, which was undesirable.

31. Mr. BEEDLE (United Kingdom), speaking on behalf of the Chairman of the Working Group, said he would first reply to the Indian representative's comments. Broadly speaking, the Working Group's view had been that it would be unrealistic to suppose that statistics supplied by a party in relation to substances in schedules III and IV would enable the Board to detect any deviation from the normal pattern of international trade of which a party and its trading partners were not already aware. It had also been doubted whether the burden placed on national administrations and on exporters and importers by the need to collate the information could be justified, especially as any analysis of such information the Board could make would necessarily be speculative. A further point had been that the volume of information involved was likely to be so great that, unless a computer were used, no analysis could disclose facts that were not already obvious.

32. As the draft Protocol contained no article governing the functions of the Board, it would be difficult to replace the word "request" in paragraph 5 by the word "require". He personally did not believe that any difficulty would arise in practice; the status of the Board was such as to ensure that any request it made for supplementary information would be considered.

33. Replying to the USSR representative, he said he was sure that the Working Group would agree that the term "annual reports" meant reports covering a period of one year; there had been no thought of the periodicity of the Commission's meetings. The words "as soon as possible" in paragraph 3 had been taken from the text of



the draft Protocol (article 14, paragraph 2). A time limit could, of course, be set, but he did not think it necessary to do so; the intention was quite clear from the context. The wording of paragraph 6 had been left vague on purpose: as the Commission met biennially, it had been thought desirable not to preclude the possibility that it might request reports covering a two-year period.

34. Under the provisions of article 14, paragraph 1 (a) of the Single Convention, the Board was obliged to treat certain requests for information from and explanations by a Government as confidential. Although the circumstances to which paragraph 5 related were not quite so involved as those with which article 14, paragraph 1 (a), of the Single Convention was concerned, the basic need for confidential treatment was the same in both cases. To maintain a proper balance, however, the Working Group had decided to leave it to the party to request confidential treatment in a particular case.

35. Wholesalers had been omitted from paragraph 4 (a) because wholesale stocks of schedule I substances would not exist in most countries. Moreover, the difficulties wholesalers would have in quantifying stocks of schedule II substances at a given date had been stressed at earlier meetings of the Committee. No strong views had been expressed in the Working Group about including a reference to wholesalers in connexion with schedule II substances.

36. Mr. HOOGWATER (Netherlands) said he doubted the need for furnishing information to the Board on the quantities of schedule IV substances manufactured. As to the Indian representative's proposal, if the word "require" were to be used instead of the word "request" in paragraph 5, the Board would have to ask every party to provide the supplementary information in question, otherwise it could rightly be accused of discrimination. He did not think the use of the word "request" would give rise to any difficulty in practice; it might, however, be wise to insert the word "shall" before the word "treat" in the second sentence and to move the words "as confidential" to the end of that sentence.

37. Mr. KUŠEVIĆ (Executive Secretary of the Conference), referring to paragraph 3, pointed out that summaries of the reports, not the reports themselves, would be submitted to the Commission; the words "for consideration by the Commission" could be omitted. It might also be wise to bring the wording of the paragraph into line with that of article 17, already adopted by the plenary Conference (8th meeting), where there was a reference to reports to the Secretary-General under article 14 in connexion with both the illicit traffic and seizures.

38. The CHAIRMAN said he was sure that those changes would present no great difficulty for any delegation.

39. Mr. KIRCA (Turkey) said he was against replacing the word "*demande*" in paragraph 5 by the word "*exige*". The wording of the paragraph was the same as that employed in article 18 of the Single Convention, under which the Board had only discretionary power to request supplementary information from a Government.

Under that instrument, the Government was obliged to accede to such a request, and the Board had always considered itself obliged to treat as confidential both its request for additional information and any information supplied in response thereto. No difficulty had ever been encountered in the operation of those provisions. As he interpreted paragraph 5, the Board would have the same discretionary power as under article 18 of the Single Convention, and Governments could obtain the same protection by the simple procedure of requesting—and the Board would be obliged to respect their request—that the Board's request for information and any information they furnished in response to it should be treated as confidential.

40. Mr. STEINIG (International Narcotics Control Board) said it was not at all clear what the position of the Board would be under the provisions of paragraph 5. As it was now worded, the paragraph implied that a party need not accede to a request from the Board for supplementary information and could request that its refusal to do so be treated as confidential. In his view, it was dangerous to create an appearance of control where no control in fact existed. He suggested that the provision should be worded in such a way as to impose an obligation upon a party to respond to a request from the Board for supplementary information; the Board, on the other hand, if so requested by the party concerned, would consider as confidential the supplementary information as supplied by the party. With regard to paragraph 4, if it was considered useful for the Board to have the statistical information provided for in the case of substances in schedule II, it seemed difficult to argue that similar information would not be necessary in certain circumstances in the case of substances in schedules III and IV.

41. Dr. OLGUÍN (Argentina) said that, in the Spanish text, the use of the words "*podrá pedir*" in paragraph 5 clearly indicated a mandatory requirement.

42. Mr. ANAND (India) pointed out that, in paragraphs 1, 2, 3 and 4, and also in article 18 of the Single Convention, the formula used was "The Parties shall furnish". That was quite different from the expression "The Board may request" used in paragraph 5, which he would be glad if the Legal Adviser would interpret.

43. Mr. WATTLES (Legal Adviser to the Conference) said that the interpretation given to those words in the future would depend on the records of the Committee's proceedings.

44. Mr. MILLER (United States of America) said that paragraph 6 clearly made it mandatory for the parties to furnish to the Board the information referred to in all the "preceding paragraphs". His delegation could not accept that proposition as far as the supplementary statistical information referred to in paragraph 5 was concerned; it would be an extremely arduous task to sift such information from ordinary business records and it would be going too far to require exporters and importers to keep separate records for substances in schedules III and IV. He therefore proposed that the words "in the preceding paragraphs" in paragraph 6 be replaced by "in paragraphs 1 to 4".

45. Mr. ANAND (India) suggested that consideration should be given to the idea put forward by the representative of the Board that, for substances in schedule III, annual statistical reports should be required similar to those required in respect of substances in schedules I and II.

46. Dr. DANNER (Federal Republic of Germany) said that his delegation could not support the Working Group's text of article 14, because it did not believe that the substances in schedules III and IV were in fact dangerous enough to justify the extensive measures of control now envisaged. He could not accept the provisions in paragraphs 4 (a) and 5 in any form.

47. Dr. BERTSCHINGER (Switzerland) said that the first sentence of paragraph 5 was incomplete. In the Working Group, he had understood that the words "supplementary statistical information" would be qualified by wording indicating that such information would be requested in order, for example, to complete or explain the information contained in the statistical returns, as stated in article 13, paragraph 3, of the Single Convention.

48. Mr. KIRCA (Turkey) said that, whether additional wording of that kind were included or not, the fact remained that the Board would only request supplementary statistical information for the purpose of carrying out its duties in respect of international control.

49. He proposed that the opening words of paragraph 5 "The Board may request that a Party furnish the Board..." should be replaced by "The Parties shall furnish to the Board, when the latter so requests, ..." ("*Chaque Partie fournira à l'Organe, dans le cas où celui-ci lui en fait la demande, ...*").

50. Mr. OBERMAYER (Austria) said that, although he had no objection to paragraphs 1, 2 and 3 of the Working Group's text, he could not accept paragraphs 4 and 5 because the statistical reports and information they required in the case of substances in schedules III and IV went beyond what could be imposed upon all parties.

51. Dr. DANNER (Federal Republic of Germany) requested a separate vote on each paragraph of article 14.

52. Dr. BÖLCS (Hungary) asked that sub-paragraphs (a) and (b) of paragraph 4 should be put to the vote separately.

*Paragraph 1 was approved by 32 votes to none, with 1 abstention.*

*Paragraph 2 was approved by 32 votes to none, with 1 abstention.*

*Paragraph 3, with the alterations suggested by the Executive Secretary, was approved by 32 votes to none, with 1 abstention.*

*Sub-paragraph (a) of paragraph 4 was approved by 32 votes to none, with 1 abstention.*

*Sub-paragraph (b) of paragraph 4 was approved by 19 votes to 9, with 4 abstentions.*

*Paragraph 4 as a whole was approved by 22 votes to 3, with 8 abstentions.*

*The Turkish oral amendment to paragraph 5 was rejected by 13 votes to 8, with 7 abstentions.*

*Paragraph 5 was approved by 17 votes to 9, with 6 abstentions.*

53. Mr. KIRCA (Turkey) said that the rejection of his amendment did not affect the interpretation he had given of the text of that paragraph as it stood.

*The United States oral amendment to paragraph 6 was adopted by 18 votes to 8, with 7 abstentions.*

54. Dr. BABAIAN (Union of Soviet Socialist Republics) explained that he had voted in favour of the United States amendment but wished in that connexion to draw attention to his earlier remarks in connexion with paragraph 4.

*Paragraph 6, as amended, was approved by 21 votes to 1, with 9 abstentions.*

*Article 14 (E/CONF.58/C.4/L.42/Rev.1) as a whole, as amended, was approved by 20 votes to 3, with 9 abstentions.*

The meeting rose at 1.15 p.m.

## TWENTY-SECOND MEETING

Tuesday, 9 February 1971, at 11.25 a.m.

Chairman: Dr. MABILEAU (France)

**Consideration of the revised draft Protocol on Psychotropic Substances adopted by the Commission on Narcotic Drugs, in accordance with Economic and Social Council resolution 1474 (XLVIII) of 24 March 1970 (item 11 of the Conference agenda) (continued)**  
(E/4785, chap. III)

ARTICLE 12 *bis* (SPECIAL PROVISIONS CONCERNING THE CARRIAGE OF PSYCHOTROPIC SUBSTANCES IN FIRST-AID KITS OF SHIPS OR AIRCRAFT ENGAGED IN INTERNATIONAL TRAFFIC) (E/CONF.58/C.4/L.46)

1. Mr. BARONA LOBATO (Mexico) said he was in favour of the new article 12 *bis* adopted by the Working Group (E/CONF.58/C.4/L.46), which exactly reproduced the provisions of article 32 of the 1961 Single Convention on Narcotic Drugs.

2. Mr. KIRCA (Turkey) proposed that the beginning of paragraph 1 should be amended to read: "International carriage by ships, aircraft or other means of international public transport, such as international railway trains and buses ..." (the rest of the paragraph to remain unchanged). Paragraph 3 would have to be amended consequentially. He wondered, however, whether it would not be better to refer in paragraph 1 to the international agreements on transport, and he would appreciate some enlightenment on that point from the Legal Adviser to the Conference.

3. Mr. WATTLES (Legal Adviser to the Conference) replied that he was not familiar enough with the inter-

national agreements on transport to be able to answer the Turkish representative's question immediately, and that several days' research would be needed to enable him to furnish a reply.

4. Mr. NIKOLIĆ (Yugoslavia) said he did not think that the Turkish amendment was necessary. International railway trains and buses differed from ships and aircraft in that they could always stop in towns in which there were pharmacies.

5. Dr. BABAIAN (Union of Soviet Socialist Republics) reminded the Committee that, when the Single Convention was being prepared, the possibility of extending the scope of the special provisions to other means of international transport had been considered, but the idea had not been adopted for the reasons just given by the Yugoslav representative. The Working Group too had discussed the matter and had concluded that it would be better to keep to the text of the Single Convention.

6. Mr. CHAPMAN (Canada) supported the Turkish amendment. A bus or other means of international transport might very well have an accident a long way from a pharmacy.

7. Mr. TORRES GONZALEZ (Spain) proposed that the words "substances listed in schedules II, III or IV", in paragraph 1, should be replaced by the words "psychotropic substances not listed in schedule I".

8. Mr. CHENG (China)\* suggested that the word "drugs" in the last sentence of paragraph 3 should be replaced by the word "substances".

*It was so decided.*

9. Dr. JENNINGS (Ireland) said he was in favour of the Turkish amendment and interpreted the words "other means of international public transport" as including all means of international transport, not merely passenger transport. Some provision should be made in paragraph 3 for recording the quantities of substances used.

10. Dr. DANNER (Federal Republic of Germany) and Dr. BABAIAN (Union of Soviet Socialist Republics) maintained that the Spanish representative's amendment was a substantive, not a drafting, amendment.

11. Mr. KIRCA (Turkey) said he could see that the time was not ripe for a decision on his amendment, and so would withdraw it. In any case, the matter might perhaps be regulated by international or regional treaties concerning transport.

12. Mr. CHAPMAN (Canada) said that his delegation would sponsor the amendment just withdrawn by the Turkish delegation.

13. Mr. MANSOUR (Lebanon) said he was in favour of the Canadian amendment.

14. Mr. TORRES GONZALEZ (Spain) said he considered the amendment he had submitted was a purely drafting amendment for the purpose of bringing the text of the article into line with that of the other articles of the Protocol, but as some delegations had considered that it was a substantive amendment, he would withdraw it.

15. Dr. BÖLCS (Hungary) suggested that the word "substances" should be replaced by the word "prepa-

rations" in order to bring the article into line with article 3.

16. Dr. BABAIAN (Union of Soviet Socialist Republics) supported that suggestion and formally proposed that the word "substances" should be replaced by the words "psychotropic preparations".

17. Mr. SHEEN (Australia) asked whether it was really necessary for the special provisions of article 12 *bis* to apply also to the substances in schedule II, and whether the Working Group had considered that question.

18. Mr. KOCH (Denmark) explained that first-aid kits did not at present contain any substances currently listed in schedules II, III, or IV, but the Protocol was to deal not only with existing substances, but also with those which were discovered in the future. That was why substances in schedule II were also mentioned.

19. Mr. KOECK (Holy See), referring to the USSR representative's amendment, observed that it would not be correct to say "preparations listed in schedules II, III or IV"; the wording should be "preparations containing substances listed in schedules II, III or IV".

20. Mr. ANAND (India) observed that in the other articles concerning the carrying of small quantities of psychotropic substances by international travellers the term used was "substances", not "preparations". In any case, according to article 2 *bis*, psychotropic substances included preparations.

21. Dr. BABAIAN (Union of Soviet Socialist Republics) said he still thought it would be better to speak of preparations, but, in view of the objections raised by some delegations, he would withdraw his amendment.

*The Canadian amendment to paragraphs 1 and 3 was adopted by 23 votes to 10, with 10 abstentions.*

*Paragraph 1, as amended, was approved by 38 votes to 2, with 6 abstentions.*

*Paragraph 2 was approved unanimously.*

*Paragraph 3, as amended by the Canadian and Chinese amendments, was approved by 41 votes to none, with 3 abstentions.*

*Article 12 bis (E/CONF.58/C.4/L.46) as a whole, as amended, was approved by 40 votes to none, with 5 abstentions.*

The meeting rose at 12.25 p.m.

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## TWENTY-THIRD MEETING

*Tuesday, 9 February 1971, at 2.50 p.m.*

*Chairman: Dr. MABILEAU (France)*

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**Consideration of the revised draft Protocol on Psychotropic Substances adopted by the Commission on Narcotic Drugs, in accordance with Economic and Social Council**

\* See introductory note.

**resolution 1474 (XLVIII) of 24 March 1970 (item 11 of the Conference agenda) (continued)**

(E/4785, chap. III)

**ARTICLE 12 (PROHIBITION OF AND RESTRICTIONS ON THE IMPORT AND EXPORT OF PSYCHOTROPIC SUBSTANCES) (resumed from the 11th meeting and concluded) (E/CONF.58/C.4/L.53)**

1. Dr. BERTSCHINGER (Switzerland), Chairman of the Working Group, explained that paragraph 2 of the Working Group's text (E/CONF.58/C.4/L.53) was a new provision which set forth the obligation of the parties not to export a substance to the territory of a party that had prohibited its importation pursuant to paragraph 1. Paragraph 3 dealt with the exceptional cases where a special import permit would be granted. The Working Group had decided to delete the former paragraph 2.
2. Mr. SHEEN (Australia) proposed that, in paragraph 1, the words "in schedules III or IV" should be replaced by: "in schedules II, III or IV". In his country, the abuse of certain preparations containing schedule II substances was causing concern.
3. Dr. BERTSCHINGER (Switzerland), Chairman of the Working Group, explained that article 12 was intended to cover only substances in schedules III and IV; substances in schedules I and II were governed by the provisions of article 11, and were treated on a par with narcotic drugs.
4. Mr. SHEEN (Australia) said that the provisions of article 2 *bis* made it permissible to export preparations containing substances in schedule II. It was therefore necessary to insert a reference to those substances in article 12.
5. Mr. KALLINGER (Austria) said that the provisions of paragraph 2 would make it necessary for a Customs officer in an exporting country to ascertain whether the goods exported constituted substances in schedules III or IV, then to consult an extensive list of prohibitions in various countries of destination and, finally, to check whether the consignee had an import licence. He had serious doubts whether such a system would work in practice. Smuggling would always be possible through a country which was not a party to the Protocol. Strict import controls were the prohibiting country's only safeguard.
6. Mr. HUYGHE (Luxembourg) said that, for those same reasons, he felt that the measures envisaged in article 12 would not be very effective.
7. Mr. HOOGWATER (Netherlands) said that his country would have no difficulty in applying the measures envisaged in paragraph 2, with or without the Protocol, but article 12 as it stood gave little protection to the importing countries; it could even give them a false sense of security. It was preferable to apply to substances in schedule III the same watertight control as to substances in schedules I and II, and his delegation was still willing to accept a compromise on that basis.
8. Mr. KOCH (Denmark) said he fully supported the Australian proposal.
9. It was precisely to rule out the Austrian delegation's interpretation that the words "shall take measures to ensure" had been introduced into paragraph 2. The obligations resulting for an exporting party from paragraph 2 did not involve the prohibition of exports and the checking of all consignments at the border. Perhaps the Drafting Committee might devise a wording to allay the Austrian delegation's apprehensions.
10. Mr. KIRCA (Turkey) said that there could be no loop-hole in the operation of paragraph 1; when a party informed the Secretary-General that it had prohibited the import of a substance, the Secretary-General would inform all the other parties.
11. Mr. WATTLES (Legal Adviser to the Conference) said that the words "the other Parties" clearly implied that all the parties to the Protocol must be notified.
12. Dr. DANNER (Federal Republic of Germany) said that his delegation could not accept article 12, owing to the provisions of paragraph 2; the measures envisaged therein could only amount to an export prohibition. It was quite unusual for the numerous parties to a treaty to be required to enact export prohibitions merely on the basis of information by one of them. The proposed system was unworkable.
13. Dr. BERTSCHINGER (Switzerland), explained that, since exporters operated under licence, they were known to the Government, and could therefore be kept informed of all import prohibitions.
14. Mr. BEVANS (United States of America) supported the Australian amendment. The text of article 12 as now drafted enabled a party to prohibit the importation of preparations containing substances in schedules III or IV but not substances in schedule II. The matter was one of substance and could not be referred to the Drafting Committee.
15. Mr. HUYGHE (Luxembourg) observed that the provisions of article 12 could be rendered inoperative by the sending of substances through the territory of a non-party. The only effective measures were those that would be taken at the national level by the country which prohibited the import of a substance.
16. Mr. ANAND (India) observed that a party taking action under paragraph 1 of article 12 would of course take all the steps in its power to stop imports from all other countries, whether parties or non-parties to the Protocol.
17. Dr. OLGUÍN (Argentina) supported the Australian amendment.
18. Mr. NIKOLIĆ (Yugoslavia) said it was not clear to him what measures were expected from an exporting country under paragraph 2.
19. Mr. KOCH (Denmark) explained that Denmark, for example, was required by the provisions of article 7 to control all its exporters by means of a licensing system. Upon receipt of a notification under paragraph 1 of article 12, his Government would advise all licensed exporters accordingly. If any such exporter were subsequently to be found to have exported a substance to a country which had notified an import prohibition, that exporter's licence could be withdrawn.



The Australian amendment was adopted by 38 votes to none, with 8 abstentions.

Article 12 (E/CONF.58/C.4/L.53), as amended, was approved as a whole by 40 votes to 3, with 4 abstentions.

20. Dr. DANNER (Federal Republic of Germany) said that his delegation had voted against article 12 because the system set forth in paragraph 2 was unacceptable and unworkable.

21. Mr. HOOGWATER (Netherlands) said that his delegation had abstained because of the explanation given by the Danish representative of the expression "shall take measures to ensure", in paragraph 2.

22. Mr. HUYGHE (Luxembourg) said that his delegation had abstained because it believed that the provisions of article 12 should have been made more strict, in order to be effective.

ARTICLE 11 (PROVISIONS RELATING TO INTERNATIONAL TRADE) (resumed from the 11th meeting and concluded) (E/CONF.58/C.4/L.32, E/CONF.58/C.4/L.54)

#### Paragraph 1

Paragraph 1 (E/CONF.58/C.4/L.54) was approved by 41 votes to none, with 1 abstention.

#### Paragraph 2

23. Dr. BABAIAN (Union of Soviet Socialist Republics), speaking on behalf of the Chairman of the Working Group, said the Working Group had decided that transit trade should be left outside the scope of the paragraph.

24. Dr. DANNER (Federal Republic of Germany) said that his delegation would have preferred the provisions of paragraph 2 to apply only to substances in schedule III.

Paragraph 2 (E/CONF.58/C.4/L.32) was approved by 35 votes to 4, with 6 abstentions.

#### Paragraph 3

25. The CHAIRMAN explained that paragraph 3 was based on a proposal by the Netherlands delegation to incorporate in article 11 some of the provisions of article 31 of the 1961 Single Convention on Narcotic Drugs, but only in respect of substances in schedules I and II.

Paragraph 3 (E/CONF.58/C.4/L.54) was approved by 46 votes to none.

Article 11 as a whole was approved by 37 votes to none, with 8 abstentions.

### ARTICLE 1 (USE OF TERMS)

26. The CHAIRMAN said that the Technical Committee had dealt with the definitions in sub-paragraphs (e), (f), (h) and (k) in the first part of its report (E/CONF.58/C.3/L.10) and had deleted sub-paragraph (l). In another part of the report (E/CONF.58/C.3/L.10/Add.4), it had suggested the insertion of two new definitions (sub-paragraphs (e) bis and (h) bis).

The Committee took note of the Technical Committee's report on article 1.

#### Sub-paragraphs (a), (b), (c), (d) and (g)

27. The CHAIRMAN said that the definitions in sub-paragraphs (a), (b), (c), (d) and (g) were formal and did not require examination.

#### Sub-paragraph (i)

28. Mr. HOOGWATER (Netherlands), introducing his amendment to sub-paragraph (i) (E/CONF.58/C.4/L.57), said that the term "Customs territory" was commonly used in documents and statistics relating to international trade. The present wording of the definition might cause difficulties. For example, if a substance was being moved from Italy to Belgium via France but France had forbidden its importation, then, according to the definition, the consignment could not pass through France. That would no longer be the case if this amendment were approved.

29. Mr. KIRCA (Turkey) said he was opposed to the Netherlands amendment. It would enable a country that created a free zone in its own territory to export to any other country, including one that had forbidden the import of a particular substance. The Netherlands representative's example related to transit and not to the transfer of a substance from one State to another.

30. Mr. ASHFORTH (New Zealand) questioned whether there was any need to define the terms "import" and "export".

31. Mr. ANAND (India) said that the definition should be left unchanged; it followed that used in the Single Convention. The term "Customs territory" was not in general use and would cause confusion.

32. Dr. BABAIAN (Union of Soviet Socialist Republics) said that the Netherlands amendment was quite unacceptable. A definition must use terms which required no further explanation, but the term "Customs territory" would certainly require to be defined. The formula used in the Single Convention had not given rise to any difficulties.

33. Mr. NIKOLIĆ (Yugoslavia) opposed the amendment.

34. Mr. HOOGWATER (Netherlands) said that he too wondered whether the definition in fact served any useful purpose.

35. Dr. OLGUÍN (Argentina) said that the definition was satisfactory as it stood and clearly explained the sense in which the words "import" and "export" were used in the articles. The definition must be retained because, for control to be effective, it must extend to imports and exports, and it was essential to establish the precise meaning assigned to the terms in the Protocol.

36. Mr. WATTLES (Legal Adviser to the Conference) said that if words were used in the Protocol in their ordinary and natural meaning there would be little point in defining them, but when they were used in a specialized sense they had to be defined. Sub-paragraph (i) was useful because it made reference to territories in the sense in which that word was used in article 23 bis, where States were given the option to divide their territory into several territories, the imports and exports of which would be subject to the full régime imposed by article 11 and perhaps even to that imposed by article 12.

If the Netherlands amendment were adopted and substances were sent into a free zone outside a Customs frontier, no import or export would have taken place in the sense of the Protocol and the controls established by articles 11 and 12 would not apply.

37. Mr. KOCH (Denmark) said that he had no objection to dropping the definition in sub-paragraph (i) altogether, since it might create confusion. For example, article 11, paragraph 2, mentioned "the importing country" and it was not clear from the definition whether a transit country could be so described.

38. Dr. BABAIAN (Union of Soviet Socialist Republics) said it was clearly necessary to maintain the definition for the purpose of interpreting the provisions of the Protocol.

39. Mr. KIRCA (Turkey) said that no confusion could arise over transit, because import or export authorizations would give the names and addresses of exporters and importers. In the absence of a definition, under the customary rules of interpretation each country would decide for itself what was meant by import and export, in accordance with its private commercial law and other international instruments to which it was a party.

40. Mr. DITTERT (International Narcotics Control Board), in reply to a question by the Chairman, said that the definition of the terms "import" and "export" in the Single Convention had not given rise to difficulties.

*The Netherlands amendment (E/CONF.58/C.4/L.57) was rejected by 41 votes to 1, with 6 abstentions.*

*Sub-paragraph (i) was approved by 45 votes to 1, with 3 abstentions.*

*Sub-paragraph (j)*

41. Mr. ANAND (India) proposed that the definition should be deleted; the word "distribution", although not defined in the Single Convention, had never given rise to any difficulty, and it was used in the draft Protocol in the same sense.

42. Mr. KIRCA (Turkey) and Mr. BEEDLE (United Kingdom) supported that proposal.

43. Replying to a question from Mr. CHENG (China),\* Mr. KIRCA (Turkey) said he understood the definition to cover more than just retail distributors, who sold directly to the consumer; even a doctor handing a psychotropic substance to a nurse for administration to a patient came within the present definition.

*The Committee decided to delete sub-paragraph (j) by 38 votes to 3, with 6 abstentions.*

*Sub-paragraph (m)*

44. Mr. HOOGWATER (Netherlands) withdrew his amendment to sub-paragraph (m) (E/CONF.58/C.4/L.57, para. 2).

*Sub-paragraph (m) was approved.*

*Sub-paragraph (n)*

*Sub-paragraph (n) was approved subject to the deletion of the words "or production".*

*Sub-paragraph (o)*

45. In reply to a question from Mr. ANAND (India) as to whether the use of the word "territory" was not

confusing and whether it would not be more appropriate to replace it by some such word as "area", "region" or "zone", Mr. WATTLES (Legal Adviser to the Conference) said that, when the Single Convention was drawn up, some Governments had wanted a provision included which would enable them to divide their territories into areas for the purposes of the Convention. The territories of some countries were, in fact, geographically separated, and the existence of a federal or regional structure in others made it easier for Governments to control trade in separate areas. After some doubt, the Commission on Narcotic Drugs had decided to include a similar provision in the draft Protocol. It was of course confusing to find a term used in different senses in different articles; if the definition of the term "territory" was considered unsatisfactory, the Drafting Committee might perhaps find an alternative word to use in article 23 *bis*.

46. Mr. NIKOLIĆ (Yugoslavia) proposed that discussion on the definition of the term "territory" should be adjourned until a decision had been taken on article 23 *bis* by the plenary Conference.

47. Dr. BÖLCS (Hungary) and Dr. BABAIAN (Union of Soviet Socialist Republics) supported the motion.

48. The CHAIRMAN said that, in the absence of any opposition, he would assume that the motion had been carried.

*It was so decided.*

*Proposed definition of the term "premises"*

49. Dr. BABAIAN (Union of Soviet Socialist Republics) suggested that a definition of the word "premises" might be included in article 1. The word was used frequently in the draft Protocol, and it had been obvious from the discussions that it was being interpreted in different ways.

50. The CHAIRMAN suggested that the USSR representative, with the help of the Legal Adviser to the Conference, should prepare the text of a definition and submit it as an amendment to article 1.

The meeting rose at 6 p.m.

## TWENTY-FOURTH MEETING

Wednesday, 10 February 1971, at 2.50 p.m.

Chairman: Dr. MABILEAU (France)

**Consideration of the revised draft Protocol on Psychotropic Substances adopted by the Commission on Narcotic Drugs, in accordance with Economic and Social Council resolution 1474 (XLVIII) of 24 March 1970 (item 11 of the Conference agenda) (continued)**  
(E/4785, chap. III)

ARTICLE 2 (SCOPE OF CONTROL OF SUBSTANCES) (resumed from the 4th meeting) (E/CONF.58/C.4/L.58, E/CONF.58/C.3/L.10/Add.4)

1. The CHAIRMAN noted that the Committee had already devoted three (2nd to 4th) meetings to the con-

\* See introductory note.

sideration of article 2; he hoped that the informal negotiations which had since taken place would make it possible to reach a speedy decision.

#### Paragraphs 1 and 2

*Paragraphs 1 and 2 were approved.*

#### Paragraph 3

2. Mr. BEEDLE (United Kingdom), supported by Dr. REXED (Sweden) and Mr. INGERSOLL (United States of America), proposed the deletion of sub-paragraph (b) of the text in the draft Protocol.

*It was decided to delete sub-paragraph (b) by 38 votes to none, with 6 abstentions.*

3. Mr. BEEDLE (United Kingdom) suggested that it would be premature to vote on paragraph 3 before a decision had been taken on the criteria laid down in paragraph 4.

*Paragraph 3, as amended, was approved by 41 votes to none, with 2 abstentions.*

#### Paragraphs 4 and 5

4. Dr. REXED (Sweden), Chairman of the Technical Committee, drew attention to the recommendations of that Committee (E/CONF.58/C.3/L.10/Add.4) which had taken the view that it would be preferable to deal with precursors separately. The words "or is readily convertible into such a substance" in paragraph 4 would be deleted and a new paragraph 5 *bis* would provide that precursive substances could be included by the Commission on Narcotic Drugs in an additional schedule to be designated schedule P; a sentence covering the deletion from that schedule of a precursive substance previously included in it would be inserted at the end of paragraph 6.

5. Dr. ALAN (Turkey), speaking as a co-sponsor of the proposal for a new text for articles 4 and 5 (E/CONF.58/C.4/L.58), pointed out that he had signified his acceptance of the English text only. The meaning of the text had been altered somewhat in the French translation: in sub-paragraph (1) (a) (i) of paragraph 4, the term used should be "*une dépendance*" and not "*la dépendance*"; in sub-paragraph (2), the word "*médicale*" had been wrongly added after the word "*évaluation*", and the use of the same word after the word "*thérapeutique*" was tautological.

6. The CHAIRMAN noted that the other sponsors were in agreement; he therefore considered himself justified in ruling that the discussion would be based on the French text, amended in accordance with the Turkish representative's wishes.

7. Mr. INGERSOLL (United States of America), introducing the new text, explained that it was the result of long discussion and had been repeatedly re-cast. The shortcomings of the original text of paragraphs 4 and 5 (E/4785, chap. III), which followed the corresponding text of the 1961 Single Convention on Narcotic Drugs, and under which the Commission on Narcotic Drugs must either accept or reject WHO recommendations, had already been the subject of a lively discussion at the Commission's first special session, and the revised draft

Protocol had taken account of the opinions and criticisms advanced at that time, particularly with regard to the respective responsibilities of WHO and of the Commission. The new text had been formulated with a view to defining the responsibilities of WHO still more clearly, while giving the necessary flexibility to the Commission for the inclusion of substances in the various schedules.

8. Under the terms of paragraph 5, the Commission would be able, while leaving to WHO the medical and scientific responsibility which properly belonged to it, to take into account the economic, social, legal, administrative and other factors it might consider relevant, and if necessary to seek further information from WHO or from other appropriate sources. In his opinion, the formula did not mean that the Commission would be precluded from discussing medical or scientific matters relating to the control of a substance. For example, if a member of the Commission had relevant medical or scientific information which was not dealt with in the WHO assessment, it could and should be discussed in the Commission, which might in turn decide to ask WHO for further comment or clarification.

9. In paragraph 4, the Working Group had attempted to deal in a more satisfactory way with the important question of abuse. The aim had been to strike a balance between the need not to overload the control system by imposing control on new substances merely because of the capacity for a liability to abuse, and the need to preclude any danger that control measures might not be taken until after widespread abuse of a substance had arisen. The drafters of the text thought the balance had to be found by means of the phrase "evidence that the substance is being or is likely to be abused". But that was not the only text; the abuse must be linked to a public-health and social problem justifying international control. In line with the recommendations of WHO, the idea of "dependence" had been introduced. Many substances caused the characteristics listed in paragraph 2 (a) (i), but did not induce repeated use characterized by want or need. Thus, the concept of dependence was an essential part of the definition. The inclusion of that concept did not limit the scope of the instrument, since there could still be a finding that a particular substance produced abuse and ill effects similar to those produced by substances already included in the schedules, without any proof of dependence being required. Lastly, it had been deemed advisable to refer, in addition to disturbances in perception, thinking, mood or behaviour, to disturbances in motor function which occurred, for instance, when certain psychotropic substances were ingested together with an alcoholic beverage.

10. If the amendment were adopted, paragraph 6 of article 2 and paragraph 4 of article 2 *bis*, already adopted, would need to be revised.

11. Dr. WALSHE (Australia) said that, from the purely technical standpoint, her delegation was not altogether satisfied with the text of the amendment. However, since it clearly specified the respective responsibilities of WHO and the Commission and since it made full provision for the flexibility required of an international instrument, her delegation had decided to become one of the sponsors

and trusted that the final adoption of the Protocol would be facilitated as a result.

12. Mr. ANAND (India) said he welcomed the new text; it was a great improvement on the previous version, and gave priority to WHO in the assessment of substances. He had, however, some misgivings about the significance of the word "or" used between sub-sub-paragraphs (a) and (b) of sub-paragraph (1) in paragraph 4. The co-sponsors had thought it necessary to separate sub-sub-paragraph (a) from sub-sub-paragraph (b) by the word "or" instead of joining them together by the word "and", thus creating two independent criteria instead of only one, with the consequent risk of great confusion. He accordingly proposed the replacement of "or" by "and" at the end of sub-sub-paragraph (a).

13. Dr. REXED (Sweden) expressed his delegation's satisfaction with the new text. It was quite normal that WHO should not have the same role in the draft Protocol as in the Single Convention, inasmuch as the former covered a very large number of substances, many of them new and others yet to be discovered. In those circumstances, it was essential that the respective responsibilities of WHO and of the Commission should be clearly defined. That was the object of paragraph 5, which recognized WHO's competence in scientific and medical matters and ascribed determinative value to its assessments, which would enable the Commission to have an over-all view of the problem and take decisions, with a full knowledge of the facts, in the economic, social, legal or administrative context. There was no need to fear that the role of WHO would become too important, as certain delegations seemed to do, since its communications represented the conclusions of a majority of experts; actually, what paragraph 5 sought to establish were the conditions for a dialogue between WHO and the Commission, and for a fruitful exchange of information and research findings between the two.

14. With regard to paragraph 4, the meaning of the word "dependence" was perfectly clear in the context of the clinical experience that had been acquired and of the progress which was being continually made in that connexion.

15. With regard to the Indian representative's proposal that "or" be replaced by "and" at the end of sub-sub-paragraph (a), he thought it wiser to retain the text as it stood, so as to leave the possibility open of choosing between the criteria. In view of the number of substances and the difficulty of establishing distinctions between them, it would in some cases be dangerous to base decisions on a similarity between their ill effects and those of the substances included in the various schedules.

16. In conclusion, he stressed the preventive value that the Protocol should have in face of the growing risks of abuse. It was the purpose of the Protocol, specifically, to anticipate the possible development of the situation and the ways of remedying it. In that respect, the information given by WHO would be of the greatest assistance.

17. Dr. BABAIAN (Union of Soviet Socialist Republics) criticised the new text as not defining clearly enough the respective importance of each body; the original text of

the draft Protocol was much clearer in that respect. The main thing was to strike a balance between the functions of the two international bodies in such a way that neither of them took precedence over the other.

18. Many other criticisms could be made of the text. For example, the word "dependence", used in the English, French and Spanish texts as a synonym for addiction, was inadequate and might lead to confusion in the case of substances such as insulin. Furthermore, it was unnecessary to list all the symptoms mentioned in sub-sub-paragraph (a) (ii) in the text of a general international instrument. It was for the WHO experts to consider the extent to which such symptoms could be used as criteria.

19. Lastly, the wording of article 2 should be carefully revised with the help of the WHO representative.

20. Dr. FATTORUSSO (World Health Organization) said that technically the new text of paragraph 4 was an improvement on the original text. With regard to paragraph 5, WHO hoped that the text adopted by the Conference would enable it to collaborate more closely with the Commission in applying the measures laid down in the Protocol.

21. Dr. OLGUÍN (Argentina) said that the new text provided a clearer and more specific formulation than the original text of the Protocol and made for more effective control. The first part of paragraph 4 listed specifically the characteristics of the stimulant and depressant action of the psychotropic substances on the central nervous system and the effects and disturbances they produced, also the potentiality of their misuse. The second part was rightly based on the degree of seriousness of the public-health and social problem resulting from that misuse and on the degree of usefulness of the substances in medical therapy. Indisputably, the body qualified with respect to the scientific and technical aspects of the problem was WHO, whose participation was essential to the decisions the Commission was to take. The role of both bodies was well defined in paragraph 5, in fact, with neither body being given precedence at the other's expense, but its due functions were allotted to WHO. That organization, within the United Nations system and in the light of its constitutional structure and responsibilities, was on account of its competence, the body for co-ordinating and centralizing information and for giving advice and assistance to countries and to other international bodies. That concept was incorporated in the procedure provided for in paragraph 5, together with other criteria—socio-economic, legal and administrative—to which the Commission would refer in the course of the consideration of the problem.

22. Referring to the Indian representative's proposal, he said that the advantage of the new text as it stood was that it enabled complementary criteria to be considered jointly or severally. He felt that the Indian amendment introduced a certain exclusivity as between the various situations enumerated.

23. He saw no objection to the use of the word "dependence". On the contrary, he thought its use was justified and that it should be retained in the text, because it described a state well known and defined in pathology.



24. Mr. BEEDLE (United Kingdom) was disturbed by the apparent focusing of the provisions of the new text on the liability of a substance to abuse rather than on actual public-health and social problems.
25. He questioned the use of "or" instead of "and" in paragraph 4 (1) (b), which seemed to introduce a third criterion.
26. Referring more particularly to paragraph 5, the United Kingdom delegation did not wish to engage in controversy about the respective spheres of competence of WHO and the Commission. The essential requirement was to find a text which would allow not only the participants in the Conference but all Governments concerned to understand the workings of the Commission's decision-making machinery. If it were desired to restrict the Commission's powers, it should be possible to devise a series of provisos defining its discretion in relation to particular schedules. What disturbed his delegation was the failure of paragraph 5 to give any clear picture of the real scope of the Commission's powers or the process of reckoning by which it would have to come to its conclusions.
27. Mr. CHAPMAN (Canada) regarded the new wording of paragraph 4 as an improvement on the text of the draft Protocol. In paragraph 5, the respective roles of the Commission and WHO were defined with a degree of clarity sufficient to provide guidance in their work and to ensure fruitful collaboration between them.
28. However, he was opposed to the Indian representative's amendment, because it would limit WHO's scope of action.
29. Dr. DANNER (Federal Republic of Germany) endorsed the Canadian representative's views but considered that substances in schedule IV should not feature in the Protocol, and hence not in article 2 either.
30. Mr. CERECEDA ARANCIBIA (Chile) wholeheartedly supported the new text.
31. Mr. OVTCHAROV (Bulgaria) agreed with the Soviet Union representative that the criteria listed in paragraph 4 were likely to lead to confusion. The symptoms they described, such as central-nervous-system stimulation or depression, might be due to other than psychotropic substances such as cortisone. Furthermore, paragraph 5 failed to provide a clear definition of the relationships between WHO and the Commission, which were much more clearly formulated in the original text of the draft Protocol.
32. Mr. INGERSOLL (United States of America) proposed to reply at a later stage to the various objections to the text, but wished to point out forthwith that the original text of sub-paragraph (1) (b) had indeed contained the word "and". A typing error had occurred.
33. The CHAIRMAN said he was taking note of that statement, which applied to all four language versions.
34. Mr. BARONA LOBATO (Mexico), stressing the capital importance of article 2 in setting up machinery flexible enough to cover any substances which might be discovered in the future, proposed that, in order to prevent the parties from being bound by a decision

taken by a very few members of the Commission, the concluding words of the first sentence in paragraph 5 should be amended to read: "The Commission may decide by a majority of three-quarters of the members present and voting to add the substance to schedule I, II, III or IV".

35. The CHAIRMAN invited the Mexican representative, in the special circumstances, to communicate to the Secretariat in writing the text of his amendment, which might be discussed at the next meeting.

36. Dr. BABAIAN (Union of Soviet Socialist Republics) expressed surprise at the fact that an article as vital as article 2 should be considered so hurriedly by the Committee, whereas quite subsidiary points had been discussed at great length in working groups.

37. The CHAIRMAN recalled that the Committee had devoted three meetings, held nearly a month earlier, to a preliminary examination of the article; it was precisely because of its importance that it had decided to defer any decision so that delegations should have ample time to reach agreement.

The meeting rose at 5.15 p.m.

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## TWENTY-FIFTH MEETING

Thursday, 11 February 1971, at 2.55 p.m.

Chairman: Dr. MABILEAU (France)

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**Consideration of the revised draft Protocol on Psychotropic Substances adopted by the Commission on Narcotic Drugs, in accordance with Economic and Social Council resolution 1474 (XLVIII) of 24 March 1970 (item 11 of the Conference agenda) (continued)**  
(E/4785, chap. III)

### ARTICLE 2

(SCOPE OF CONTROL OF SUBSTANCES) (continued)  
(E/CONF.58/C.4/L.58 and Add.1)

#### Paragraphs 4 and 5

1. Dr. BABAIAN (Union of Soviet Socialist Republics) drew attention to paragraph 211 of the report of the Commission on Narcotic Drugs on its twenty-third session,<sup>1</sup> which stated that, although it recognized that the terminology proposed by the WHO Expert Committee on Drug Dependence facilitated the pharmacological and clinical differentiation of types of drug dependence, the Commission did not agree to the replacement of the term "drug addiction" by the term "drug dependence", because the former term was more suited for administrative application. In the joint amendment to article 2, paragraphs 4 and 5 (E/CONF.58/C.4/L.58),

<sup>1</sup> Official Records of the Economic and Social Council, Forty-sixth Session, document E/4606/Rev.1.

the term "dependence" was presumably a technical one, used in a clinical and physiological sense, and he would not insist on its being substituted for the term "addiction" throughout the Protocol. The term used in sub-paragraph (1) (a) (i) of the Russian text of paragraph 4 was satisfactory.

2. In order to make the wording of the amendment a little clearer, he proposed that, in sub-paragraph (1) (a) (ii) of paragraph 4, the word "or" after the word "depression" should be replaced by the words "resulting in" and that the words "motor function" should be transposed to follow the word "behaviour". In sub-paragraph (1) (b), the word "or" should be replaced by the word "and". In sub-paragraph (2), the word "sufficient" should be inserted before the word "evidence". In paragraph 5, the words "having special regard for" should be replaced by "taking into account".

3. Mr. INGERSOLL (United States of America) accepted the USSR sub-amendments.

4. As one of the sponsors of the amendment, he explained that the purpose of paragraph 5 was to achieve a proper balance between the functions of WHO and those of the Commission. Medical and scientific assessments must be carried out by WHO, whose communications the Commission was bound to take into account. The Commission need not, however, follow a course suggested by WHO if there were overriding considerations against it.

5. Dr. AZARAKHCH (Iran) said that the text of paragraphs 4 and 5 in the original draft Protocol was clearer, but to facilitate a compromise he was prepared to accept the joint amendment. The use of the word "dependence", which appeared for the first time in the Protocol, would, however, create difficulties, particularly in countries that did not use one of the United Nations official languages. The term had no precise scientific meaning, and was usually qualified by reference to the substance on which the person concerned was dependent.

6. Mr. BEEDLE (United Kingdom) said that the USSR sub-amendments went far towards removing his delegation's misgivings about paragraph 4.

7. Dr. WALSH (Australia) said that the USSR sub-amendments were acceptable.

8. Dr. OLGUÍN (Argentina) said that WHO had an essential part to play in determining which substances should be placed in the various schedules. He welcomed the USSR sub-amendments, which did not affect the substance.

9. Mr. ANAND (India) said that the joint amendment as amended by the USSR was an improvement on the original text and he would support it. Under paragraph 5, WHO remained the principal organ for medical and scientific assessments.

10. He had misgivings about the word "or" at the end of sub-paragraph (1) (a) (ii) of paragraph 4, which meant that for substances to be placed in a schedule the conditions in sub-sub-paragraph (a) or in sub-sub-paragraph (b) must be met but not the conditions of both. That seemed to go far beyond what had been contemplated in the draft Protocol. It would appear from the

present text of the amendment that because a substance like opium produced central-nervous-system stimulation or depression, was likely to be abused and was a public-health and social problem it could be placed in one of the schedules of the Protocol. As there was no absolute definition of a psychotropic substance in article 1, confusion would arise and decisions as to which substances should be included in the schedules might be arbitrary. Under the original text of article 2, a substance was to be placed in one of the schedules if it produced central-nervous-system stimulation, etc., and similar ill effects to those produced by substances in schedules I to IV; but now it could be placed in a schedule irrespective of the type of abuse it produced or its effects. Unless it was the general feeling of the Committee that the scope of the original text should be widened and the word "or" should be maintained, he would propose that it be replaced by the word "and".

11. Mr. NIKOLIĆ (Yugoslavia) agreed with the USSR sub-amendments.

12. He did not look forward to the task of having to explain to his Government what was meant by the term "dependence".

13. He would be interested to know what kind of recommendations on control measures were envisaged in sub-paragraph (2) of paragraph 4.

14. Dr. REXED (Sweden) said that the USSR sub-amendments were acceptable; he interpreted the amendment to paragraph 5 as meaning that WHO retained its authority and responsibility as the United Nations technical body responsible for medical and scientific assessments.

15. He did not believe that the Indian representative had drawn the correct conclusion from the wording of sub-paragraph (1) of paragraph 4. There was no reason why substances coming under the 1961 Single Convention on Narcotic Drugs should also be included in the schedules of the Protocol. It would be remembered that his delegation's efforts in favour of extending the scope of the Single Convention so that it would apply to other groups of substances had failed. As it was impossible to foresee what substances would make their appearance in the future, the Protocol should be so formulated as to be capable of application to new substances.

16. It might be wiser not to attempt a definition of the term "dependence".

17. Mr. INGERSOLL (United States of America) explained to the Yugoslav representative that the phrase at the end of sub-paragraph (2) of paragraph 4 had been drafted in a general way intentionally to cover any recommendations, for example, about the placing of a substance in a certain schedule, or other measures legally permissible under the Protocol.

18. Mr. TOFFOLI (Italy) said that to replace "or" by "and" at the end of sub-paragraph (1) (a) (ii) would seriously weaken paragraph 4 and would mean that all the conditions set out in sub-paragraph (1) would have to be met for the provision to apply.

19. Mr. ASHFORTH (New Zealand) said that it would be difficult to explain the meaning of the term "dependence".

20. Mr. SUNG HYUN (Republic of Korea) said that the joint amendment was acceptable and there should be no difficulty over the term "dependence".

*The joint amendment (E/CONF.58/C.4/L.58 and Add.1), as amended by the sub-amendments of the USSR, was adopted by 41 votes to none, with 3 abstentions.*

*Paragraphs 4 bis and 5 bis (E/CONF.58/C.4/L.61; E/CONF.58/C.3/L.10/Add.4)*

21. Dr. ALAN (Turkey), introducing his delegation's amendment (E/CONF.58/C.4/L.61) said that its aim was to secure the placing of precursors in schedule P, and that it filled a gap in the Protocol. According to his text, WHO would initiate the procedure.

22. Commenting on the Technical Committee's text for a new paragraph 5 bis (E/CONF.58/C.3/L.10/Add.4), he criticized the use of the word "purchased". Neither the Single Convention nor the revised draft Protocol contained any provision requiring WHO or the Commission to deal with purchase for use in illicit manufacture.

23. Dr. REXED (Sweden), Chairman of the Technical Committee, said that in the Committee's opinion the range of possible precursors was so wide that it was neither possible nor advisable to attempt a definition, and consequently the definition proposed in its report was purely formal. In its proposed text for a new paragraph 5 bis, the Committee had tried to reduce the problem to manageable proportions. The responsibility for seeing that precursors were not used for illicit manufacture lay with the parties, and the Committee had not prescribed any mandatory control measures, nor had it attempted to indicate what WHO's role should be, because at the stage when the text was being prepared, paragraphs 4 and 5 had not been discussed by the Committee on Control Measures.

24. Speaking as the representative of Sweden, he said that the Turkish amendment might have been simplified. It seemed to contemplate controls over a very wide range of substances, even all possible precursors. He questioned whether that was advisable.

25. Dr. BÖLCS (Hungary) said that at the end of its report the Technical Committee set out its conclusions about precursors. It considered that WHO would have difficulty in making recommendations concerning precursors, because little was known about the number used in the chemical industry and about the real dangers of illicit traffic.

26. Mr. KOCH (Denmark) said he was in general agreement with the Technical Committee's text for paragraph 5 bis. The meaning of the word "other" was not clear, however, since the simple act of placing precursors in schedule P was not a measure of control.

27. Under Danish law, his Government would have to publish the name of any precursor placed in schedule P, and it might have to do so before introducing control measures, so that persons wishing to acquire such substances for illicit use would obtain prior information. On the other hand, if the Commission notified a finding by letter to the Secretary-General, who would transmit

it to all parties, then Governments would not be forced to publish the notification.

28. Dr. ALAN (Turkey) said that his amendment followed the lines of the latter part of paragraph 4 in the joint amendment that had just been adopted.

29. Dr. BABAIAN (Union of Soviet Socialist Republics) said he had no difficulty in accepting the Turkish delegation's amendment, which was similar to that of the Technical Committee.

30. The question of precursors was important, but so far no provision concerning the control measures to be applied to schedule P had been considered, nor had the Conference considered in which articles reference should be made to schedule P.

31. Dr. WALSHE (Australia) said her delegation was in general agreement with the substance of the Turkish amendment; its intention was exactly the same as that of the Technical Committee's proposal, and its wording was preferable, being simple and comprehensive. She considered, however, that the words "can be" in the Turkish amendment were too broad in meaning; they should be replaced by the words "is being".

32. The words "purchased for" in the Technical Committee's draft were unnecessary.

33. The Danish representative's argument concerning the publication of the names of precursors and the danger of stimulating interest in them was not valid, and would apply to the publication of the schedules themselves.

34. With reference to the point raised by the USSR representative, she said that the Technical Committee had suggested that an amendment to article 11 should deal with the proposed controls over substances in schedule P.

35. Mr. BEEDLE (United Kingdom) drew attention to the last foot-note in the Technical Committee's report, which set out the United Kingdom's position. The problem of precursors was highly complex and the provision proposed in the new paragraph 5 bis was not a practical proposition at the present stage of knowledge. It might be possible at some future time to widen the scope of the Protocol to cover precursors.

36. Dr. REXED (Sweden), Chairman of the Technical Committee, stressed that the basic control activity would really be a warning issued to the parties by the Commission when it was found that a precursor of a psychotropic substance was being used illicitly. As indicated by the Technical Committee, the Commission might also apply article 11, paragraph 2, to a precursor as a matter of international obligation.

37. Dr. OLGUÍN (Argentina) supported the Turkish proposal for a new paragraph 4 bis; the introduction of a schedule P was necessary as a means of ensuring that substances capable of giving rise to problems on a national scale could be brought under control, since it would be possible to include in it the substances defined as precursors. A real warning system would thus be available for Governments to make use of as they saw fit.

38. Mr. INGERSOLL (United States of America) said that, while it might be useful to draw the parties' attention

to the problem of precursors actually being used to produce psychotropic substances, any recommendation by the Commission regarding control measures should be made subject to the concurrence of the Government concerned. He doubted, however, the practical utility of the provisions.

39. Mr. KUŠEVIĆ (Executive Secretary of the Conference) pointed out that, in the case of psychotropic substances, the number of precursors would run into thousands, if they were defined as in the Turkish amendment; moreover, most of them would call for a simpler control system than that embodied in the various articles of the Protocol.

40. Dr. BERTSCHINGER (Switzerland) said that his delegation was in principle favourable to a scheme such as that proposed by the Technical Committee and the Turkish delegation. The problem of precursors was a very complex one and it would be difficult to cover all the possibilities. In any case, he pointed out that the WHO Expert Committee's definition in its seventeenth report ("chemical precursors, capable of relatively simple transformation into dependence-producing drugs"<sup>2</sup>) was somewhat different from the Technical Committee's.

41. Dr. GOTHOSKAR (India) drew attention to the first foot-note in the Technical Committee's report indicated by a single asterisk, in which it was stated that the Technical Committee had considered that the procedure for precursors should be the same as for psychotropic substances. If the words "can be used" were replaced by "is being used" and the reference to WHO recommendations for control measures were deleted, the Turkish proposal would be in line with the provisions just adopted—for example, paragraph 4 of article 2—for psychotropic substances.

42. Mr. SEMKEN (United Kingdom) said it was the very essence of the Technical Committee's proposal that it contemplated bringing a precursor under control only if it was actually being purchased from the legitimate trade in order to be used for the illicit trade. Since it would be possible to make recommendations for precursors even in the absence of any specific provisions on the subject, he proposed that no reference to those substances should be included in the Protocol at all.

43. Mr. NIKOLIĆ (Yugoslavia) said that, in view of the complexity of the question of precursors, he supported that proposal.

44. Dr. ALAN (Turkey) pointed out that ecgonine, although not itself a narcotic drug, had been placed in schedule I of the Single Convention because it could be converted into cocaine. So far as the precursors of psychotropic substances were concerned, it had never been suggested that thousands of such substances should be brought under control. The WHO Expert Committee on Drug Dependence in its seventeenth report had listed only three such precursors.

45. Mr. CHAPMAN (Canada) said that little was known about any other uses of those three substances. On the whole, he tended to share the views of the United Kingdom delegation.

46. In reply to a question by Dr. REXED (Sweden), Dr. FATTORUSSO (World Health Organization) drew attention to the conclusions on precursors of psychotropic substances in the seventeenth report of the Expert Committee, and said that WHO would be prepared to make recommendations for control measures regarding precursors, if requested.

47. Dr. REXED (Sweden), Chairman of the Technical Committee, said that there would be no need to consider that Committee's proposal for paragraph 5 *bis* if the Turkish representative was willing to replace the words "can be" in his proposal by the words "is being", and to delete the words "together with recommendations on control measures, if any, that would be appropriate in the light of those findings".

48. Dr. ALAN (Turkey) said he agreed to those changes.

49. Dr. BABAIAN (Union of Soviet Socialist Republics) said it was very difficult to form an opinion on the proposals relating to precursors without knowing what control measures were envisaged for those substances.

50. Dr. REXED (Sweden) cited the example of phenylacetone, which could be easily converted into amphetamines and was being used illegally for that purpose in Sweden. His Government had placed it under the same control régime as poisons, so that only licensed dealers could sell it. Under the system now under discussion, upon a substance being placed in schedule P, each party would adopt national measures of its own choice.

*The United Kingdom proposal that the Protocol should not contain any provision on precursors was adopted by 21 votes to 9, with 12 abstentions.*

51. Dr. BABAIAN (Union of Soviet Socialist Republics) said that, although the Turkish proposal was in principle acceptable to his delegation, he had abstained from voting on the United Kingdom proposal, because it was not clear what substances would be covered, or what types of control were contemplated.

#### *Paragraph 6*

52. The CHAIRMAN said that, in the opinion of the Legal Adviser, the wording of paragraph 6 would require some consequential changes following the adoption of the new text of paragraphs 4 and 5. It would therefore be referred to the Drafting Committee.

PARAGRAPHS 7 AND 8 OF ARTICLE 2 AND THE NEW ARTICLE 15 *bis* (MEASURES BY THE BOARD TO ENSURE THE EXECUTION OF PROVISIONS OF THE PROTOCOL) (E/CONF.58/C.4/L.55, E/CONF.58/C.4/L.60 and Corr.1)

53. Mr. ANAND (India), Chairman of the Working Group, said that document E/CONF.58/C.4/L.60 and Corr.1 represented a carefully balanced compromise between the various schools of thought. The final compromise solution had been worked out on the basis of a working paper prepared by the United States delegation.

54. The compromise solution envisaged that, while the right of non-acceptance might apply to all schedules, it should be strongly circumscribed, not only by some basic

<sup>2</sup> World Health Organization, *Technical Report Series*, 1970, No. 437, p. 21 (sect. 4.7).



control measures—graduated according to the various schedules—both national and international, which the non-accepting party should, in any case, apply to a given substance or substances, but also by the conferment on the International Narcotics Control Board of the right to ask for explanations from the non-accepting party and to take corrective action to ensure that the aims of the Protocol were not seriously endangered. The Working Group had also considered that such corrective action should be taken by the Board, not only where a party exercised the right of non-acceptance under paragraph 7 of article 2, but also in respect of the application of other provisions of the Protocol. The Working Group had therefore recommended to the Committee on Control Measures the introduction, as an integral part of the compromise solution, of a separate article—article 15 *bis*—based on article 14 of the Single Convention.

55. It should be clearly understood that the right of non-acceptance did not apply to substances that were already in the schedules when a State became a party to the Protocol, but only to any additions or transfers of psychotropic substances from one schedule to another that might be made after it became a party.

56. The compromise solution was applicable if the right of non-acceptance was to extend to substances in schedules I and II also. Certain representatives were, however, against the extension of that right to substances in schedules I and II and had therefore reserved their position in regard to paragraph 7 (a) of the proposed text. Certain representatives had reserved their position in regard to some other provisions of the proposed text also. All those reservations were indicated in foot-notes.

57. The Working Group had considered that paragraph 8 of article 2 of the revised draft Protocol did not need any change.

58. Mr. INGERSOLL (United States of America) recalled that his Government had consistently maintained that the Protocol should include a right of non-acceptance, and that the right must be absolute and apply to all the schedules. It was clear that the right should only be exercised in exceptional circumstances, but its recognition was essential to many countries because of the broad range of substances covered by the Protocol.

59. Precedents could be found for the scheme proposed by the Working Group in such provisions as articles 21 and 22 of the Constitution of WHO and certain provisions of the International Convention for the Regulation of Whaling; the position taken was that an international decision should be fully binding only on those countries that did not register an objection within a specified period. The inclusion of such a provision in the Protocol would reassure legislative bodies called upon to approve ratification, and enable them to accept more readily the far-reaching powers which the Protocol would confer upon the Commission.

60. That recognition of the right of partial acceptance—a more correct description than “non-acceptance”, since certain basic controls would always apply—was one of the three key issues of the Protocol for his Government. The other two were: first, the issue just settled by the approval of paragraphs 4 and 5 of article 2, and, second,

that of the procedure for decision-making by the Commission, for which a three-quarter majority was proposed by his delegation as a requirement (E/CONF.58/C.4/L.55).

61. Under the Working Group's proposal, where a party could not completely accept the scheduling of a substance, there was a graduated scale of basic controls that must always be applied. The list was the same for substances in schedules I and II, because they were considered equally dangerous. The obligation to furnish statistical reports to the Board under article 14 would not apply for substances in schedules III and IV; for those in schedule IV, the medical prescriptions requirement would not apply either.

62. The limited right of partial acceptance recognized in the proposal would thus satisfy the rights of parties, while preserving the obligations of the Protocol; it constituted a fair and just compromise and represented the maximum concession for which it could be hoped in his country to obtain acceptance.

The meeting rose at 6.30 p.m.

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## TWENTY-SIXTH (CLOSING) MEETING

*Thursday, 11 February 1971, at 8.55 p.m.*

*Chairman: Dr. MABILEAU (France)*

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**Consideration of the revised draft Protocol on Psychotropic Substances adopted by the Commission on Narcotic Drugs, in accordance with Economic and Social Council resolution 1474 (XLVIII) of 24 March 1970 (item 11 of the Conference agenda) (concluded)**  
(E/4785, chap. III)

### ARTICLE 2

(SCOPE OF CONTROL SUBSTANCES) (concluded)  
(E/CONF.58/C.4/L.60 and Corr.1)

*Paragraphs 7 and 8 (concluded)*

1. Dr. BABAIAN (Union of Soviet Socialist Republics) said his delegation would have difficulty in accepting sub-paragraph (a) of paragraph 7, since it failed to differentiate between schedules I and II. The substances in the former had no therapeutic value and were more dangerous than those in the latter; it would therefore be inappropriate to allow the same degree of relaxation of control for both groups. Furthermore, as far as schedule II was concerned, it might be inadvisable to relax controls too much because the schedule might eventually include many more substances than at present.

2. He drew attention to the proposals recorded in foot-notes 1 and 5 and asked that those foot-notes should appear in the text submitted to the plenary Conference.

3. Mr. ANISCHENKO (Byelorussian Soviet Socialist Republic) endorsed the USSR representative's request.

4. The CHAIRMAN said that the Committee would no doubt decide that the text submitted to the plenary Conference should contain the foot-notes at present appearing in the document.

5. Mr. SHEEN (Australia) reserved his delegation's position with regard to sub-paragraph (a) of paragraph 7.

6. Mr. HOOGWATER (Netherlands) said his delegation would be unable to agree to a right of non-acceptance for substances in schedules I and II. The products at present concerned were very dangerous and should be strictly controlled; moreover, the schedules might be enlarged in the future. Also, the proposed paragraph 7 could lead to the anomaly of the less dangerous of two substances being more strictly controlled in one country than the more dangerous of them was in another.

7. Dr. AZARAKHCH (Iran) agreed that substances as dangerous as those in schedules I and II should be strictly controlled. His delegation's view of sub-paragraph (a) of paragraph 7 was expressed in foot-note 2.

8. Mr. CHAPMAN (Canada) said he was thinking ahead to drugs of high therapeutic value which might be developed in the future. A country where a particular drug proved of great value to medicine and was not abused might be seriously handicapped if it had to stop using that drug just because it was abused in another country. The right of non-acceptance should therefore exist in respect of all schedules, and his delegation therefore welcomed paragraphs 7 and 8.

9. Mr. NIKOLIĆ (Yugoslavia) said that his delegation's attitude to sub-paragraph (a) of paragraph 7 was reflected in foot-note 2. There was no justification for a right of non-acceptance in respect of schedule I substances.

10. Dr. BÖLCS (Hungary) said that his delegation's view of sub-paragraph (a) of paragraph 7 was likewise expressed in foot-note 2.

11. After an exchange of views in which Mr. SHEEN (Australia), Dr. BÖLCS (Hungary) and Dr. BABAIAN (Union of Soviet Socialist Republics) took part, the CHAIRMAN suggested that the Committee might agree that the text of article 2, paragraphs 7 and 8, as proposed in document E/CONF.58/C.4/L.60 and Corr.1, should be transmitted to the plenary Conference together with the foot-notes and a statement to the effect that the Committee had examined the document.

*It was so agreed.*

#### ARTICLE 15 bis

(MEASURES BY THE BOARD TO ENSURE THE EXECUTION OF PROVISIONS OF THE PROTOCOL)  
(E/CONF.58/C.4/L.60 and Corr.1)

12. Dr. BABAIAN (Union of Soviet Socialist Republics) drew attention to foot-note 6 and asked that it should be transmitted to the Conference. His delegation found paragraphs 1 and 2 unacceptable because they could lead to pressure being exerted on States which were not parties to the Protocol. It was inconsistent to allow such a possibility unless the Protocol was to be open to all States, but that was not to be the case.

13. Mr. ANISCHENKO (Byelorussian Soviet Socialist Republic) and Mr. TSYBENKO (Ukrainian Soviet

Socialist Republic) supported the USSR representative.

14. Dr. BÖLCS (Hungary) said that his delegation found the article unacceptable.

15. The CHAIRMAN suggested that the Committee should adopt the same procedure with regard to article 15 bis as it had with respect to paragraphs 7 and 8 of article 2.

*It was so agreed.*

#### ARTICLE 14 bis

(FUNCTIONS OF THE COMMISSION)

(E/CONF.58/C.4/L.55)

16. Mr. MILLER (United States of America) said his delegation considered that, in view of the type of decision the Commission on Narcotic Drugs would be called upon to take, provision should be made in the Protocol for a voting procedure which would leave no room for doubt that decisions had been taken with a high degree of responsibility. His delegation was accordingly proposing (E/CONF.58/C.4/L.55) that decisions taken by the Commission under articles 2 and 2 bis should be taken by a three-fourths majority of the members of the Commission.

17. Dr. BABAIAN (Union of Soviet Socialist Republics) said that, as far as he was aware, there was no precedent in international treaties for a three-fourths majority vote. Moreover, a problem might be created by adopting a provision of such a nature, since the Commission's rules of procedure were those of the functional commissions of the Economic and Social Council. It might be wiser to postpone consideration of the matter to enable delegations to consider the implications.

18. The CHAIRMAN said that the only way of enabling consultation to take place would be to suspend the meeting for a brief period.

19. Dr. MÅRTENS (Sweden) said that the United States proposal was unacceptable to his delegation, which had agreed to much for the sake of compromise in connexion with the right of non-acceptance, and it was most unlikely that it would be able to persuade the Swedish Government to accept further compromise on article 2.

20. Mr. ANAND (India) said he did not think that there was any precedent in international treaties for decisions by three-fourths majority; in the case of the Commission, such a requirement would mean that any decision could be blocked by seven members. However, a distinction was made in the 1961 Single Convention on Narcotic Drugs between decisions relating to the normal work of the Board, which required a simple majority, and those involving the good name of a Government, which required a two-thirds majority. A similar distinction might be made in the Protocol in the case of decisions by the Commission affecting the obligations of Governments. A reasonable compromise might be to require a two-thirds majority for decisions taken by the Commission under articles 2 and 2 bis.

21. Mr. NIKOLIĆ (Yugoslavia) said that if both the right of non-acceptance of the Commission's decisions and a requirement that decisions had to be taken by a three-fourths majority of members of the Commission

were included in the Protocol, the whole purpose of the instrument would be undermined.

22. Mr. BEEDLE (United Kingdom) said he thought the right of non-acceptance was irrelevant to the issue under consideration. In taking decisions in respect of narcotic drugs, the Commission had only to consider pharmaceutical and scientific factors, whereas in taking decisions relating to the psychotropic substances, it would also have to consider social and political factors and the question of selecting measures of control. There was much to be said for fixing some voting ratio to give parties the feeling that the Commission's decisions had been taken with authority. It would discourage frivolous appeals to the Council, and avoid a situation arising in which decisions by simple majority of those present and voting might be taken by non-parties to the Protocol. He strongly supported the Indian representative's suggestion.

23. Mr. INGERSOLL (United States of America) said that, since it was obvious that the United States proposal was not acceptable, his delegation was prepared to accept the Indian proposal to replace the words "three-fourths" in paragraph 2 by "two-thirds", on the understanding that two-thirds meant two-thirds of all the members of the Commission.

*The Indian proposal was adopted.*

24. Mr. ANAND (India) asked whether it was the intention in paragraph 1 of the proposed new article that the functions of the Commission should be limited in comparison with those it had under the Single Convention. If that was not so, then the functions listed in article 8 of the Single Convention should be suitably adapted and included in paragraph 1.

25. Mr. INGERSOLL (United States of America) said his delegation had no intention of limiting the functions of the Commission; it was surely obvious that the list of functions in paragraph 1 was not exhaustive. He had no objection to mentioning all the functions of the Commission in the paragraph, but it seemed hardly necessary to do so.

26. Mr. BEEDLE (United Kingdom) suggested that paragraph 1 should be approved as it stood at the present stage. An alternative, more comprehensive wording could then be submitted for consideration by the plenary Conference.

27. Mr. KIRCA (Turkey) said he favoured a combination of the present wording of paragraph 1 with some of the provisions of article 8 of the Single Convention. He found the United Kingdom representative's suggestion acceptable.

28. Dr. BABAIAN (Union of Soviet Socialist Republics) supported the Indian representative's suggestion.

29. Dr. FATTORUSSO (World Health Organization) pointed out that "possibilities of improving the methods of preventing and combating the abuse of psychotropic substances" were also functions of WHO and other specialized agencies.

30. Mr. ANAND (India) said that, in view of that comment, he would suggest that the Committee should vote on a paragraph 1 which ended with the word "Pro-

ocol". An amendment dealing with the content of the remainder of the paragraph could then be submitted to the Conference.

31. Mr. INGERSOLL (United States of America) said he could accept that suggestion.

*It was so agreed.*

*Paragraph 1 of article 14 bis (E/CONF.58/C.4/L.55), as thus amended, was approved by 39 votes to 1, with 1 abstention.*

32. Mr. KIRCA (Turkey) proposed that the last sentence of paragraph 2 should be deleted. Decisions of the Commission should normally be taken by a simple majority of members present and voting, and it was unnecessary to include a sentence to that effect.

33. Dr. BABAIAN (Union of Soviet Socialist Republics) said that, before voting on the paragraph, he would like to know whether the Conference was competent to take decisions affecting the rules of procedure of the functional commissions of the Council.

34. The CHAIRMAN invited the Legal Adviser to the Conference to comment on two points: the precise meaning of the term "two-thirds majority", and the competence of the Conference to adopt a decision affecting the rules of procedure of the Commission on Narcotic Drugs.

35. Mr. WATTLES (Legal Adviser to the Conference) said that a careful distinction must be made between a two-thirds majority of all members of a body and a two-thirds majority of members present and voting. In the former case, even if several members of a body were not attending a meeting at which a decision was taken, they were nevertheless taken into account when the majority required was calculated.

36. Any decision taken by the Conference in relation to voting rules in the Commission on Narcotic Drugs would come before the Council when it considered whether or not to assume the function assigned to it under the Protocol. In order to forecast what action the Council might take, however, a more thorough study of precedents than could be made in Vienna would be required. To reply satisfactorily to the question, he would be obliged to consult the Legal Counsel of the United Nations, who would reply on behalf of the Secretary-General.

37. Dr. BABAIAN (Union of Soviet Socialist Republics) said that the rules of procedure of the Commission, having been adopted first, prevailed over any provisions that might be included in the Protocol. Moreover, there was a difference between the Board, which had been created by treaty to serve the Commission, and the Commission, which was a body of elected government representatives. If he was not mistaken, the rules of procedure of the Board might be amended by a subsequent treaty, but those of the Commission could only be amended by the body which had drawn them up, namely the Council.

38. Mr. WATTLES (Legal Adviser to the Conference) observed that under rule 36 of the rules of procedure of the Conference a motion calling for a decision on the competence of the Conference to discuss any matter could be proposed. It was true that the Board had been created

by treaty, but it was also a United Nations organ, although of a special character. — He would have to consult the Legal Counsel before he could say whether the difference between a United Nations treaty organ and an organ within the United Nations structure was determinative.

39. Mr. KIRCA (Turkey) pointed out that the Commission on Narcotic Drugs had not been created by the Economic and Social Council under article 68 of the Charter, but by treaty. As treaty law prevailed over rules established by an international organization, he thought the problem of competence could be settled forthwith. He suggested that the Committee should simply transmit the proposed new article, as already amended, to the plenary Conference.

40. Mr. ANAND (India) pointed out that several provisions in the draft Protocol placed obligations on different bodies, such as WHO. The question arose of the Conference's competence in that respect, too.

41. Mr. HOOGWATER (Netherlands) moved that the discussion on article 14 *bis* be adjourned until a reply had been received from the Legal Counsel.

42. U HLA OO (Burma) and Dr. BABAIAN (Union of Soviet Socialist Republics) supported the motion.

*The Netherlands motion was adopted by 27 votes to none, with 13 abstentions.*

The meeting rose at 11.25 p.m.



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