United Nations Conference
to consider amendments to
the Single Convention on
Narcotic Drugs, 1961
Geneva — 6–24 March 1972

Official Records

Volume II:
Summary records of plenary meetings
Summary records of meetings of Committee I
and Committee II

UNITED NATIONS
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UNITED NATIONS — NEW YORK, 1973
INTRODUCTORY NOTE

The Official Records of the United Nations Conference to consider amendments to the Single Convention on Narcotic Drugs, 1961, are published in two volumes.

Volume I (E/CONF.63/10) contains, in addition to the list of delegations and other necessary organizational and preparatory documents, the proposed amendments, the Conference documents and reports, the Final Act, the Protocol amending the Single Convention on Narcotic Drugs, 1961, and the resolutions.

Volume II (E/CONF.63/10/Add.1) contains the summary records of the plenary meetings of the Conference and of the meetings of the Main Committees—Committee I and Committee II—of the Conference. The summary records include the corrections requested by delegations and such editorial changes as were considered necessary.

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

Benelux Belgium-Luxembourg-Netherlands Economic Union
ICAO International Civil Aviation Organization
ICPO/INTERPOL International Criminal Police Organization
INCB International Narcotics Control Board
UNDP United Nations Development Programme
WHO World Health Organization

* * *

1912 Convention International Opium Convention, signed at The Hague on 23 January 1912
1925 Agreement Agreement concerning the Manufacture of, Internal Trade in and Use of, Prepared Opium, signed at Geneva on 11 February 1925, as amended by the Protocol signed at Lake Success, New York, on 11 December 1946
1925 Convention International Opium Convention, signed at Geneva on 19 February 1925, as amended by the Protocol signed at Lake Success, New York, on 11 December 1946
1931 Convention Convention for limiting the manufacture and regulating the distribution of narcotic drugs, signed at Geneva on 13 July 1931, as amended by the Protocol signed at Lake Success, New York, on 11 December 1946
1931 Agreement Agreement for the Control of Opium Smoking in the Far East, signed at Bangkok on 27 November 1931, as amended by the Protocol signed at Lake Success, New York, on 11 December 1946
1936 Convention Convention for the supression of the illicit traffic in dangerous drugs, signed at Geneva on 26 June 1936, as amended by the Protocol signed at Lake Success, New York, on 11 December 1946
1948 Protocol Protocol signed at Paris on 19 November 1948, bringing under international control drugs outside the scope of the Convention of 13 July 1931 for limiting the manufacture and regulating the distribution of narcotic drugs, as amended by the Protocol signed at Lake Success, New York, on 11 December 1946
1953 Protocol Protocol for limiting and regulating the cultivation of the poppy plant, the production of, international and wholesale trade in, and use of opium, signed at New York on 23 June 1953
1961 Convention Single Convention on Narcotic Drugs, signed at New York on 30 March 1961
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* The summary records of the meetings of Committee II were originally circulated under the symbols E/CONF.63/C.2/SR.1-18.

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FIRST PLENARY MEETING

Monday, 6 March 1972, at 11.5 a.m.

Acting President: Mr. WINSPEARE GUICCIARDI
(Under Secretary-General, Director-General of the United Nations Office at Geneva)

President: Mr. ASANTE (Ghana)

ITEM 1 OF THE PROVISIONAL AGENDA

Opening of the Conference


2. After welcoming the participants, he said that the Conference would be dealing with a subject that was of particular concern to world opinion at the present time, namely, the control of drug abuse. In recent years, drug abuse had taken on the proportions of a veritable scourge, sparing no class of society and spreading in a tragic way among the young. Continuing the efforts begun by the League of Nations in 1925, the United Nations had attacked the problem with determination from its inception. Its efforts had led to the signature on 30 March 1961 in New York of the Single Convention on Narcotic Drugs, a remarkable work of codification which had met the needs of the time. Unfortunately, however, since that date new synthetic drugs, which were just as dangerous as the traditional narcotic drugs, had made their appearance.

3. The United Nations had not remained inactive in the face of that new challenge and the Convention on Psychotropic Substances, signed on 21 February 1971 at Vienna, was one tangible result of its efforts to deal with the latest threat. Other important advances had been made in the past year, particularly through the preparation by the Secretary-General, as requested by the Economic and Social Council in its resolutions 1532 (XLIX) and 1559 (XLIX), and by the General Assembly in its resolution 2719 (XXV), of a Plan for Concerted Short-term and Long-term Action against Drug Abuse, and the establishment of a United Nations Fund for Drug Abuse Control. All those steps had the same aim in view, namely, to restrict to legitimate needs the production, manufacture, distribution of and trade in drugs.

4. The present Conference was part of a chain whose first link was the International Opium Convention signed at The Hague in 1912, a chain which was carefully pre- served by that very important body the International Narcotics Control Board. The task before the Conference was not to rewrite the 1961 Convention, but rather, in view of the scale of the problem to be tackled, to strengthen certain parts of it which time had shown did not fully meet the hopes placed in them.

5. It would not be an easy task but, fortunately, the ground had already been prepared by the Commission on Narcotics Drugs at its twenty-fourth session and, in addition, most of the proposed amendments had been consolidated to form a coherent whole. That seemed to him to offer a favourable point of departure. As he had the greatest confidence in the spirit of co-operation which had always marked discussions on the subject of drug abuse control, he was convinced that the results of the Conference would be positive and would serve the interests of mankind.

6. The Conference was scheduled to last three weeks. For both budgetary and practical reasons, it would not be possible for that period to be extended, but he could assure representatives that the secretariat of the Conference would be positive and would serve the interests of mankind.

ITEM 2 OF THE PROVISIONAL AGENDA

Election of the President

7. Mr. BEEDLE (United Kingdom) nominated Mr. Asante, the representative of Ghana, for the office of President.

8. Mr. ANAND (India), Dr. JOHNSON-ROMUALD (Togo), Mr. de BOISSESON (France), Mr. von KELLER (Federal Republic of Germany), Mr. NIKOLIC (Yugoslavia), Mr. CHAPMAN (Canada), Dr. HOLZ (Venezuela), Dr. AZARAKHCH (Iran), Mr. HOOR TEMPS LIVI (Italy), Mr. TANOE (Ivory Coast), Mr. GROSS (United States of America), Mr. DAZOCLANCLON-NON (Dahomey), Dr. BABAIAN (Union of Soviet Socialist Republics), Mr. de WAERSEGGER (Belgium), on behalf of the Benelux countries, Dr. SADEK (Egypt) and Mr. OLUWOLE (Nigeria) supported the nomination.

Mr. ASANTE (Ghana) was elected President by acclamation and took the Chair.

9. The PRESIDENT, after thanking representatives for his election, said that everyone was determined to face the growing menace of dependence-producing drugs with resolution and understanding. Any differences in approach which might arise would therefore be the natural consequence of different local conditions and experiences;
there would be no fundamental divergencies of view, so that his task as President would be a relatively simple one.

10. The task which the Conference was asked to carry out was not the arduous task of drafting an entirely new international convention; it was the limited task of considering amendments to an existing convention, the Single Convention on Narcotic Drugs, 1961, which had provided a great deal of experience in international co-operation in combating a menace which could be effectively contained only by global action. The report of the International Narcotics Control Board on its work in 1971 described the important steps which have been taken by individual Governments in the interests of the international community, such as the abolition of opium poppy cultivation by Turkey as from the end of 1972. It was to be hoped that practical co-operation, especially by the developed countries, would help to strengthen such efforts and those of the Board. More money was not always the answer to problems, but it was essential to increase contributions to the United Nations Fund for Drug Abuse Control, in order to support crop replacement programmes and to provide the Board with adequate means to perform its functions effectively. Another point to be borne in mind was that perfect drafts or conventions were of no avail if Governments were not convinced of their usefulness or were unwilling to discharge their obligations faithfully. In discussing amendments, therefore, representatives should be guided by the requirements of acceptability to Governments, clarity, efficacy and practicability.

11. The Conference's work was only one part, although an important part, of the efforts which had to be made to stem the spectacular growth of drug abuse. Education, improved social conditions and better treatment all had parts to play which could not be expressed in amendments to the 1961 Convention. When so many young people felt that they had to escape from themselves, it was urgent to re-examine existing social, economic and political structures; that, however, was not the Conference's responsibility.

12. The task of amending the 1961 Convention was a comparatively modest one but it called for urgent action and time was limited. Fortunately, there had already been extensive consultation on most of the proposals before the Conference. Representatives could show their appreciation of the excellent work done by the Commission on Narcotic Drugs and the Board, as well as by Governments, by dealing with procedural questions rapidly, so that as much time as possible might be devoted to the substance of the amendments to be considered.

ITEM 3 OF THE PROVISIONAL AGENDA
Adoption of the agenda
(E/CONF.63/1 and Corr.1)

13. Mr. CASTRO (Mexico) proposed the addition of an item which would enable delegations to make general statements with regard to matters of concern to them or to the Conference as a whole.

14. DR. BABAIAI (Union of Soviet Socialist Republics) said that the Mexican proposal was a reasonable one and his delegation fully supported it.

15. Mr. de ARAUJO MESQUITA (Brazil) said that, while it would be useful to provide an opportunity for delegations to make general statements, that privilege should be restricted to the first day only, and not continue throughout the Conference.

16. DR. EL HAKIM (Egypt) said he noted that a large number of amendments to the 1961 Convention had been proposed by the United States of America and other countries; it would facilitate the work of the Conference if delegations could be informed of the current status of such proposals.

17. The CHAIRMAN said that the secretariat had taken note of the Egyptian representative's remarks and would reply in due course.

18. MR. ANAND (India) said he supported the view expressed by the Egyptian representative. Delegations should be allowed time to consider the various amendments, but in accordance with the Conference time-table as set out in the Note by the Secretary-General entitled "Organization of the work of the Conference and timetable" (E/CONF.63/4 and Corr.1 and 2 and E/CONF.63/4/Add.1), general statements should be heard on the second day rather than on the first day, which was to be devoted to the organization of work.

19. DR. WIENIAWSKI (Poland) said that his delegation supported the Mexican representative's proposal.

20. Mr. GROSS (United States of America) said that his delegation had no objection to the inclusion of the item proposed by the Mexican representative. It should be made clear, however, that general statements must not involve detailed consideration of specific matters. He thought that general statements might be heard on the first day of the Conference.

21. The PRESIDENT said that, if there were no objection, he would take it that the Committee agreed to include the additional item proposed by the Mexican representative. Without prejudice to the time or order in which the item would be discussed, he suggested that it be included as agenda item 10 and that the subsequent items be re-numbered accordingly.

It was so agreed.

The provisional agenda (E/CONF.63/1 and Corr.1), as thus amended, was adopted.

AGENDA ITEM 4
Adoption of the rules of procedure
(E/CONF.63/3)

22. Mr. GROSS (United States of America) proposed that rule 5 of the provisional rules of procedure (E/CONF.63/3) be so amended as to enable the Conference to elect first a President and then a first Vice-President and ten Vice-Presidents. As the first Vice-President, his delegation wished to propose Mr. Nikolić, representative...
of Yugoslavia, whose invaluable contribution to the United Nations efforts to control drug abuse was known to all.

23. The PRESIDENT said that the United States proposal would mean amending the first sentence of rule 5 to read: "The Conference shall elect a President, a first Vice-President and ten Vice-Presidents."

24. Dr. BABAIAN (Union of Soviet Socialist Republics) said that his delegation supported the United States delegation's amendment and its nomination of Mr. Nikolić as first Vice-President.

25. With regard to rule 53, and recalling the procedure adopted at the 1971 United Nations Conference for the adoption of a Protocol on Psychotropic Substances he requested that Russian also be a working language of the Conference.

26. Dr. HOLZ (Venezuela) supported the United States proposal that Mr. Nikolić be appointed first Vice-President.

27. Dr. JOHNSON-ROMUALD (Togo) said he supported the United States proposal concerning rule 5 and the nomination of Mr. Nikolić as first Vice-President. The USSR proposal that Russian should be made a working language of the Conference was quite legitimate and deserved consideration, subject to the availability of the necessary resources.

28. Dr. MARTENS (Sweden) said that his delegation supported the United States proposal for the election of a first Vice-President. It would also support the appointment of Mr. Nikolić to that office.

29. Dr. BÖLCS (Hungary) and Mr. STAHL (Czechoslovakia) supported the United States proposal concerning rule 5 and endorsed the nomination of Mr. Nikolić as first Vice-President. They also supported the proposal by the USSR delegation that Russian should be a working language of the Conference.

30. Dr. AZARAKHCH (Iran), Dr. SADEK (Egypt), Mr. BEEDLE (United Kingdom) and Mr. VAILLE (France) supported the United States proposal and endorsed the nomination of Mr. Nikolić for first Vice-President.

31. Mr. BARONA LOBATO (Mexico) said that his delegation supported the United States representative's proposal to amend rule 5 and favoured the appointment of Mr. Nikolić as first Vice-President. The proposal would undoubtedly affect other provisions such as rules 8 and 10, which would have to be amended accordingly. His delegation supported the proposal by the Soviet Union representative regarding the use of Russian as a working language of the Conference.

32. Mr. KIRCA (Turkey) said that although the proposal was not entirely in accordance with established practice, his delegation supported the amendment put forward by the United States delegation, since it meant the election as first Vice-President of Mr. Nikolić, for whom he had the greatest respect.

33. Mr. ESPINO GONZÁLEZ (Panama), referring to rule 5, thought that the appointments as Vice-President should be distributed on a group basis. He therefore suggested that there be a short recess, in order to allow for consultations.

34. Mr. VAILLE (France) said he supported the United States proposal and also endorsed the election of Mr. Nikolić as first Vice-President.

35. Mr. PETROV (Bulgaria) said that his delegation fully supported the United States proposal regarding rule 5 and was in favour of the USSR proposal that Russian should be a working language of the Conference.

The United States amendment to rule 5 of the provisional rules of procedure was adopted.

36. Mr. WATTLES (Legal Adviser to the Conference) said that the United States proposal would entail a minor change in rule 8, which he suggested should be amended to read: "If the President is absent from a meeting or any part thereof, the first Vice-President shall take his place. If both the President and the first Vice-President are absent, the President or the first Vice-President shall appoint one of the Vice-Presidents to take his place."

It was so agreed.

37. Mr. WATTLES (Legal Adviser to the Conference) said he believed that there was no need to change the rule stated in the second sentence of rule 13, since the President would automatically designate the first Vice-President to serve as Chairman.

38. Mr. RATON (Deputy Legal Adviser to the Conference) said that he would welcome further clarification from the USSR delegation of its proposal, since, as had been the case at the Conference on Psychotropic Substances, the secretariat was at present providing interpretation into Russian and the various documents were issued in that language. If the USSR delegation wished to have summary records prepared in Russian, then the Conference would have to be informed of the financial implications of that proposal.

39. Dr. BABAIAN (Union of Soviet Socialist Republics) said that his delegation was prepared to support the candidature of Mr. Nikolić, who had been proposed by the United States representative. His proposal did not involve the question of summary records.

40. The PRESIDENT suggested that, in the light of the clarification given by the USSR representative, rule 53 be left unchanged.

It was so agreed.

The provisional rules of procedures (E/CONF.63/3), as amended, were adopted.

AGENDA ITEM 5

Election of Vice-Presidents

41. The PRESIDENT invited the Conference to submit nominations for the office of First Vice-President.

42. Dr. BABAIAN (Union of Soviet Socialist Republics) said that his delegation was prepared to support the candidature of Mr. Nikolić, who had been proposed by the United States representative.

43. Mr. HOOR TEMPIS LIVI (Italy), Mr. PETROV (Bulgaria) and Mr. BOUZAR (Algeria) supported the proposal.
Mr. Nikolić was elected First Vice-President by acclamation.

44. The PRESIDENT said that, following consultations, there appeared to be general agreement that the offices of the ten remaining Vice-Presidents should be filled by the following countries: Argentina, France, India, Egypt, Lebanon, Mexico, Turkey, the United Kingdom of Great Britain and Northern Ireland, the United States of America and the Union of Soviet Socialist Republics. If there were no objection, he would take it that that was the wish of the Conference.

The President's proposal was adopted without objection.

45. The PRESIDENT suggested that the appointment of the Credentials Committee (agenda item 6) be postponed until later.

It was so agreed.

AGENDA ITEM 7
Establishment of the main committees
(Committee I and Committee II)

46. The PRESIDENT said that the plenary meeting would now be adjourned in order to allow Committees I and II to meet to elect their officers.

The meeting was adjourned at 12.50 p.m. and resumed at 1.5 p.m.

AGENDA ITEM 8
Appointment of the Drafting Committee

47. The PRESIDENT said that rule 17 of the rules of procedure stated: "The Conference shall appoint, on the proposal of the President, a Drafting Committee consisting of 15 members". He had held the necessary consultations, and now proposed that the Drafting Committee consist of representatives of the following delegations: Canada, France, India, Mexico, Philippines, Senegal, Spain, Switzerland, Turkey, the Ukrainian Soviet Socialist Republic, the United Kingdom of Great Britain and Northern Ireland, Uruguay, the United States of America, the Union of Soviet Socialist Republics and Yugoslavia.

48. Mr. NIKOLIĆ (Yugoslavia) asked, in view of the small size of his delegation, that it be replaced in the Drafting Committee by some other country.

49. Dr. BABAIAN (Union of Soviet Socialist Republics) proposed that it be replaced by Bulgaria.

It was so agreed.

50. The PRESIDENT said that, at a preliminary meeting of members of the Drafting Committee, Mr. Beedle (United Kingdom) had proposed Dr. Bertschinger (Switzerland) for the office of Chairman. Dr. Babaian (Union of Soviet Socialist Republics), Mr. Kirca (Turkey) and Mr. Reol Tejada (Spain) had supported that proposal, and Dr. Bertschinger (Switzerland) had been duly elected Chairman of the Drafting Committee.

The meeting rose at 1.20 p.m.
sufficient members to be represented in both Committees simultaneously, it might consider serving in only one in order to avoid the danger of a possible lack of a quorum.

8. The General Committee had also recommended that the deadline for proposed amendments to the 1961 Convention should be set at 4 p.m. on Monday, 13 March 1972. That deadline would not, of course, apply to amendments to proposals already before the Conference but only to new amendments to the 1961 Convention which had not yet been submitted. Delegations would be free up to the last minute to submit drafting amendments, designed to improve the wording of amendments already before the Conference or to assist in reaching compromise solutions on issues arising from them.

9. Mr. KIRCA (Turkey) asked whether that deadline would apply only to amendments submitted under article 47 of the 1961 Convention and referred to in Economic and Social Council resolution 1577 (L) of 20 May 1971, or also to those referred to in rule 34 of the rules of procedure of the Conference, namely the amendments to the amendments before the Conference.

10. The PRESIDENT said that it would obviously be difficult now to submit any amendment under article 47, paragraph 1, of the 1961 Convention, which prescribed the method of submitting amendments before a conference was convened. In the present case, therefore, the Conference should be guided by Economic and Social Council resolution 1577 (L), since, if a party submitted amendments of substance during the Conference, delegations might find themselves in the embarrassing position of having to consult their Governments. Accordingly, he suggested that the Conference, while bearing in mind the contents of article 47 of the 1961 Convention, should abide by the terms of the Council resolution and that if any difficulties arose, it should meet in plenary to resolve them.

It was so agreed.

11. The PRESIDENT said that the General Committee had also decided to ask the Legal Adviser to the Conference to prepare a document concerning the final form to be given to any decisions taken by the Conference. After some discussion, however, it had been agreed that it would not be appropriate for the secretariat to suggest to the Conference the form which its decisions should take but that the Legal Adviser to the Conference should merely present a list of the possibilities open to it. After considering that document, the General Committee would decide whether the question of the final form of the Conference's decisions should be referred to the Committees or to a plenary meeting. In any case, the actual decision would be taken in plenary.

AGENDA ITEM 10
General statements

12. Mr. CASTRO (Mexico) with respect to the form of the amendments adopted, said that the best solution might be for some of them to be incorporated in the text of the 1961 Convention, while others should form part of a protocol. A protocol was the traditional instrument for amending, revising or supplementing a treaty or convention, and in view of the difficulties which the amendments as a whole raised for some countries, that solution would appear to be the best, provided that a certain amount of flexibility was retained with respect to reservations.

13. The Protocol would contain those provisions aimed at limiting the cultivation of the opium poppy and the production of opium, estimates and statistics and the ancillary powers to be granted to INCB or, in other words, the amendments to articles 12, 14, 19, 21bis, 22, 24 and 35.

14. With regard to the provisions concerning extradition, his delegation suggested that the most appropriate solution would be to retain the present text, since it was precisely article 9 of the Convention of 1936 for the suppression of the illicit traffic in dangerous drugs, signed at Geneva on 26 June 1936, concerning extradition, that had prevented many States from ratifying the Convention.

15. The amendments to be incorporated in the text of the present Convention should be those relating to article 9 (Composition of the Board), article 10 (Terms of office and remuneration of members of the Board), the new article 14bis (Technical and financial assistance to promote the more effective execution of provisions of the Convention), article 16 (Secretariat), possibly part of article 36 (Penal provisions) and article 38 (Treatment of drug addicts).

16. Mr. de ARAUJO MESQUITA (Brazil) said that, in the opinion of his delegation, certain specific questions, such as the form the amendments to the 1961 Convention should take, the way in which they would eventually enter into force and the related and very important subject of reservations, should be considered even before the amendments themselves. That was necessary because the positions of delegations on the amendments would certainly depend on the decisions on those preliminary questions.

17. The 1961 Convention did not prescribe how amendments such as those now before the Conference should enter into force; article 47, paragraph 2, only established a system for the entry into force of amendments submitted by parties and accepted by all parties to the Convention. The present Conference, which had been called under article 47, paragraph 1 (a) had nothing to do with the provision in paragraph 1 (b) of that article. His delegation believed that the best procedure would be to embody all the amendments adopted in a single, separate Protocol to be signed by the delegations present at the Conference. The same system could be followed for the entry into force of the Protocol as that laid down in article 41, paragraph 1, of the Convention itself, namely, entry into force on the thirtieth day after the deposit of the fortieth instrument of ratification or accession. For any State depositing its own instrument of ratification or accession after the deposit of the fortieth, the Protocol would enter into force on the thirtieth day following such deposit by the State of its own instrument of ratification or accession. Clearly, the amendments would only bind the States that ratified them, according to the rule contained in the Vienna Convention on the Law of
Treaties, except the amendments to articles 9 and 10 and article 14bis, which for understandable reasons would have to enter into force, *erga omnes*, on the thirtieth day after the deposit of the fortieth instrument of ratification or accession. Only in the case of those articles should an exception be permitted to the rule in the Vienna Convention.

18. Lastly, on the important question of reservations, it was only natural that a State, once it had ratified the amendments, should not be permitted to make a reservation on articles 9 and 10 and 14bis, since such articles would have to enter into force *erga omnes*. With regard to the other amendments, his delegation would suggest two alternative methods, either the system approved for the 1961 Convention itself in articles 49 (Transitional reservations) and 50 (Other reservations), or, acceptance of reservations on any of the amendments, subject to the exceptions already stated.

19. Mrs. ZAEFFERER de GOYENECHE (Argentina) said that the ten years which had passed since 1961 had shown the importance of concerted action to deal with a world-wide problem. Experience had shown that the provisions of the 1961 Convention needed to be strengthened. Admittedly, the international control system had led to a decline in opium poppy cultivation, but the quantity of opium entering the illicit traffic had increased. To ensure that narcotic drugs were used only for medical and scientific purposes, the international control machinery must be strengthened, but decisions for that purpose should pay due regard to national interests and responsibilities.

20. As a sponsor of the amendments which had been submitted, Argentina believed it was essential to consider the topical characteristics of the problem of drug addiction. While drug addiction was universal and increasing, various regions of the world had their own special problems. It was national Governments, which through up-to-date and enforceable legislation, would have to implement the Conference's decisions concerning education, prevention, treatment, rehabilitation and the penal system to be applied. On the other hand, it was the international community which had to ensure that national action received effective international support. The role of INCB in that respect was fundamental, as was that of the Commission on Narcotic Drugs.

21. At the national level, Argentina had taken specific legal and administrative action to combat drug abuse and the illicit traffic. The topic of drug addiction was also regularly included in the agenda of multinational health meetings and Argentina was doing its best to ensure the co-ordination of its activities with those of neighbouring countries. It intended shortly to propose that a meeting of national drug control authorities of South American countries be convened to co-ordinate the campaign against drug abuse at the regional level. A National Drug Addiction Commission had recently been set up in Argentina which provided for a multi-disciplinary study of drug addiction. Argentina also supported the United Nations Plan for Concerted Short-term and Long-term Action against Drug Abuse, and in 1971 had passed Act 19.303 on psychotropic substances.

22. Mr. KIRCA (Turkey) said that drug abuse had two aspects, that of narcotic substances, most of which were derived from agricultural production, and that of psychotropic substances, most of which were synthetic manufactured substances. Those two aspects were closely linked, because of the economic law of substitution. So long as psychotropic substances were not subject to international and national control as strict as the control of narcotic drugs, the international community must expect psychotropic substances to be increasingly substituted for traditional narcotic drugs. Under the rules of international law at present in force, international control of narcotic drugs was stricter than international control of psychotropic substances, and the position would still be the same when the 1971 Convention on Psychotropic Substances came into force. The purpose of the Conference was to strengthen international control of narcotic drugs, and that was why he felt it was so important to draw attention to the law of substitution and to the fact that similar machinery should exist for the control of both narcotic drugs and psychotropic substances.

23. With regard to the specific proposals which the Conference was to consider, his delegation considered, first, that supranationality was hardly a principle applicable to the control of narcotic drugs. Secondly, INCB should be free from polemics and political controversy. Thirdly, INCB should be able to judge for itself what action to take and its powers should be discretionary. Fourthly, subject to the considerations which he had just expressed, some of the amendments proposed seemed likely to be of assistance in the international campaign against drug abuse.

24. For humanitarian reasons and to protect its national honour, Turkey had prohibited the cultivation of the opium poppy as from 1972. Everyone, would agree that that was the most radical control measure that could be taken. The decision had been made possible through a genuine dialogue and mutual understanding. His delegation would be guided by those considerations at the present Conference.

25. Mgr. FOUGERAT (Holy See) said it was only natural that the Holy See should be particularly sensitive to the moral aspect of the problem of drug abuse. In saying that, he was not overlooking the fact that the main objective of the Conference was the reaffirmation and clarification of the technical, economic and juridical means for directing the common attack on drug abuse. He was glad to see, as far as the juridical aspects were concerned, that less emphasis was now placed on repressive measures and more on education, treatment, rehabilitation and social reintegration. The Holy See entirely approved of the amendments to articles 36 (Penal provisions) and 38 (Treatment of drug addicts) proposed by Sweden at the twenty-fourth session of the Commission on Narcotic Drugs (see E/CONF.65/2), and in the document...
entitled “Consideration of all amendments proposed to the Single Convention on Narcotic Drugs, 1961” (E/CONF.63/5). He would like, however, to see a further provision included in those articles. In the universal campaign against the personal degradation and social disruption resulting from drug abuse, more attention should be paid to the root causes, to the immorality and pornography by which modern youth was surrounded. It was the permissive present-day society which lay at the root of the problem. Without infringing either the rights of the family, and religious and spiritual groups, or the sovereignty of States, it should be possible to fight that situation at the international level. He would perhaps submit an appropriate amendment in due course.

Mr. Nikolić (Yugoslavia), first Vice-President, took the Chair.

26. Mr. OKAWA (Japan) said that, while fully aware of the need for effective measures to prevent the illicit production and manufacture of, and illicit trafficking in, narcotic drugs, his delegation wished to point out that the use of narcotic drugs continued to be indispensable for medical and scientific purposes. Therefore, in the search for means to eliminate illicit activities, careful consideration should also be given to the question of ensuring the availability of narcotic drugs for licit purposes. Japan depended almost entirely on imports for the opium needed to meet its domestic requirements for scientific and medical uses, and it had recently been experiencing difficulty in obtaining even its minimum needs from abroad. That fact should be considered against the background of Japan’s highly effective narcotics control system. His delegation therefore wished to record its concern that the legitimate supply of opium should not be further impeded by the terms or application of a revised Convention. In fact, it sought guarantees of adequate supplies of opium for licit purposes not only in theory but also in practice.

27. It should be remembered that, for any amendments adopted by the Conference to be effective, they must be accepted by as large a number as possible of the countries attending the Conference. It was also important to avoid, as far as possible, the difficulties which would inevitably arise because the parties to the revised Convention would probably not be the same as the parties to the existing Convention.

28. As for the final form of the amendments to be adopted by the Conference, at the present juncture he was inclined to suggest that a new Convention incorporating all the existing provisions plus the amendments would have certain advantages. For purposes of simple reference, it would be easier to see what the amendments involved if they were incorporated in the existing Convention. If a Protocol, including only the amendments to the existing Convention, were adopted, countries which were not parties to the 1961 Convention but wished to accede to the Protocol, would have to accede to the 1961 Convention also. It was undoubtedly desirable to make the procedure as simple as possible, in order to ensure wide acceptance of the amended provisions.

29. Dr. AZARAKHCH (Iran) said that Iran wished to be included in the list of sponsors of the amendments.

30. The PRESIDENT said that Iran’s request had been noted.

31. Mr. STAHL (Czechoslovakia) said that, although drug abuse was not a serious problem in Czechoslovakia as yet, Czechoslovakian territory had been used recently for the transit of illicit traffic from the Middle East to Western Europe.

32. Czechoslovakia had ratified the 1961 Convention subject to reservations regarding article 12, paragraphs 2 and 3, article 13, paragraph 2, article 14, paragraphs 1 (a) and 2, and article 31, paragraph 1 (b). Those reservations would also apply to some of the amendments now proposed and his delegation would deal with them more specifically at the appropriate time. Some of the amendments proposed made it difficult for the Convention to become universal. The desirability of universality followed not just from the need for obligatory economic control, but more importantly from the need for medical preventive measures in the interests of mental, moral and social health.

33. The existence and origin of drug addiction were related to the complex structure of the human personality. Perhaps the cerebral mechanism of the drug addict was the same as that which resulted in criminality, sexual perversions and other anti-social activities. The human personality was a unique synthesis of the psychological, social and biological properties and processes for which mental health was an essential condition. The Convention should respect all those psychological, social and biological conditions, which could be ensured not only by groups of States but through preventive measures by all nations. The conditions of human existence could not become the object of economic, political or commercial calculations.

34. The Czechoslovak delegation supported the principles of universality of the Convention and of the sovereignty of States, because it was convinced that they were fundamental to effective prevention.

35. Dr. BABAİAN (Union of Soviet Socialist Republics) said it was a matter for regret that the principle of universality was not being observed in aspect of participation in the Conference. Such discrimination against a considerable number of States could only be detrimental to the international struggle against drug addiction and drug abuse.

36. In recent years, the United Nations had done fruitful work in the control of the illicit traffic and drug addiction. The codification effected in the 1961 Convention had been an important advance, in that it had brought together in one instrument the existing international agreements. It had synthetized the successes of former Conventions and taken into account the failure of some other international agreements. It had unified measures of international control by setting up a system of strict and effective international supervision.

37. The Single Convention on Narcotic Drugs, 1961, had entered into force in 1964 and since then more than 80 countries had become parties to it. The Soviet Union had also signed the 1971 Convention on Psychotropic Substances, which so far had attracted nearly 30 signatures, and which drew largely on the provisions of the
1961 Convention. It was on the initiative of the Soviet Union that the Economic and Social Council had adopted resolution 1398 (XLVI), calling on States to accede to the 1961 Convention in order to make it more effective. Accession by the largest possible number of States to that Convention and strict observance of its provisions were among the most important ways of preventing drug abuse.

38. The Soviet Union has always stressed the importance of strict control measures. But social conditions lay at the root of successful control of the illicit traffic and drug abuse. Drug addiction was a social disorder connected with social conditions. It was no accident that, in a number of capitalist countries, the increase in drug addiction was closely linked with the appearance of "hippies" and the growth of criminality. In dealing with that aspect of the problem, national measures were decisive. As was well known, the Soviet Union had very strict legislation in that field. The State controlled production and the import and export trade in drugs as well as their use exclusively for medical and scientific purposes. In that way, the necessary conditions for drug control were created. It was not a coincidence that there was no serious drug problem in the Soviet Union and other socialist countries.

39. With regard to the proposed amendments to the Single Convention, in his opinion they were based on the mistaken premise that the application of international control measures could prove an effective tool against the illicit traffic and drug addiction. They were based on an under-estimate of the importance of national measures, which were fundamental. On the other hand, the role of INCB was over-estimated; the amendments envisaged it as a supranational body. The 1961 Convention provided for the strictest control measures, but at the same time it foresaw the possibility of the parties, if they considered it absolutely necessary, taking strong measures themselves. It was very important to ensure that any amendments adopted did not permit any interference in the domestic affairs of States.

40. Dr. HOLZ (Venezuela) said that he had carefully studied the joint proposals for the amendment of the 1961 Convention (E/CONF.63/5), and while not a sponsor of the proposed amendments, his delegation would cooperate fully to ensure the success of the Conference. Venezuela had always favoured control of both narcotic drugs and psychotropic substances, and had been among the first signatories of the 1971 Convention.

41. One of the most important amendments proposed related to article 19, paragraph 1, and paragraph 1 of the new article 21bis. In principle, Venezuela was in favour of strict supervision of opium and its derivatives as a means of controlling drug abuse and the illicit traffic, but it considered that the means proposed would be of only limited value unless the legislation relating to a number of synthetic drugs was also strengthened. His delegation had prepared two amendments, which would be circulated shortly, concerning synthetic substances and the need to strengthen their control along the lines suggested for opium in the joint proposals for the amendment of the 1961 Convention.

42. Mr. BURESCH (Austria) said that the problem of drug abuse had not been very serious in Austria, since its national control measures were sufficiently effective. However, Austria was well aware that no country was immune to drug abuse and that only effective international co-operation would enable the international community to fight it. Austria had contributed to the international efforts to check drug abuse and would continue to do so, although it was not a party to the 1961 Convention, some of the provisions of which presented difficulties for a federal State. An exchange of views with members of delegations of federal States at the present Conference concerning their interpretation of some of the provisions, especially those of article 34 (b) of the 1961 Convention, which caused difficulties for Austria's enforcement authorities, might open the way for Austrian accession.

43. The proposals put forward with a view to strengthening the provisions of the 1961 Convention were generally acceptable to his delegation.

44. Mr. ASHFORTH (New Zealand) said that the Conference was to consider, first, proposed amendments to the 1961 Convention, amendments which reflected current views on drug abuse education, prevention, treatment and rehabilitation, involving the application of principles of internal audit or self-inspection, with the concomitant appropriate external supervision and assistance.

45. But it was also to undertake what was recognized in 1961 as the unfinished business of the 1961 Conference, the elaboration of a workable system of control of natural narcotic drugs. At the time of that Conference, the Protocol for limiting and regulating the cultivation of the poppy plant, the production of, international and wholesale trade in, and use of opium, signed at New York on 23 June 1953, had not yet entered into force. New Zealand had been a party to it and, when it did eventually enter into force, had found itself in a very difficult position. It was facing economic problems which had obliged it to restrict or control the direction of its international trade. The provisions of the 1953 Protocol had made it impracticable to obtain opium for medical needs within the terms of the Protocol, so that the least difficult remedy had been to denounce the Protocol. New Zealand had at that time believed, and still believed, in the need for a workable and acceptable system for the control of natural narcotic drugs and would support any practical system which the present Conference might be able to devise.

46. Mr. PANYA (Laos) said that opium had been a source of revenue for the federal budget of Indo-China but there was no truth whatever in the allegation that Laos was an opium-producing country in which the illicit traffic flourished. Laos was fully aware of the scourge of drug addiction and wished to be associated with all measures to suppress the illicit production of and traffic in opium. It had promulgated appropriate legislation prohibiting opium poppy cultivation and the illicit trade in opium. Laos was one of the sponsors of the joint proposals for the amendment of the 1961 Convention.

47. Even if some people in Laos, in spite of the prohibition of opium poppy cultivation, wished to grow it illicitly, they could not do so because the area where it
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could be grown was occupied by foreign invaders. It was true, however, that hostilities had encouraged the use of Laotian territory for the illicit transit of opium from producing countries.

48. Mr. BEIDARI (Niger) said that, although his country was concerned by the problem of natural drug abuse, it was particularly affected at present by the abuse of psychotropic substances. He therefore agreed with the Turkish representative that, concurrently with its efforts to strengthen narcotic drug control, the international community should also deal with the equally important problem of psychotropic substances. It hoped the delegations of the Ivory Coast, Gabon and Dahomey would consider the creation of a control system at the regional level.

49. Mr. POSAYANONDA (Thailand) said that his Government was pleased to announce that it accepted the principles contained in the joint proposals for the amendment of the 1961 Convention. Drug abuse in his country was being combated by every possible means. It was important that the international community should do its utmost to control the production and use of opium and his delegation had therefore notified the secretariat of his country’s wish to be associated with the sponsors of the joint proposals for the amendment of the 1961 Convention.

50. Dr. JOHNSON-ROMUALD (Togo), said that in participating in international conferences, the African countries were assuming a considerable financial and administrative burden, but whatever their domestic concerns, they could not remain indifferent to the problem of drugs.

51. The sponsors of the joint proposals for the amendment of the 1961 Convention had taken account of the comments made by the Commission on Narcotic Drugs at its twenty-fourth session on the legal and practical difficulties involved in the application of those amendments. His delegation commended the sponsors on their efforts. It was clear that the existing international instruments, such as the Single Convention on Narcotic Drugs, 1961, should be amended, and in his delegation’s view, the amendments should also cover synthetic substances.

52. Mr. HOOGWATER (Netherlands) said that he fully agreed with the USSR representative that it was important not to concentrate the whole efforts on combating the illicit traffic in drugs but should also try to safeguard the licit trade, so as not to endanger the use of drugs for scientific and medical purposes.

53. With regard to the proposed amendments, his delegation would like to hear the views of other countries before adopting a final position. If other countries found it difficult to accept the amendments, then the Conference should hesitate before pressing for their adoption, for the efficacy of international instruments largely depended on the number of countries willing to ratify them. His delegation was awaiting with interest the memorandum which the Legal Adviser to the Conference was preparing on the question of the application of the proposed amendments.

54. He agreed with the Japanese representative that the Conference should not concentrate its whole efforts on combating the illicit traffic in drugs but should also try to improve the possibilities of implementing the Convention.

55. Dr. MARTENS (Sweden), speaking on behalf of the Nordic countries of Denmark, Finland, Norway and his own, said that the abuse of narcotic drugs had reached such proportions in the world that it constituted a veritable scourge. It was therefore the duty of every State to contribute to the common cause of curbing the spread of that abuse.

56. The Nordic countries were not only sponsors of the joint proposals for the amendment of the 1961 Convention; they had also taken an active part in seeking to persuade other Governments to accept them in principle. Sweden had also submitted proposed amendments relating to articles 36 and 38 of the Convention. The Nordic countries were deeply concerned with the spread of opium abuse and dependence in the world in general and in some of their own countries in particular. He wished to stress, however, that such abuse in the Nordic countries had not yet reached the dimensions of a major social or public health problem.

57. Determined to do everything possible at both the national and international levels and in a spirit of international solidarity, the Nordic countries had welcomed the United States initiative to amend the 1961 Convention. They had found the proposed amendments realistically designed to improve the possibilities of implementing the Convention.

58. Experience had shown that no one country alone could effectively control the spread of narcotic abuse without the help of others. The proposals as presented, however, were not exactly what the Nordic countries had originally had in mind. Many Governments had felt that the original amendments proposed were too radical and they now represented a minimum of what the Nordic countries were prepared to accept in trying to make the Convention a viable and practicable instrument. The Nordic countries had listened with understanding to the statements of delegations which had feared that some of the proposed amendments might infringe on national sovereignty. However, in becoming members of international organizations such as the United Nations, States were bound to give up some of their national sovereignty in order to achieve certain objectives.

59. Under the proposed amendments it was clear that not only would producer countries be subject to action by INCB but also countries which might become the centre of illicit drug traffic and of drug abuse. In his delegation’s view, the traditional division between producer and user could no longer be justified. Modern communications and the high degree of sophistication developed in the illicit drug traffic made the problem more than ever a global one. All States had an equal need for control and an equal duty to sacrifice something in order to achieve it. A careful examination of the proposed amendments would make it clear that they contained so many safeguards in the form of mutual agreement between the Government in question and INCB that even the most cautious Government should be satisfied. In the view of

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* Ibid., chap. X.
the Nordic countries, INCB was not a supernational body that could act as it pleased; it was a truly international organ which could perform only the duties entrusted to it by the respective parties.

60. With regard to the amendments proposed by Sweden to articles 36 and 38, experience had shown the need for a proper balance between juridical efforts on the one hand and efforts to improve the treatment and rehabilitation of addicts on the other. Such a view reflected a more modern approach to the problem as a whole and was to be found in the 1971 Convention on Psychotropic Substances. Delegations would also note that the texts proposed were almost an exact reproduction of the corresponding articles of that Convention. It had been argued that the 1961 Convention was only ten years old and that it was therefore too soon to start to amend it. Drug abuse was developing rapidly, however, and amendment was now urgent in order to meet a pressing danger.

61. Dr. MONTERO (Peru) said that his country shared the general concern over the problems of drug abuse, all the more so because Peru was a country in which the coca leaf was widely cultivated. His Government had outlined its general objectives, which included the eradication of such cultivation to the maximum extent, and welcomed all efforts designed to control coca leaf production, to prevent drug addiction and to rehabilitate drug addicts. The amendments to article 27 proposed by his country (see E/CONF.63/2) at the twenty-fourth session of the Commission on Narcotic Drugs * were based on those considerations.

62. Mr. ANAND (India) said that drug abuse was clearly a serious problem which required urgent action. The prevention of illicit traffic in drugs was therefore a laudable objective, but, in order to be fully effective, international measures should also cover psychotropic substances, since otherwise users of natural drugs might easily switch to synthetic drugs.

63. If the objective of the Conference was to ensure the greatest possible number of accessions to the 1961 Convention as eventually amended, a number of pertinent questions would have to be examined during the consideration of the amendments. For example, in what respect had the 1961 Convention failed? The Convention had come into effect in December 1964, i.e., only seven years previously; had it been given a fair trial? In his delegation’s view, the fact that about 80 countries had acceded to it was an indication of good progress. Was it the desire of the Conference to reverse that trend? The 1953 Protocol had not come into effect until after the 1961 Convention and only a few States had acceded to it. Was that because some of the Protocol’s provisions were unacceptable? If so, it should be noted that some of the proposed amendments to the 1961 Convention were based on the 1953 Protocol.

64. With regard to the 1971 Convention on Psychotropic Substances, it was generally recognized that at least some psychotropic substances were even more dangerous than narcotic drugs and demanded equally or more stringent control. The basic issues raised by the proposed amendment to the 1961 Convention, such as the relevance and usefulness of the estimates system and the extent to which provisions of the Convention on Psychotropic Substances might encroach on national sovereignty, had already been carefully considered at the United Nations Conference for the adoption of a Protocol on Psychotropic Substances and he wondered whether conditions had changed so much over the past year that delegations could now hold different views on those matters. The discussion at that Conference had revealed that delegations had serious doubts about the practical utility of estimates. They had also felt that the Convention on Psychotropic Substances would encroach on national sovereignty and that the efficacy of INCB lay in its persuasive approach and in the provisions of advice and assistance to countries. In his delegation’s opinion, substances which posed similar dangers to society should be subject to similar systems of control. INCB should have such functions and procedures as would enable it to work in harmony with the various countries concerned. There should be no question of its encroaching on the sovereignty of any country or of its assuming the role of an accuser. Such a confrontation would be embarrassing to both INCB itself and the country concerned and would ultimately reduce the effectiveness of the Board. In the last analysis, it was on the goodwill and co-operation of sovereign countries that the success or failure of any control regime depended, and not on confrontation, accusation or appeals procedures.

65. Theoretical estimates were one thing and actual production figures quite another. His delegation’s objection to the estimates system was one of principle. Any amendment which sought to use estimates as a basis for imposing production schedules on countries was unrealistic and would need to be recast if the objective of international control through international co-operation was to be reached. India was one of the largest producers and suppliers of licit opium to the international market for medical and scientific purposes, and had taken strict measures to prevent the unauthorised production of opium or the illegal manufacture of opium alkaloids. Effective enforcement was maintained in the producing areas to prevent any leakage of opium into illicit channels. India also maintained close co-operation with other parties to the Convention and with ICPD/INTERPOL experts. As a result, the quantities of Indian opium seized in the illicit market abroad were insignificant and many international bodies had commended his country on its control system.

66. A number of delegations had stressed the need to ensure that the supply of opium to legitimate buyers was not impeded. Did the danger stem from such licit production or from uncontrolled and unauthorised cultivation? Statistics showed that the latter was the case. Most of the proposed amendments concerned stricter control over the licit production of opium. In his delegation’s view, such an exercise at best could have only a marginal effect on illicit production. What was needed was a concerted attack on the illicit production of countries involved in narcotics. Amendments designed to achieve that aim would have his delegation’s full support.

* Ibid., annex VII, sect. D.
THIRD PLENARY MEETING

Tuesday, 7 March 1972, at 2.35 p.m.

President: Mr. ASANTE (Ghana)

In the absence of the President, Mr. Nikolić (Yugoslavia), first Vice-President, took the Chair.

AGENDA ITEM 10
General statements
(concluded)

1. Dr. WIENIAWSKI (Poland) said that his country was a party to nearly all the treaties on narcotic drugs. It had acceded to the 1948 Protocol bringing under international control drugs outside the scope of the Convention of 13 July 1931 for limiting the manufacture and regulating the distribution of narcotic drugs, ratified the Single Convention on Narcotic Drugs, 1961, and signed the 1971 Convention on Psychotropic Substances. Poland had at all times scrupulously fulfilled the international commitments assumed under those treaties; in addition, it had often taken preventive measures even before assuming any formal commitments as, for instance, in the case of amphetamines, which had been subject to strict national control since 1948.

2. His delegation believed that every international treaty dealing with a world-wide problem should be open for accession by all countries, and it deplored the fact that the German Democratic Republic had not been invited to the Conference.

3. The Conference should try to take practical steps to intensify the campaign against the illicit traffic in narcotic drugs; at the same time, it should avoid any action which might impair the existing machinery for international control of the lawful production of, and international trade in, narcotic drugs for medical purposes, since that machinery was working quite satisfactorily.

4. Mr. OLUWOLE (Nigeria) said that, in view of the present "pandemic" nature of drug addiction and drug abuse and the ever-increasing magnitude of the problem, there was an urgent need for an international instrument that was widely accepted and applied. His delegation therefore unreservedly supported the joint proposals for the amendment of the 1961 Convention (E/CONF/63/5), which were designed to expand and strengthen the present machinery for preventing illicit drug traffic and drug abuse.

5. Mr. THAJEB (Indonesia) said that his country was becoming more and more involved in the serious situation created by drug addiction in the world, as a result of the heavy air and sea traffic crossing the Indonesian archipelago. Indonesia was already taking measures to remedy the situation by destroying wild-growing cannabis and abandoning coca cultivation. The biggest problem for Indonesia at present was the illicit traffic in narcotics from abroad, but because of Indonesia’s geographical composition it was extremely difficult to control that traffic. To do so, Indonesia needed funds and technical know-how, and in that connexion it suggested that INCB should be empowered to recommend to the appropriate United Nations authorities that technical and financial assistance be provided to States which required it for that purpose.

6. His delegation considered that the membership of INCB should be enlarged; it should consist of experts not only from the countries producing narcotics but also from the non-producing countries, particularly from the South-East Asian region, which was so important for effective narcotics control. Indonesia had not yet ratified the 1961 Convention, but it was applying its provisions and fulfilling the obligations provided for in it. His Government was expected to ratify the Convention shortly. Under the leadership of President Soeharto, it had set up a co-ordinating body entrusted with the task of preventing and combating the drug scourge and its effects on society.

7. His delegation agreed in principle with the amendments proposed to the 1961 Convention. He hoped that there would be a new international consensus in favour of broader multilateral commitments concerning drug control.

8. Dr. EDMONDSON (Australia) said that his delegation unreservedly supported the principles underlying the joint proposals for the amendment of the 1961 Convention, and was gratified to see that such a useful and timely initiative had been taken at a moment when the entire international community was trying to eliminate illicit drug traffic and drug addiction.

9. Mr. DAZOCLANCLOUNON (Dahomey) congratulated the sponsors of the joint proposals on their excellent work. He associated himself with the proposal by the representative of the Niger (2nd plenary meeting) for the convening of regional meetings to study the drug problem. In his view, the Conference should pay special attention to synthetic drugs.

10. Mr. ESPINO GONZÁLEZ (Panama) said that his country wished to be included among the sponsors of the joint proposals.

11. Panama, because of its geographical situation and the size of its merchant fleet, was used as a transit country for the traffic in narcotic drugs and psychotropic substances. Foreigners stationed in the Canal Zone, who did not want to fight in Viet-Nam, deliberately took drugs or had themselves arrested for possession of marijuana, and that prevented them from being sent to the front, since they could not be transferred while the legal proceedings were in progress. Panama was neither a producer nor—except in the Canal Zone—a large-scale consumer of narcotic drugs. It was strictly applying the international agreements on the subject, and was constantly attempting to eliminate the illicit drug traffic. He therefore deplored the fact that the United States Bureau of Narcotics and Dangerous Drugs had in November 1971 published a report which was insulting to Panama, alleging that Panama "is not paying sufficient attention to narcotic enforcement activities... this may be due to high-level apathy, ignorance and/or collusion". He read out the reply which the Minister for Foreign Affairs of Panama

...
had addressed to Mr. Rogers, the United States Secretary of State, refuting those unfounded accusations and regretting the fact that they had been made before a sub-committee of the United States Congress which had no connexion with the competent United Nations bodies or with the plenipotentiary Conference.

12. Lastly, he spoke of the role which the leaders of all religious faiths, with their moral influence, could play in combating the drug scourge.

13. Dr. BERTSCHINGER (Switzerland) said that by convening a Conference to consider the necessary amendments to the 1961 Convention, the United Nations was demonstrating that the world was aware of the dangers of drug abuse and was determined to combat them. In view of advances in means of communication, Governments should co-operate to protect their peoples from dangerous substances, though they should not interfere with the movement of other products of great value in therapy. As experience had shown that effective control of narcotic drugs depended above all on the goodwill and co-operation of States, it did not seem to be advisable to substitute compulsory measures for those provisions in the 1961 Convention which were based on free co-operation. The main task of the control body set up by the Convention was to co-ordinate and facilitate international control measures. As drug addiction was a social problem, all administrative and medical measures should be preceded by preventive action of an educational, cultural and economic nature. It was better not to resort to penal sanctions—except, of course, in the case of illicit drug traffic—unless they had a genuinely deterrent effect. International action would not be effective unless every country established stringent national control, and the authorities responsible for public health and the maintenance of order should recognize the threat and take the necessary preventive action. Switzerland, which had ratified all the international instruments relating to narcotic drugs, was prepared to accept provisions designed to strengthen international control, although it regretted that such provisions only partially covered illicit traffic in cannabis, which was becoming an increasingly serious problem for society. He hoped that the Conference would be able to draft an effective and universally acceptable text.

14. Mr. BRILLANTES (Philippines) said that co-operation between the Governments participating in the present Conference was the only means of tackling the serious problem of drug abuse, since it was at the Conference that positive steps could be taken to control the production, cultivation and manufacture of drugs and the illicit traffic in them. In the Philippines, a bill designed to strengthen the campaign against drug abuse and the illicit traffic was at present under consideration.

15. U HLA OO (Burma) said his country, which was a party to the 1948 Protocol and to the 1961 Convention, was doing everything in its power to comply fully with its obligation under the Convention, although its resources were limited and it was experiencing the problems common to all the developing countries. In particular, it had taken steps to bring about the gradual elimination of opium-eating—a legacy of former foreign domination.

16. His delegation intended to help in making the Conference a success, though it would watch carefully to see that efforts to prevent drug abuse did not infringe upon the sovereignty and independence of States.

17. Mr. BENITO MESTRE (Spain) explained that narcotic drugs did not raise any major problem in his country, where legislation and control were both effective. However, as Spain was aware of the grave danger presented by the illicit traffic in drugs, it was ready to collaborate in any international action to put an end to such traffic. In that connection, he regretted that his country had not been invited to the preparatory meeting at which the joint proposals had been drafted.

18. In his view, it was necessary to bear in mind the need both to satisfy licit requirements for drugs, and to respect the legitimate interests and sovereignty of States. It was also logical and necessary that the international instrument under consideration should cover synthetic substances, which were equally hazardous to human health.

19. Finally, to ensure that the campaign against drug abuse was effective, the Conference should stress the need for all countries to enforce control measures within their frontiers.

20. Miss SHILLETTO (Jamaica) said her delegation welcomed the joint proposals—particularly whose concerning article 38, the provisions of which, far from being of a punitive nature, described the care and treatment to be accorded to drug abusers. Her delegation also approved the proposed measures for limiting and eliminating international illicit traffic.

21. It had reservations, however, regarding the advisability of amending the Convention in the present circumstances, and wondered whether the creation of a whole hierarchy of control bodies was really the best way of achieving the desired result. Responsibility in the matter rested largely with national authorities. Each country should first examine its own situation and determine the particular causes of drug abuse within its own frontiers.

22. It was not only for the developing countries to take steps to deal with the international abuse of drugs; all countries should participate in the effort, particularly since the situation did not originate in the developing countries, where the problem was still a minor one. All countries, producers and consumers alike, should be prepared to make sacrifices.

23. Mr. HOOR TEMPIS LIVI (Italy) said that his country had not been spared by the drug addiction problem, which was not, however, acute in Italy. Nevertheless, legislative, health and educational measures had been taken to remedy the situation and an inter-ministerial commission had been set up for the purpose. Italy approved the proposed amendments to the Single Convention on Narcotic Drugs, 1961, which were designed to strengthen its effectiveness. His Government intended shortly to ratify the Convention. It was in fact already applying the provisions of the 1961 Convention and was considering the possibility of applying the Convention on Psychotropic Substances.

24. Mrs. RODRIGUEZ MAYOR (Cuba) stated that her country, which was a party to the 1961 Convention,
was applying the provisions of that text under its Ministerial Resolution No. 58. Application of the Convention was entrusted at the regional level to executive units of the Ministry of Public Health, which compiled statistics for communication to the Ministry itself; the State was thus able to exercise control at the national level and possessed full information on the licit use of drugs. Patients needing drugs could procure them from 210 urban and rural hospitals and 508 pharmacies. The pharmacies and medical posts—even the most remote ones—were supplied by provincial laboratories especially created for the purpose. As a result of those arrangements, all the required information could regularly be furnished to INCB.

25. The change in the social and economic structure in Cuba following the triumph of the Revolution had thus made it possible to eliminate the illicit traffic in drugs, and had also removed the major causes of the drug addiction problem. With the rise in the cultural level and the complete abolition of unemployment, young people who wanted to contribute to the country's development were not attracted by practices dangerous to their mental and physical health.

26. As a result, during the past few years Cuba had had only one case of illicit international traffic in marijuana; the traffic had been discovered and the offenders punished.

27. With regard to the amendments to the 1961 Convention, which the Conference was to consider, her Government would remain faithful to the principle of the sovereignty of States and would oppose any violation of that principle, since it believed that effective control could be achieved only by the authority of the State.

28. She wished formally to express her regret that the German Democratic Republic, the Democratic Republic of Viet-Nam and the Democratic People's Republic of Korea were not represented at the Conference; their absence was contrary to the purposes and principles of the Charter of the United Nations and to the provisions 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)). There should be no discrimination against sovereign States.

29. Mr. PETROV (Bulgaria) observed that the increase in requirements of drugs used for medical and scientific purposes had done much to develop the production of those substances, and also the illicit traffic in them and the abuses to which they gave rise. The situation justified both the concern of Governments and the convening of the present Conference. In view of the social character of the problem, the steps to be taken should also be of a social nature.

30. Drug addiction was not a problem in his country, but Bulgaria's geographical position and the development of tourism and international relations were creating a potential danger, as was clear from the considerable increase in the amounts of drugs—particularly cannabis—passing illicitly into the country. While seizures in 1967 had amounted to only one kilogramme, 4.5 tons had been seized recently. His Government was therefore trying to halt the illicit traffic by drafting bills punishing traffickers more severely, and also containing provisions of a preventive nature.

31. His delegation considered the proposed amendments to the Single Convention on Narcotic Drugs, 1961, were useful, though it thought that some of them constituted an interference in the domestic affairs of countries and an encroachment upon their sovereignty. Too much importance was given to INCB, which was an intergovernmental and not a supranational body. In his delegation's view, it was not international measures but national control which needed strengthening.

32. Lastly, he expressed his regret that certain countries, such as the German Democratic Republic, the Democratic Republic of Viet-Nam and the Democratic People's Republic of Korea, had not been invited to the Conference.

33. Mr. GHAUS (Afghanistan) said that he was anxious to co-operate with the other members of the Conference in drawing up an instrument which would make it possible to deal satisfactorily with the drug abuse problem. Afghanistan had already banned the production of opium, but the illicit cultivation of opium poppies continued to some extent in the areas where it was traditional. The Government was doing its utmost to combat the illicit traffic and also to prevent the illicit transit of narcotics. However, Afghanistan found it difficult to prevent illicit traffic because of its limited resources and the ruggedness of its territory. Two ministerial committees had, however, been set up to study ways of stepping up the campaign against the cultivation of, and illicit traffic in, narcotic drugs. The committees would study all aspects of the drug problem (legislation, the economic aspect, enforcement, etc.). They were also considering the possibility of introducing a crop replacement programme in regions where the economy was based mainly on the cultivation of opium poppies.

34. He reserved the right to speak again on the subject at a later stage.

35. Mr. LOKMANE (Algeria) said that he, like some previous speakers, deplored the absence from the Conference of countries which could have made a valuable contribution to the solution of the drug addiction problem. As drug addiction was a social disease which affected both rich and very poor countries, it was essential for all countries to adopt extremely strict legal instruments to strengthen the control not only of narcotic drugs, but also of psychotropic substances, which were found in many different forms and whose effects could be just as dangerous as those of natural drugs and their derivatives.

36. Algeria was not yet faced with such problems, but in order to protect its human resources, it had already taken preventive measures in the form of extremely strict legislation which provided it with the means of combating any possible outbreak of drug addiction.

37. Mr. LAMJAY (Mongolia) said that he too regretted the discrimination against the German Democratic Republic, the Democratic Republic of Vietnam and the Democratic People’s Republic of Korea. He empha-
sized that Mongolia, although a signatory to the 1961 Convention, had no drug addiction problem and no special services for drug control; it was participating in the Conference for humanitarian reasons.

38. Mr. OZGUR (Cyprus) said that his country had joined the sponsors of the joint proposals for the amendments of the 1961 Convention. Drug addiction was not widespread in Cyprus, but it was important to strengthen national and international drug abuse control measures, and the 1961 Convention had already proved effective. He wished the Conference all possible success.

39. Miss BUJAS (Yugoslavia) deplored the absence from the Conference of the German Democratic Republic, the Democratic Republic of Vietnam and the Democratic People's Republic of Korea. She recalled that General Assembly resolution 2859 (XXVI) entitled "Youth and dependence-producing drugs", which had been adopted unanimously, stressed the seriousness of the drug addiction problem and the responsibilities of every country in that field; her country would do everything in its power to ensure the success of the Conference.

40. Mr. GROSS (United States of America) regretted that the representative of Panama had referred to the incident which had occurred in the relations between Panama and the United States. In fact, a constructive reply had been given to the letter mentioned by the representative of Panama, and Panama and the United States had increased their co-operation in combating illicit drug traffic.

41. He thanked the Governments which had congratulated his country and had helped in preparing the joint proposals before the Conference. The amendments originally proposed by the United States (see E/CONF.63/2) in the Commission on Narcotic Drugs at its twenty-fourth session had been superseded, and the joint proposals before the Conference were the result of consultations between a large number of countries. The United States had initially proposed more stringent measures, but it had tried to reflect the opinion of as large as possible a number of countries and thus achieve a wide measure of agreement. The joint proposals were at present sponsored by 20 countries, including both consumer and producer countries. The text of the proposals could, however, be further improved by suggestions made in committee or at plenary meetings. Governments must combine their efforts for the greatest good of the community. He expressed the hope that the Conference would lead to positive results.

42. Mr. KUŠEVIĆ (Executive Secretary of the Conference) stated that the secretariat would be issuing addenda to document E/CONF.63/5, listing the additional States which had joined the sponsors of the proposed amendments to the 1961 Convention. The name of Panama should be added to that list. The amendment proposed by the Peruvian delegation, in its amended form, would be issued as document E/CONF.63/6.

43. Sir Harry GREENFIELD (President of the International Narcotics Control Board) said that the Conference was meeting at a particularly appropriate time. After more than ten years, it was indeed wise to revise an instrument as important as the 1961 Convention, to consider how it had worked and to ascertain how far its provisions had achieved their purpose, so that any necessary adjustments could be made. A critical study of that kind was all the more necessary in view of the fact that, during the lifetime of the Convention, the problem of drug abuse had grown considerably. It was no longer a phenomenon specific to certain countries, as it had been during the period between the end of the Second World War and the time when the Convention had come into force; it was now a world-wide phenomenon. The problem had also become more complicated, since abuse had spread to many more drugs. The Board therefore welcomed the Conference and awaited its conclusions with great interest.

44. As the Conference agenda related mainly to the powers and responsibilities of INCB, it had been decided that INCB should be represented at the Conference but should not take part in the discussions, since it had no legislative powers and it was for Governments to define its areas of activity. Nevertheless, he would like to assure members of the Conference that INCB was willing to assume any additional responsibilities which might be conferred on it by the instrument to be drafted. Its secretariat and administrative services would, however, have to be strengthened to the extent necessary to enable it to carry out any new tasks.

45. In conclusion, he wished the Conference every possible success.

46. The PRESIDENT observed that all delegations had expressed their willingness to co-operate in seeking a solution to a problem which related both to public health and social and economic life, and was further complicated by the fact that it took different forms in each country. Such expressions of goodwill were a good omen for the success of the Conference.

AGENDA ITEM 7
Establishment of the main committees (Committee I and Committee II) (concluded)

47. The PRESIDENT requested the Deputy Legal Adviser to the Conference to read out the list of countries wishing to be represented in each Committee.

48. Mr. RATON (Deputy Legal Adviser to the Conference) stated that the membership of the Committees was as follows:

Committee I:
Afghanistan, Algeria, Argentina, Australia, Austria, Belgium, Brazil, Bulgaria, Burma, Burundi, Byelorussian, Soviet Socialist Republic, Canada, Ceylon, Chile, Colombia, Cuba, Cyprus, Czechoslovakia, Dahomey, Denmark, Egypt, Federal Republic of Germany, Finland,
France, Gabon, Ghana, Greece, Holy See, Hungary, India, Indonesia, Iran, Iraq, Israel, Italy, Ivory Coast, Japan, Kenya, Khmer Republic, Kuwait, Laos, Lebanon, Libya, Liechtenstein, Mexico, Monaco, Mongolia, Netherlands, New Zealand, Niger, Nigeria, Norway, Pakistan, Panama, Peru, Philippines, Poland, Portugal, Republic of Korea, Saudi Arabia, South Africa, Spain, Sweden, Switzerland, Thailand, Togo, Tunisia, Turkey, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, United Kingdom of Great Britain and Northern Ireland, United States of America, Venezuela and Yugoslavia.

Committee II:
Algeria, Argentina, Australia, Austria, Belgium, Brazil, Bulgaria, Burma, Burundi, Byelorussian Soviet Socialist Republic, Canada, Ceylon, Chile, Colombia, Costa Rica, Cuba, Cyprus, Czechoslovakia, Dahomey, Denmark, Egypt, El Salvador, Federal Republic of Germany, Finland, France, Greece, Holy See, Hungary, India, Indonesia, Iran, Iraq, Israel, Italy, Ivory Coast, Jamaica, Japan, Khmer Republic, Lebanon, Libya, Liechtenstein, Luxembourg, Mexico, Monaco, Mongolia, Netherlands, New Zealand, Norway, Pakistan, Panama, Peru, Philippines, Poland, Portugal, Sierra Leone, Singapore, South Africa, Spain, Sweden, Switzerland, Tunisia, Turkey, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, United Kingdom of Great Britain and Northern Ireland, United States of America, Uruguay, Venezuela and Yugoslavia.

49. Any delegation arriving after the opening of the Conference would be free to join the Committee of its choice.

The meeting rose at 4.25 p.m.

FOURTH PLENARY MEETING
Wednesday, 15 March 1972, at 9.45
President: Mr. ASANTE (Ghana)

AGENDA ITEM 9
Organization of work (continued) *

1. The PRESIDENT explained that, because of the absence of a large number of delegations, which were involved in other work, the General Committee had preferred only to take decisions on matters that were not controversial. Three additional amendments to the 1961 Convention (E/CONF.63/L.1, E/CONF.63/L.2 and E/CONF.63/L.3) had been submitted to the General Committee, which had proposed that the Conference should agree to consider them.

It was so decided.

2. The PRESIDENT had suggested to the General Committee that the amendment proposing the addition of a new paragraph 5 to article 9 of the Convention, submitted by France, India, Togo and the United States of America (E/CONF.63/L.3) should be referred to Committee I, and that the amendment to the preamble of the Convention proposed by Afghanistan (E/CONF.63/L.1) and the amendment to paragraph 4 of article 2 proposed by Austria, Belgium, the Federal Republic of Germany, Italy, the Netherlands, New Zealand, Norway, Spain, Sweden, Switzerland, Togo and Turkey (E/CONF.63/L.2) should be referred to Committee II.

It was so agreed.

3. The PRESIDENT said that General Committee had also considered amendments to article 11, paragraph 3, and to article 14, paragraph 6, as well as a draft resolution submitted by France (E/CONF.63/C.2/L.9), concerning article 16. It had proposed that the amendments and the draft resolution should be considered by Committee II.

It was so agreed.

4. Mr. GHAUS (Afghanistan) said that in the amendment to the preamble of the 1961 Convention submitted by his delegation (E/CONF.63/L.1), the word “reprisal” should be replaced by the word “suppression”.

5. The PRESIDENT said that, since Committee II had almost finished its work, whereas Committee I still had a number of amendments to consider, he would suggest that article 22, which had been allocated to Committee I, should be entrusted to Committee II.

6. Mr. ANAND (India) said that the Conference had agreed that related matters would be dealt with by the same Committee, even if it caused an overload of work for the Committee concerned. Since article 22 was linked to the question of measures to be taken to put an end to the illicit traffic in narcotics, it was logical that it should be considered by Committee I.

7. The PRESIDENT withdrew his suggestion.

The meeting rose at 10 a.m.

FIFTH PLENARY MEETING
Wednesday, 15 March 1972, at 6.15 p.m.
President: Mr. ASANTE (Ghana)

AGENDA ITEM 9
Organization of work (continued) *

1. The PRESIDENT said that the meeting had been convened to consider possible action to relieve Committee I of some of its workload. Since Committee II had concluded the work originally assigned to it, as well as the additional work assigned to it earlier that day, the Conference should now consider transferring further provisions to it. He accordingly suggested, first, that Committee II be asked to consider any consequential amend-
ments to article 10, paragraph 4, of the 1961 Convention that might be necessitated by earlier decisions.

It was so agreed.

2. The PRESIDENT suggested that, despite the General Committee's original decision that conceptually related articles should, as far as possible, be considered by the same Committee, Committee II be asked to deal with the proposed amendment to article 27, submitted by Peru (E/CONF.63/6).

It was so agreed.

3. The PRESIDENT said he was aware of the strong feeling among delegations that the form of the instrument to give effect to the amendments should be considered in plenary. Nevertheless, the workload of the Conference would be lightened if Committee II were to study the memorandum prepared by the Legal Adviser to the Conference at the request of the General Committee, on the form of an instrument to give effect to the amendments (E/CONF.63/C.3/L.1) and submit its recommendations to the plenary Conference. He would make a point of ensuring that the plenary had enough time for a thorough discussion of the question.

4. Dr. BABAIAN (Union of Soviet Socialist Republics) and Mr. ANAND (India) said they could accept that suggestion only on the express understanding that the plenary Conference would be allowed enough time to discuss the question.

5. The PRESIDENT suggested that Committee II be asked to make a preliminary study of the form of an instrument or instruments to give effect to the amendments adopted by the Conference and of the final clauses.

It was so agreed.

6. Mr. GROSS (United States of America), supported by Mr. KIRCA (Turkey), suggested that Committee II might also be asked to deal with the proposed amendment to article 22, originally allocated to Committee I (2nd plenary meeting), although that provision was of course linked with other articles which Committee I was considering.

7. Mr. ANAND (India) said that the importance of keeping closely interrelated articles on the agenda of one committee must not be minimized; the amendment to article 22 should not be assigned to Committee II until that became absolutely necessary. Committee I was discussing problems which represented the core of the amendments to the Convention, and would probably make rapid progress once it had settled those fundamental issues. Moreover, the conclusions reached by Committee II on the amendment to article 22 might be incompatible with those of Committee I on related articles.

8. The PRESIDENT said that, for practical reasons, it would be advisable to assign the amendment to article 22 to Committee II at the current meeting, so as to avoid having to convene further meetings of the General Committee or the plenary Conference.

9. Mr. ANAND (India) said he would not press his objection if other delegations wished the amendment to article 22 to be reassigned.

10. The PRESIDENT said that the plenary Conference would probably examine the Convention as a whole to ensure that its provisions were fully compatible. Alternatively, Committee I might be authorized to examine the conclusions of Committee II on amendments to certain articles. On that understanding, he suggested that Committee II be asked to consider the amendment to article 22.

It was so agreed.

11. Mr. CHAPMAN (Canada), Chairman of Committee I, said that the Yugoslav representative on that Committee had suggested, at its 14th meeting, as an alternative to night meetings, that the working hours of Committee I be extended from 9 to 12.30 in the mornings and 2.30 to 7.30 in the afternoons.

12. Mr. RATON (Deputy Legal Adviser to the Conference) said he must point out that every additional or extended meeting would cost 900 dollars.

13. After some further discussion, the PRESIDENT suggested that Committee I hold its next meeting from 9 a.m. to 12.30 p.m. and its next afternoon meeting from 2.30 p.m. to 7.30 p.m., with the possibility of a half-hour break in the afternoon.

It was so agreed.

The meeting rose at 7.10 p.m.

SIXTH PLENARY MEETING

Tuesday, 21 March 1972, at 11.35 a.m.

President: Mr. ASANTE (Ghana)

In the absence of the President, Mr. Nikolii (Yugoslavia), first Vice-President, took the Chair.

AGENDA ITEM 9

Organization of work (concluded)


1. Mr. RATON (Deputy Legal Adviser to the Conference) said that three types of documents had been referred to the Conference for consideration: first, the texts submitted by the Drafting Committee relating to articles 9 (with the exception of paragraph 4), 14bis, 16, and 38 (E/CONF.63/L.5) and articles 2, 10, 11 and 36 (E/CONF.63/L.5/Add.1); secondly, three draft resolutions, one adopted by Committee II concerning the secretariat of INCB (E/CONF.63/L.4), another concerning social conditioning and protection of youth against drug addiction, submitted by the Holy See (E/CONF.63/L.5) and the last concerning technical assistance in narcotics control, submitted by Afghanistan and the Ivory Coast (E/CONF.63/L.7); and, thirdly, a document entitled "Draft outline of a protocol amending the Single Convention on Narcotic Drugs, 1961", prepared by the Legal Adviser to the Conference at the request of Committee II (E/CONF.63/C.2/L.13).
2. The PRESIDENT invited the members of the Conference to give their opinions on the procedure to be adopted for the consideration of the documents.

3. Mr. GROSS (United States of America) suggested that the documents should be considered in the order indicated in the agenda of the meeting.

4. Mr. ANAND (India) said that, for lack of time, Committee I had given up the idea of considering article 24, and had decided to refer it to the plenary Conference, so as to speed up the work. That article should therefore be given priority, and it should be included as the first item on the agenda of the next meeting so that the organization of work would not be upset.

5. Mr. VAILLE (France) supported the United States representative’s suggestion. The consideration of article 24 might be postponed until the meeting on the morning of Wednesday, 22 March, so that delegations would have time to complete their informal discussions on the subject.

6. Mr. ANAND (India) expressed approval of that suggestion.

7. The PRESIDENT suggested that the plenary Conference should consider the texts submitted by the Drafting Committee (E/CONF.63/L.5 and Add.1 and 2) and devote its morning meeting on 22 March to the priority consideration of article 24 (E/CONF.63/5).

It was so decided.

AGENDA ITEM 11
Consideration of all amendments proposed to the Single Convention on Narcotic Drugs, 1961
(E/CONF.63/2, E/CONF.63/5 and Add.1-6, E/CONF.63/6)

REPORT OF THE DRAFTING COMMITTEE
(E/CONF.63/L.5 and Add.1 and 2)

8. Mr. GROS ESPIELL (Uruguay), Acting Chairman of the Drafting Committee, introducing the report of the Drafting Committee on the texts proposed by the Committee for articles 9 (with the exception of paragraph 4), 14bis, 16 and 38 (E/CONF.63/L.5), said that the work of the Drafting Committee had been guided by three main criteria: first, not to change the substance of the texts approved by Committee I and Committee II; secondly, to make the necessary adaptations so as to bring their wording as closely into line as possible with that of the 1961 Convention or the 1971 Convention on Psychotropic Substances; and, thirdly, instead of insisting on absolute, word-for-word identity between the texts in the four languages of the Conference, to try to find equivalent expressions.

9. In article 9 (with the exception of paragraph 4), the Drafting Committee had made only some minor changes which raised no difficulty. It had made several formal changes in article 38, in accordance with the criteria that had just been mentioned. It had simplified the title of article 14bis. At the beginning of the article, in order to give the idea of simultaneous action, it had used the word “paralelamente” in Spanish and the word “parallèlement” in French see (E/CONF.63/L.5/Corr.1), and had kept the words “in addition to” in English, and their equivalent in Russian. The use of the words “this Convention” in the same article depended on the final decision the Conference would make concerning the form of the instrument to be adopted. Some delegations considered that the words “set out or referred to” in the penultimate line of article 14bis should be replaced by the single term “provided for”, while others thought they should be retained. The text of article 16 had been left unaltered, adding the word “no obstante” in Spanish and the word “toutefois” in French in the second sentence.

ARTICLE 9 (Composition and functions of the Board) (with the exception of paragraph 4) (E/CONF.63/L.5)

10. Dr. WIENIAWSKI (Poland) said he found a contradiction between, on the one hand, the present wording of paragraph 1 (a), which referred to three members who would be chosen from a list of at least five persons nominated by WHO, a provision which had been acceptable when the elections had taken place every three or four years and all the members of the Board had been elected at the same time, and, on the other hand, article 10, paragraph 1, as proposed by the Drafting Committee (E/CONF.63/L.5/Add.1), which provided that the members of the Board should be elected for five years, and that the terms of office of six members should expire at the end of only three years. The terms of office of the three members elected from the WHO list should not expire at the end of three years. At least one of those members should be elected for five years. That was a problem which warranted careful consideration.

11. Mr. GARCES (Colombia) pointed out an error in the Spanish text of paragraph 1 (a), in which the word “farmacológica” should be used, as in paragraph 1 of article 9 of the 1961 Convention. Apart from that, the text of article 9 proposed by the Drafting Committee was acceptable to his delegation.

12. Mr. GROS ESPIELL (Uruguay), Chairman of the Drafting Committee, said it was a typing error which could be easily corrected. As to the question raised by the representative of Poland, only amendments raising the number of members referred to in sub-paragraph (b) from eight to ten had been referred by Committee II to the Drafting Committee.

13. Mr. VAILLE (France) said that article 9 had been the subject of very careful discussion in Committee II, and there had been no doubt about the majority opinion, which had been taken into consideration by the Drafting Committee, particularly so far as sub-paragraph (b) was concerned. The proposal to raise from eight to ten the number of persons chosen from the list of United Nations Member States and parties not Members of the United Nations had been made because it was desired to give effect to the provisions of paragraph 3 of the article and ensure equitable geographic representation corresponding to the present number of Member States. It had not been considered necessary to amend sub-paragraph (a), which referred to the persons on the list drawn up by WHO, since, in practice, the representatives chosen by the parties were all jurists, pharmacologists and pharmacists, and there were always enough technical experts on the Board who were familiar with the problems of the main regions.
The text of article 9 (with the exception of paragraph 4) prepared by the Drafting Committee was adopted unanimously.

ARTICLE 38 (Measures against the abuse of drugs) (E/CONF.63/L.5)

14. Dr. BABALAN (Union of Soviet Socialist Republics) pointed out that if article 38, as proposed by the Drafting Committee (E/CONF.63/L.5), was adopted, difficulties might arise, because it had been decided to include in that article a paragraph which was at present attached to article 35.

15. Mr. VAILLE (France) pointed out that article 9 had just been adopted, even though it was incomplete.

16. The PRESIDENT suggested that paragraph 38 should be adopted, subject to the subsequent addition of a new paragraph, at present included among the amendments to article 35.

It was so decided.

17. Mr. GOMEZ (Colombia) wished to know why the Drafting Committee was proposing the title "Measures against the abuse of drugs"—to which, incidentally, he had no objection—although the present article 38 of the 1961 Convention was entitled "Treatment of drug addicts".

18. Mr. RATON (Deputy Legal Adviser to the Conference) said that Committee II, at its 7th meeting, had adopted the text of article 38, including its title, as it appeared in the report of the Drafting Committee, by 56 votes to none.

19. Mr. STURKELL (Sweden) explained that the title had been changed so that the new article would be as similar as possible to article 20 of the 1971 Convention on Psychotropic Substances.

20. Mr. ANAND (India) noted that the phrase "and its economic resources permit" in paragraph 2 of the present article 38 of the 1961 Convention was not included in the new text proposed, which referred only to taking "all practicable measures". In the developing countries, however, the financing of the proposed activities was often a major difficulty. It might therefore be necessary to keep the word "and its economic resources permit".

21. To avoid unnecessary repetition, the article might be set out in the following way:

"The Parties shall:
"1. Give...
"2. ... promote... 
"3. Take...

22. Mr. PATHMARAJAH (Ceylon) supported the Indian representative’s suggestion regarding the layout of article 38.

23. Dr. OLGUÍN (Argentina) said he thought it was obvious that the action proposed in article 38 would naturally depend on the parties’ resources. Moreover, the provisions of the article were only proposals, and each country could request the assistance of other States and seek international co-operation. The suggestions by the representative of India would make article 38 much too restrictive.

24. Mr. VAILLE (France) said he shared the point of view of the representative of Argentina. The wording of the original text of the 1961 Convention had not been used because that had not seemed necessary. For the measures proposed in the new article 38, countries with economic difficulties could request assistance from various sources, and the United Nations Fund for Drug Abuse Control had been established precisely for that purpose. In addition, article 38 was not binding on the parties. In paragraphs 1 and 3, the words "all practicable measures", and, in paragraph 2, the words "as far as possible", were used. No country, therefore, was being asked to do more than was practically possible.

25. Mrs. CAMPOMANES (Philippines) said that she, too, was of the opinion that article 38, as proposed in the report of the Drafting Committee, covered any difficulties which might arise, and was fully satisfactory.

26. Mr. CARGO (United States of America) said he thought it was unnecessary to add a new restrictive sentence. The words "as far as possible" were sufficient.

27. With reference to the change in layout suggested by the representative of India, he pointed out that the wording proposed by the Drafting Committee was modelled on article 20 of the 1971 Convention on Psychotropic Substances.

28. Mr. SAGOE (Ghana) and Mr. ULUCEVIK (Turkey) said they approved the text of article 38 proposed by the Drafting Committee.

29. Mr. ANAND (India) said he found it surprising that some delegations thought his suggestion would have too restrictive an effect. There must be no question of the parties being required to undertake action which would be beyond their economic means. If, however, the words "practicable measures" meant "account being taken of the financial and economic means", his delegation approved of the proposed new wording.

The text of article 38, as proposed by the Drafting Committee, was adopted by 79 votes to none, with 1 abstention, subject to the reservation expressed by the President.

The meeting rose at 12.45 p.m.

SEVENTH PLENARY MEETING

Tuesday, 21 March 1972, at 3 p.m.

President: Mr. ASANTE (Ghana)

In the absence of the President, Mr. Nikolić (Yugoslavia), first Vice-President, took the Chair.

AGENDA ITEM 11

Consideration of all amendments proposed to the Single Convention on Narcotic Drugs, 1961 (continued) (E/CONF.63/2, E/CONF.63/5 and Add.1-6, E/CONF.63/6)

REPORT OF THE DRAFTING COMMITTEE (continued) (E/CONF.63/L.5 and Add.1 and 2)

1. Mr. GROS ESPIELL (Uruguay), Acting Chairman of the Drafting Committee, introducing the report of
the Drafting Committee containing the text proposed by the Committee for articles 2, 10, 11 and 36 (E/CONF.63/L.5/Add.1), said that he had no special introductory remarks on articles 36, 11 and 2, since the foot-notes to the text submitted by the Drafting Committee related exclusively to problems of drafting and were self-explanatory.

2. In the case of article 10, the Conference would have to decide the placing of the proposed second and third paragraphs. It had been suggested by some members of the Drafting Committee that those two paragraphs were transitional provisions and should be separated from the first paragraph of article 10. Moreover, as far as the second paragraph was concerned, the Conference would have to choose between two alternative texts.

**ARTICLE 14bis (Technical and financial assistance)** (E/CONF.63/L.5)

3. The President invited the Conference to consider the text of article 14bis as proposed by the Drafting Committee (E/CONF.63/L.5). A correction (E/CONF.63/L.5/Corr.1) had been issued to the French version.

4. Dr. Alan (Turkey) said that he supported the proposed article 14bis. With particular reference to the correction to the French version, he would point out that the text of the article followed a Turkish amendment (E/CONF.63/C.2/L.3) which had been adopted in Committee II.

5. Dr. Babaiian (Union of Soviet Socialist Republics) said that his delegation was sympathetic to the purposes of article 14bis but thought that technical and financial assistance should be given within the framework of UNDP and through the Commission on Narcotic Drugs. Many articles of the Convention made provision for action by the Board through the Commission on Narcotic Drugs or the Economic and Social Council, and his delegation felt that a similar procedure should have been followed in the present instance.

6. Mr. Cargo (United States of America) said that he could not support the idea put forward by the USSR representative, because the introduction of a procedure requiring the consent of the Commission on Narcotic Drugs would create delay and complication, particularly as the Commission met only once every two years. It was preferable that the Board should be able to deal directly with a request for assistance made by a Government.

7. Mr. Vignes (World Health Organization) said that, although his Organization would have no major objection to dealing with the Board itself, he felt he should point out that it was customary for WHO to receive recommendations from the Board through the Economic and Social Council.

8. The President said that no formal proposals had been made; the remarks of the USSR and WHO representatives would be placed on record.

9. Mr. Vaille (France) said that the question raised by the USSR representative had been discussed at length in Committee II. The text of article 14bis as adopted by that Committee, and in the wording submitted by the Drafting Committee, was sufficiently broad to enable the Board to go through the Commission on Narcotic Drugs or the Economic and Social Council when dealing with WHO or another specialized agency.

**Article 14bis, as proposed by the Drafting Committee, was adopted by 61 votes to none, with 10 abstentions.**

10. Dr. Babaiian (Union of Soviet Socialist Republics), explaining his vote, said that he had abstained from voting, although he supported the idea of expanding technical and financial assistance to the developing countries, because his delegation felt that such matters should be dealt with through UNDP and that the Board should transmit its recommendation for approval by the United Nations Commission on Narcotic Drugs.

11. Mr. de Araujo Mesquita (Brazil), explaining his vote, said that his delegation had voted in favour of article 14bis on the understanding that the present agreements and arrangements would continue to be observed, and that recommendations by the Board would be made through the Economic and Social Council, which was responsible for the co-ordination of technical assistance.

**ARTICLE 16 (Secretariat)** (E/CONF.63/L.5).

12. The President invited the Conference to consider the text of article 16 as submitted by the Drafting Committee (E/CONF.63/L.5).

13. Dr. Alan (Turkey) said that the purpose of the revised article 16 was to strengthen the Board and guarantee its independence. In order to achieve those aims more fully, his delegation proposed that the concluding words, “in consultation with the Board”, be replaced by the words “on the proposal of the Board”. In that manner, the Board would have a greater influence over the appointment of its secretary.

14. Mr. Cargo (United States of America) said that the point raised by the Turkish amendment had been exhaustively discussed in Committee II. His delegation preferred the formula “in consultation with” because it had its origin in paragraph 3 of the annex to Economic and Social Council resolution 1196 (XLI) entitled “Administrative arrangements to ensure the full technical independence of the International Narcotics Control Board”; it expressed correctly the relationship between the Board and the Secretary-General with regard to the appointment of the head of the INCB secretariat.

15. Mr. Vaille (France) said that in Committee II his delegation had supported the idea now put forward by the Turkish representative but had ultimately accepted as a compromise the formula which now appeared in the text submitted by the Drafting Committee. His delegation’s draft resolution (E/CONF.63/C.2/L.9) adopted by Committee II on the subject of the secretariat of the Board served to make it clear that the intention was to continue the existing practice.

16. The President invited the Conference to vote on the Turkish oral amendment to replace the words “in consultation with the Board” by the words “on the proposal of the Board” in article 16.

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1 The text of article 14bis was subsequently amended by the Conference at its 14th plenary meeting.
The Turkish amendment was rejected by 43 votes to 3, with 37 abstentions.

17. Mr. GROS ESPIELL (Uruguay), explaining his vote, said that he had abstained from voting because in Committee II he had supported the idea put forward by the Turkish representative, believing it to be more in conformity with the terms of the United Nations Charter, but had ultimately accepted the text in the Drafting Committee's report as a compromise formula.

18. Mr. GÓMEZ (Colombia), explaining his vote, said that he had abstained for the same reasons as the Uruguayan representative. His delegation would vote in favour of article 16.

Article 16, as proposed by the Drafting Committee, was adopted by 65 votes to none, with 14 abstentions.

19. Dr. BABAIAN (Union of Soviet Socialist Republics), explaining his vote, said that he had abstained from voting because his delegation believed that past practice, going back to the International Opium Convention, signed at Geneva on 19 February 1925, should have been adhered to. The appointment of the head of the secretariat and the staff of the Board should be subject to the consent of the Economic and Social Council, which was the organ responsible for narcotics control in the United Nations system.

Mr. Asante (Ghana) took the Chair.

ARTICLE 10 (Terms of office and remuneration of members of the Board) (E/CONF.63/L.5/Add.1).

20. The PRESIDENT invited the Conference to consider the text of article 10 as proposed by the Drafting Committee (E/CONF.63/L.5/Add.1). Two alternative texts for the second paragraph had been submitted by the Committee.

21. Mr. GROS ESPIELL (Uruguay), Acting Chairman of the Drafting Committee, said that three separate decisions would have to be taken by the Conference. The first was whether the second paragraph, whatever the alternative chosen, and the third paragraph should be removed from article 10 because of their transitional character. The second was which of the two alternative texts should be chosen for the second paragraph. The third was whether the provision set forth in foot-note 2 of the Drafting Committee's text should be included in article 10.

22. Mr. VIGNES (World Health Organization) said that at the 6th plenary meeting the representative of Poland had raised certain practical questions relating to the application of article 10 with regard to the three members chosen from the list of at least five persons nominated by WHO by virtue of paragraph 1 (a) of article 9. It was quite possible that only one member appointed from the WHO list would be due for re-election after three years. In that case, there were two possible solutions: either to adopt a broad interpretation of paragraph 1 (a) of article 9, and allow WHO to submit a list of only two or three names instead of five, a solution which would have the drawback of being contrary to the letter of paragraph 1 (a); or to amend article 10 so that all three WHO nominated members should have the same term of office, three or five years as the case might be. WHO would have no objection to the mandate of its nominated members being limited to three years.

23. Mr. ABDO GHANEM (Lebanon) said he was in favour of moving the second and third paragraphs of article 10 to a more suitable place, since they were transitional provisions.

24. Dr. EL HAKIM (Egypt) said that the third paragraph could with advantage be simplified so as to state that the members of the Board "whose terms are to expire at the end of the above-mentioned initial period of three years" would be chosen by lot.

25. Mr. HOOGWATER (Netherlands) said that the question had been discussed at length in Committee II and that no real problem arose. The provisions of article 9, paragraph 1 (a), would ensure that WHO always had three nominees of its own on the Board. When the term of office of one of those members of the Board expired, he would either be re-elected or replaced by another person from a list of nominees of WHO.

26. Mr. VAILLE (France) said that the formula which had emerged from the work of the Drafting Committee was entirely satisfactory; it was based on the wording used in Article 13 of the Statute of the International Court of Justice to deal with a similar problem in connexion with the election of judges to that Court.

27. It was immaterial whether the members of the Board nominated by WHO served for three or for five years, since there would always be three WHO nominees on the Board by virtue of the provisions of article 9, paragraph 1 (a).

28. Dr. JOHNSON-ROMUALD (Togo) moved the closure of the debate.

29. The PRESIDENT said that, under rule 31 of the rules of procedure, he would allow only two speakers opposing the closure to speak on the motion.

30. Dr. BABAIAN (Union of Soviet Socialist Republics) said that the debate could not be closed at that point, because the Conference still had to exchange views on the question of choosing between the two alternative texts submitted by the Drafting Committee for the second paragraph.

31. Mr. BRAY (Australia) said he supported that view. In addition, the Conference would have to discuss the question whether the proposed second and third paragraphs should be moved from article 10 to a different place, more appropriate to transitional provisions.

The motion for closure of the debate was rejected by 32 votes to 2, with 54 abstentions.

32. Mr. VAILLE (France) proposed that the second and third paragraphs, being transitional provisions, be moved from article 10 to a more suitable position. The exact placing should be decided by the Drafting Committee.

33. Mrs. CONTRERAS (Guatemala) supported that proposal.

34. Mr. CARGO (United States of America) said he also supported that proposal. The two paragraphs in question should form part of the transitional provisions of the future protocol amending the Single Convention on Narcotic Drugs.
35. Mr. GROS ESPIELL (Uruguay), Acting Chairman of the Drafting Committee, said that the Drafting Committee had merely indicated in foot-note 1 of its text "that it was for the plenary Conference to decide whether the provisions of the paragraph are transitional provisions"; it had not discussed the question of placing.

36. Speaking as representative of Uruguay, he said that if the Conference were to decide that the provisions of the second and third paragraphs had a transitional character, the appropriate place for them was in article D (Transitional provisions) of the draft outline of an amending protocol, prepared by the Legal Adviser to the Conference at the request of Committee II (E/CONF.63/C.2/L.13).

37. The CHAIRMAN invited the Conference to vote on the proposal that the second and third paragraphs of article 10 should be included among the transitional provisions in article D of the draft amending protocol (E/CONF.63/C.2/L.13).

The proposal was adopted by 81 votes to 1, with 2 abstentions.

38. The PRESIDENT said that the Conference should now decide which of the variants of the second paragraph should be adopted.

39. Dr. BABAIAN (Union of Soviet Socialist Republics) said that the second variant was more acceptable, because it regulated the corresponding provision of Article 13 of the Statute of the International Court of Justice and the text adopted by Committee II.

40. Mr. de ARAUJO MESQUITA (Brazil) and Mr. ALBERTI (Chile) said that their delegations both favoured the second variant.

41. Mr. VAILLE (France) said that, since several speakers had expressed a preference for the second variant, it should be voted on first.

42. The PRESIDENT put the second variant of the second paragraph of article 10 to the vote.

The second variant was adopted by 88 votes to none, with 1 abstention.

43. Mr. GROS ESPIELL (Uruguay), explaining his vote, said that he had voted in favour of the second variant because the increase in the membership of the Board was analogous to the increase in the membership of the Economic and Social Council; the paragraph had therefore been modelled on Article 61, paragraph 3, of the Charter. Its wording should be brought into line with paragraph 1 of article D of the draft amending protocol prepared by the Legal Adviser to the Conference, so that the procedure for increasing the membership of the Board would come into force at the same time as the amending protocol.

44. The PRESIDENT invited the Conference to vote on the first paragraph of article 10.

45. Dr. BÖLCS (Hungary) said he noted that the phrase "and may be re-elected" differed from the terms of the 1961 Convention, where the corresponding phrase read "and shall be eligible for re-election".

46. Mr. GROS ESPIELL (Uruguay), Acting Chairman of the Drafting Committee, said that Committee II had adopted two amendments to the paragraph, one changing the period from three years to five, and the other rewording the provision that members should be eligible for re-election. The Drafting Committee had followed the wording of Article 13, paragraph 1, of the Statute of the International Court of Justice and the text adopted by Committee II.

47. Mr. ANAND (India) said he could see no reason for changing the wording of paragraph 1 of article 10 of the 1961 Convention. He asked for a separate vote on the words "and may be re-elected".

48. Mr. CASTRO (Mexico) said that, since there was no substantive change in the wording, there was no point in voting separately on the last phrase.

49. Mr. ANAND (India) said that the difficulty might be purely linguistic. In English, at least, there was a considerable difference between the proposed phrase and the corresponding wording in the 1961 Convention.

50. Mr. de ARAUJO MESQUITA (Brazil) asked if the Conference could have the opinion of the Legal Adviser to the Conference.

51. Mr. RATON (Deputy Legal Adviser to the Conference) said that the issue was purely linguistic; there was absolutely no difference between the two texts from the legal point of view.

52. Dr. BABAIAN (Union of Soviet Socialist Republics) said he noticed that the wording of the 1961 Convention was reproduced in the Russian version of the paragraph.

53. Mr. SAGOE (Ghana) said he had some doubts as to the Drafting Committee's competence to change the wording of the 1961 Convention where no formal amendment had been proposed.

54. Mr. NIKOVIĆ (Yugoslavia) and Mr. VAILLE (France) said they objected to the Indian representative's request for a separate vote on the last phrase of the first paragraph of article 10 and, in accordance with rule 45 of the rules of procedure, asked for a vote on the request.

55. Dr. BABAIAN (Union of Soviet Socialist Republics) said that delegations working in languages in which the text departed from the 1961 Convention were placed in a more difficult position than those using a text which corresponded to that Convention.

56. The PRESIDENT put the Indian motion for a separate vote on the last phrase of the first paragraph of article 10 to the vote.

The motion was rejected by 49 votes to 12, with 17 abstentions.

57. Mr. NIKOVIĆ (Yugoslavia) and Mr. VAILLE (France) said they objected to the Indian representative's request for a separate vote on the last phrase of the first paragraph of article 10 and, in accordance with rule 45 of the rules of procedure, asked for a vote on the request.

58. Mr. EL HAKIM (Egypt), explaining his vote, said that he had been obliged to abstain in the vote on the Indian motion because of the wide difference between the English wording of the proposal and that of the 1961 Convention.
he considered it spurious. The only amendment to the first sentence was the change in the term of office of members of the Board from three years to five. The text sent to the Drafting Committee by Committee II had contained the words "shall be eligible for re-election", as in the 1961 Convention, but the Drafting Committee, with the agreement of the Legal Adviser to the Conference, had replaced those words by the words "and may be re-elected", which were substantially the same. Perhaps, it was through a clerical error that the words "and may be re-elected" had been underlined in the English version of document E/CONF.63/L.5/Add.1, thereby giving the impression that an amendment to the Single Convention was proposed, but that was not the case. The Indian representative was asking for a separate vote on wording that was, in substance, exactly the same as the wording used in the 1961 Convention.

60. Mr. NIKOLIĆ (Yugoslavia), explaining his vote, said that the wording in the French version was not the same as in the original joint amendment, which he preferred, but after listening to the very clear assurance by the Deputy Legal Adviser to the Conference, he had voted against the Indian motion.

61. Mr. GROS ESPIELL (Uruguay), explaining his vote, said that he had voted against the Indian motion for the same reasons as the United Kingdom representative, whose views he fully endorsed. He could not accept the suggestion made during the discussion that the Drafting Committee had exceeded its terms of reference. It had worked on the text adopted by Committee II on the proposal of the United Kingdom delegation, and it had been understood that the words concerning re-election did not involve any change in meaning from the words used in the 1961 Convention. In the Spanish version the word "reelectos", used in the amendment, had the same meaning as the word "reelegidos", used in the 1961 Convention, and the change had been proposed by the Spanish expert as an improvement.

The first paragraph of article 10 was adopted by 84 votes to 1, with 3 abstentions.

62. Mr. ANAND (India), explaining his vote, said that he had abstained in the vote because, despite the explanations of the United Kingdom representative and his assurance that the wording in question was "substantially" or "exactly" the same as the wording in the 1961 Convention, he still believed that it had been changed. He would have found it difficult to explain to his Government if he had voted in favour of replacing the words "shall be eligible for re-election", which had been used in so many international instruments.

63. Dr. MONTERO (Peru), explaining his vote, said that he had voted against the amendment because he was not in favour of the re-election of members of any international bodies. He had supported the Indian representative's motion. His delegation would be satisfied with a term of five years, with partial rotation. Re-election was an obstacle to participation by the greatest possible number of representatives from all parties.

64. Dr. BABAIAN (Union of Soviet Socialist Republics), explaining his vote, said that he had voted in favour of the paragraph, but that did not necessarily mean that he disagreed entirely with the Indian representative. The Drafting Committee should not re-draft parts of the Convention which had not been amended.

65. Mr. de ARAUJO MESQUITA (Brazil), explaining his vote, said that, although he would have preferred the original wording, he had voted in favour of the amendment in view of the assurance of the Deputy Legal Adviser to the Conference that it did not involve any change of meaning. The text of the Convention could not be changed without a vote.

66. The CHAIRMAN said that he would put to the vote the last paragraph of article 10.

67. Mr. SAGOE (Ghana) said that he was prepared to vote for the paragraph but would like a clarification of the point raised earlier by the representative of Egypt. He would assume that, once the members whose terms were to expire at the end of three years had been chosen by lot, the terms of the remaining members would expire after five years. The amendment, however, seemed to imply that the members whose terms were to expire after five years would also have to be chosen by lot.

68. Mr. GROS ESPIELL (Uruguay), Acting Chairman of the Drafting Committee, said it was clear that there was an error in the text as it stood because it had been taken from Article 13, paragraph 2, of the Statute of the International Court of Justice, which in fact dealt with a different situation. He suggested that the words "and five" be deleted, so that the passage would now read "... initial period of three years shall be chosen ...".

69. The PRESIDENT invited the Conference to vote on the text of the last paragraph of article 10, as amended by the Acting Chairman of the Drafting Committee.

The last paragraph of article 10, as thus amended, was adopted by 84 votes to none, with 1 abstention.

70. The PRESIDENT said that further discussion of article 10 would be postponed. He invited the Conference to consider article 2.

ARTICLE 2 (Substances under control) (E/CONF.63/L.5/Add.1).

71. The PRESIDENT invited the Conference to consider the amended text for paragraph 4 of article 2 submitted by the Drafting Committee (E/CONF.63/L.5/Add.1).

72. Mr. BURESCH (Austria) said that his delegation was anxious to remove the obstacle which had hitherto prevented Austria from acceding to the 1961 Single Convention on Narcotic Drugs. Consultations with other delegations had shown that many countries shared Austria's concern at the strict interpretation of sub-paragraph (b) of article 34, which required records to be kept of each drug manufactured and of each individual acquisition and disposal of drugs. While record-keeping was essential for drugs in general, it was not feasible for each individual acquisition and disposal of the preparations listed in schedule III annexed to the 1961 Convention. Hundreds or preparations of great therapeutic value, composed mainly of codeine or its derivatives, were widely used for medical purposes. On a strict interpretation of sub-paragraph (b) of article 34, every bottle of cough syrup containing even a small quantity of codeine...
that a nurse dispensed in a hospital would have to be recorded and the records preserved. That would require a vast administrative apparatus which could not be justified by results. Since it was unlikely that any significant quantities of the pure substance listed in schedule II would be recovered from preparations listed in schedule III, comprehensive control of retailers, scientists, scientific institutions and hospitals seemed unnecessary.

73. The sponsors of the amendment to paragraph 4 of article 2 (E/CONF.63/L.2), reproduced in the report of the Drafting Committee following its approval by Committee II at its 12th meeting, therefore felt that it would be justifiable to include retailers, scientists, scientific institutions and hospitals under sub-paragraph (b) of article 34 in the exemptions listed in paragraph 4 of article 2, provided the exemption was restricted to institutions and persons whose individual disposals of those preparations were very small. The amendment would not affect the substance of the Convention, nor would it change the existing situation with regard to retailers, scientists, scientific institutions and hospitals which were not in a position to carry out formalities which the 1961 Convention would impose on them if a strict interpretation of its wording was applied. For constitutional reasons, however, Austria was bound to apply such a strict interpretation and could not accede to the Convention unless that particular provision was modified in the sense of the amended text submitted by the Drafting Committee.

74. Mr. VAILLE (France) said that the amendment was intended to remove the requirement for keeping a record of drugs in pharmacies, research laboratories and hospitals; it was not concerned with the manufacture of drugs. It would, however, have the effect of removing the requirement in sub-paragraph (b) of article 34 that governmental authorities, manufacturers, traders, scientists, scientific institutions and hospitals should keep records of the quantities of each drug “manufactured” and would thus cause a serious gap in the existing system of control which had been in operation in many European countries long before the existence of the 1961 Convention.

75. The drugs listed in schedule III were preparations made from substances such as codeine listed in schedule II, in other words, galenical preparations for use by the patient, such as syrups, suppositories, phials or tablets. If hospital pharmacies were no longer required to keep records of such preparations and control of their manufacture were removed, there would be no control of the use of codeine by injection as an addictive substance. It was essential that such control should not be removed, and he was sure that it was not the wish of the sponsors of the amendment that it should be. The Conference should therefore consider whether the amendment was useful and essential.

76. Codeine supplied, for example, to the central pharmacy of the Paris hospitals would be considered as “consumed” in accordance with the definition in article 1, paragraph 2, of the Convention. Article 2, paragraph 2, provided for exceptions to control measures for substances such as codeine listed in schedule II, which were less dangerous than drugs such as morphine. The exceptions in question were those in paragraphs 2 and 5 of article 30 concerning the requirement for a medical prescription and labelling respectively. The combination of those exemptions and the exemptions under sub-paragraph (b) of article 34 in respect of drugs as defined in article 1, paragraph 1(j) would mean, in France for example, that preparations based on codeine listed in schedule III could be freely sold by pharmacies without being recorded, without a prescription and without a special label.

77. He agreed that the wording “each drug manufactured” and “each individual acquisition” in sub-paragraph (b) of article 34 might give rise to discussion and it was obvious that the 1961 Convention was neither clear nor precise in the matter. He therefore wished to suggest as a sub-amendment to the Austrian amendment that the passage underlined in the text submitted by the Drafting Committee be replaced by the wording “and, as regards their acquisition and retail distribution, article 34 (b)”.

78. The PRESIDENT asked if the Austrian representative could accept the French representative’s proposal, bearing in mind that the amendment in document E/CONF.63/L.2 had been approved by Committee II by a very small majority.

79. Mr. BURESCH (Austria) said that his delegation could accept the French proposal in place of its own amendment.

The meeting rose at 6.10 p.m.
ROMUALD (Togo), noting that their delegations were among the sponsors of the original amendment (E/CONF.63/L.2), said that its purpose was to fill a gap in article 2, paragraph 4, and to recognize a de facto situation. The preparations listed in schedule III annexed to the 1961 Convention were so numerous that it was scarcely possible to control their acquisition and retail distribution in accordance with sub-paragraph (b) of article 34. In their opinion, the French amendment clarified the intentions of the sponsors and eliminated the danger of misinterpretation. They therefore supported it.

3. The PRESIDENT invited the Conference to vote on the French amendment to the text of article 2, paragraph 4, submitted by the Drafting Committee.

The French amendment was adopted by 60 votes to 3, with 11 abstentions.

Paragraph 4 of article 2, as amended, was adopted.

4. Mr. de ARAUJO MESQUITA (Brazil), explaining his vote, said that his delegation had voted against the French amendment because the legislation of his country obliged retailers, scientists, scientific establishments and hospitals to keep records of the quantities of drugs bought and consumed. Those legislative provisions had been reinforced by the 1961 Convention. His Government was therefore unable to agree to a provision which would have the effect of weakening its legislation.

5. Mrs. OLSEN de FIGUERAS (Costa Rica), explaining her vote, said that her delegation had voted against the amendment because Costa Rican legislation contained provisions that were contrary to it.

6. Mr. VAILLE (France) pointed out that the text which had just been adopted did not remove the obligation to record the quantities of drugs intended for the manufacture of the preparations listed in schedule III which might be sold without a prescription. Consequently, the legislation of Brazil and Costa Rica would not be affected by it.

7. Dr. BABAIAN (Union of Soviet Socialist Republics) and Mr. SAGOE (Ghana), speaking in explanation of their vote, said that the amendment to article 2, paragraph 4, was related to article 39, which provided that countries might apply measures of control more severe than those required under the Convention. Both the Soviet Union and Ghana had adopted stricter regulations than those provided for in the new text just adopted.

8. Mr. ANAND (India), explaining his vote, said that his delegation had abstained in the vote, since article 2, paragraph 4, in its present form had never caused his country any difficulties.

9. Mr. CALENDA (Italy), explaining his vote, said that his delegation, which was among the sponsors of the joint amendment, had voted in favour of the French amendment, which improved the wording of the original amendment and was more realistic.

10. Dr. OLGUÍN (Argentina), speaking in explanation of his vote, said that, although article 39 permitted the parties to adopt more severe measures of control, it was important that those measures should be harmonized. Argentine legislation provided for measures of control in respect of all the drugs referred to in article 2 and on all the points covered by the Convention.
many changes in the text at the present stage of the work of the Conference.

The Indian suggestion, as amended by France, adding the words “conviction or” after the words “in addition to”, was adopted.

Article 36, paragraph 1 (b), as amended, was adopted by 78 votes to none, with 4 abstentions.

Paragraph 2

22. Dr. ALAN (Turkey) said that the first sentence of paragraph 2 of the French and Spanish texts, as proposed by the Drafting Committee, deviated from the text of the Single Convention. His delegation, which wished to reserve its position on that paragraph, considered that the wording of the Convention should be maintained in that sentence.

23. Mr. GROS ESPIELL (Uruguay), Acting Chairman of the Drafting Committee, said that the fact that the beginning of paragraph 2 of the French text was not the same as in the 1961 Convention was due to the preference of the French-speaking members of the Drafting Committee for the proposed text rather than that of the Convention.

24. As far as the Spanish text was concerned, footnote 5 of document E/CONF.63/L.5/Add.1 was prompted by a desire to harmonize paragraphs 1 and 2 of article 36 and to take account of the observations made in Committee II with regard to the difficulty of interpreting the expression “A reserva de las limitaciones que imponga la Constitución respectiva”.

25. Mrs. HIRLEMANN (France) said that the wording of the 1961 Convention should be maintained, since in any case the Drafting Committee had not been asked to make any changes whatsoever in the wording of the sentence in question.

26. The PRESIDENT suggested that the first sentence of paragraph 2 of the French text should be brought into line with the corresponding sentence of the 1961 Convention; he also suggested that the proposal relating to the Spanish text contained in footnote 5 should be adopted.

The proposal was adopted without objection.

Paragraph 2 (b) (i)

27. Mr. ANAND (India) observed that at the twenty-fourth session of the Commission on Narcotic Drugs it had been understood after a long discussion on the question, that the offences enumerated in the 1961 Convention should not necessarily involve extradition. By providing that every offence enumerated in the Convention should per se be deemed to be extraditable, the new paragraph 2 (b) (i) was liable to create difficulties for the parties to the Convention. It might happen that an offence was not extraditable under a bilateral treaty concluded between a party and another country, but would be under the provision proposed by the Drafting Committee.

Moreover, the offences enumerated in paragraphs 1 and 2 (a) (ii) of article 36 covered a very wide range of activities.

28. For the reasons it had just given, his delegation was not in a position to support the text of paragraph 2 (b) (i) as proposed by the Drafting Committee.

29. Mrs. RODRIGUEZ MAYOR (Cuba) said that her delegation recognized that extradition was a useful international weapon against crime and a means by which States could give each other assistance in legal matters. It did not think, however, that it should be based on a multilateral convention because of the political repercussions that might ensue.

30. The Cuban Government’s position, which was set forth in Act No. 1226 on the hijacking of aircraft, was that extradition should be arranged through bilateral agreements on the basis of reciprocity and equality.

31. The memorandum of the United States of America respecting its amendments to the 1961 Convention, submitted at the twenty-fourth session on the Commission on Narcotic Drugs, which was intended to clarify the scope of the amendment to article 36, explained that it had taken into account the provisions of the Convention for the Suppression of Unlawful Seizure of Aircraft, signed at the Hague on 16 December 1970. In her delegation’s opinion, the solution did not lie in the strengthening of extradition machinery based on multilateral provisions, but in the effective enforcement of national legislation and the strict fulfilment by Governments of the obligations laid upon them by the provisions in force with regard to international drug traffic.

32. For all those reasons, her delegation would not vote for the text of paragraph 2 (b) (i) as proposed by the Drafting Committee.

33. Mr. SAMSOM (Netherlands) said that he would vote for amendment because it seemed to him to be highly desirable to strengthen the provisions relating to extradition. Sub-paragraph (b) (iv), which empowered a party to refuse to grant extradition if the competent authority considered that the offence was not sufficiently serious, should dispel the misgivings expressed by certain delegations.

34. Mr. GROS ESPIELL (Uruguay), Acting Chairman of the Drafting Committee, pointed out that sub-paragraph (b) (i) had been examined at length by Committee II and that all the pros and cons of multilateral extradition had been gone into. The amendment had been approved by the Committee and had been left virtually unchanged by the Drafting Committee.

35. Speaking on behalf of the Uruguayan delegation, he hoped that the debate on the question would not be reopened; it intended, for its part, to vote in favour of the amendment.

36. Mrs. LEE LUANE (Panama) said that her country had always been in favour of extradition treaties and had acceded to several of them. However, Panama attached

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1 See the summary record of the 713th meeting of the Commission on Narcotic Drugs, in “Summary records or minutes of the seven hundred and fourth to seven hundred and twenty-first meetings” (E/CN.7/SR or Min.704-721, vol. II).


3 ICAO, document 8920.
great importance to the principle of national sovereignty, which had so often been openly or covertly violated. Tendentious and unilateral interpretation of a mere comma could lead to interference by one country in the affairs of another. Panama had entered into a number of international commitments in matters of extradition, its legislation on the subject was quite clear, and it could not go any further. Her delegation was therefore unable to support the amendment to paragraph 2 (b) (i).

37. Mr. KIRCA (Turkey) said that the competent authorities in his country had not yet studied the provisions of paragraph 2 (b) and that he was waiting for instructions from his Government before taking a decision on the new text. Whatever the decision might be, his delegation was satisfied with the texts submitted by Committees I and II and the Drafting Committee and was prepared to sign the Protocol at the end of the Conference if substantive changes were not made subsequently.

38. Article 50 of the 1961 Convention did not mention article 36 among the provisions which could be the subject of reservations and was prepared to sign the Protocol at the end of the Conference if the wording was acceptable.

39. Mr. GROSS (United States of America) said he would vote for sub-paragraph 2 (b) (i), which contained an extremely important provision. The Indian representative seemed to think that the measures envisaged in it were out of proportion to the object sought. In his view, however, the point in question was an absolutely vital one.

40. Mr. WARNANT (Belgium) said he would also vote for paragraph 2 (b) as a whole. He was surprised that some delegations had reservations with regard to it. The provisions of the Convention for the Suppression of Unlawful Seizure of Aircraft were mandatory, but in the present case limitations had been provided for at the beginning of paragraph 2. Since national law was to be respected, delegations should be more conciliatory.

41. Mr. de BOISSERON (France) and Mr. NIKOLIĆ (Yugoslavia) said they would also vote for sub-paragraph (b) (i), for the same reasons as the Uruguayan and Belgian delegations.

42. Mr. de ARAUJO MESQUITA (Brazil) said that his delegation would also vote in favour of the amendment to sub-paragraph 2 (b) (i), and he had therefore voted for its adoption. However, to remove any misunderstanding, he wished to make it plain that his vote had been cast on the understanding that the amendment did not extend in any way the obligations assumed by a party but only added to the options available to parties which relied upon bilateral treaties of extradition. The United Kingdom also attached considerable importance to the opening words of paragraph 2: “Subject to the constitutional limitations of a Party, its legal system and domestic law”. As a party which relied upon bilateral extradition treaties, it seemed unlikely that the United Kingdom would be able to take advantage of the option afforded by sub-paragraph (b) (ii). The United Kingdom had accepted a similar provision in article 8 of the Convention for the Suppression of Unlawful Seizure of Aircraft as a most exceptional measure. Drug trafficking and other drug offences could not be compared with the unlawful seizure of aircraft, which was a very serious and recent phenomenon requiring special and urgent measures. Despite the necessities of its own bilateral treaty traditions, the United Kingdom welcomed the expansion of the options available to parties and, for the reasons given, had voted for the amendment.

43. Mr. CASTRO (Mexico), explaining his vote, said that his delegation had abstained because it did not think that States could be asked to enter into commitments of that kind in matters involving their future international obligations.

44. Mr. ROSENNE (Israel) pointed out that there was a typing error in the third line of sub-paragraph (ii) of the English text, which should read “it may at its option”.

45. The CHAIRMAN said that the error would be corrected.

46. Mr. STEWART (United Kingdom), explaining his vote, said that his delegation had co-sponsored the amendment to sub-paragraph 2 (b) (ii), and he had therefore voted for its adoption. However, to remove any misunderstanding, he wished to make it plain that his vote had been cast on the understanding that the amendment did not extend in any way the obligations assumed by a party but only added to the options available to parties which relied upon bilateral treaties of extradition. The United Kingdom also attached considerable importance to the opening words of paragraph 2: “Subject to the constitutional limitations of a Party, its legal system and domestic law”. As a party which relied upon bilateral extradition treaties, it seemed unlikely that the United Kingdom would be able to take advantage of the option afforded by sub-paragraph (b) (ii). The United Kingdom had accepted a similar provision in article 8 of the Convention for the Suppression of Unlawful Seizure of Aircraft as a most exceptional measure. Drug trafficking and other drug offences could not be compared with the unlawful seizure of aircraft, which was a very serious and recent phenomenon requiring special and urgent measures. Despite the necessities of its own bilateral treaty traditions, the United Kingdom welcomed the expansion of the options available to parties and, for the reasons given, had voted for the amendment.

47. Mr. ZAFERA (Madagascar) pointed out that a mistake had crept into the French text of the sub-paragraph. The beginning should read as follows: “Les Parties qui ne subordonnent pas l’extradition...”.

48. The CHAIRMAN said that the mistake would be corrected.

49. Mr. ANAND (India) said that his delegation was not in favour of the sub-paragraph, because it was mandatory. His delegation did not deny the gravity of the problem but felt that it should not be exaggerated either. Under Indian law, serious offences, such as drug smuggling, were extraditable, but the Government only applied for extradition in cases which it regarded as really serious. Extradition should not be made automatic, and the measures taken should be adapted to suit each case. The remedy should fit the disease; the same one would not do in all cases. His delegation would therefore vote against sub-paragraph (b) (iii). It would abstain on sub-paragraph (b) (iv), which was acceptable in principle but not in the context of the preceding sub-paragraphs, and would also abstain on paragraph 2 as a whole.
50. Mr. NIKOLIĆ (Yugoslavia) wondered whether was not a contradiction between the beginning of paragraph 2 and sub-paragraph (b) (iii).

51. Mr. GROS ESPIELL (Uruguay), speaking as Acting Chairman of the Drafting Committee, said that it had kept the text approved by Committee II.

52. Speaking as representative of Uruguay, he said that he was not completely satisfied with sub-paragraph (b) (iii), and thought there might in fact be a contradiction.

53. Mr. WARNANT (Belgium) did not see any contradiction between the reservation at the beginning of paragraph 2 and the provisions of sub-paragraph (b) (iii). The latter required parties which did not make extradition conditional on the existence of a treaty to respect a provision in question when their domestic law did not recognize an offence as extraditable. The same applied to sub-paragraph (b) (i). Its provisions were only applicable if they did not run counter to the constitution, legal system and domestic law of the parties.

Paragraph 2 (b) (iii), as submitted by the Drafting Committee, was adopted by 60 votes to 3, with 19 abstentions.

54. Mr. NIKOLIĆ (Yugoslavia), explaining his vote, said that he had abstained because, despite the explanations given by the representative of Belgium, the situation did not seem completely clear to him.

Paragraph 2 (b) (iv)

55. Mr. ABDO GHANEM (Lebanon) wished to reiterate the point of view he had already expressed at the 11th meeting of Committee II, namely, that sub-paragraph (b) (iv) was not satisfactory, because it did not specify the criteria by which the competent authorities could determine the degree of seriousness of an offence. In order to prevent any abuse, it would be necessary to establish the criteria by which it could be determined whether an offence was serious or not. Those criteria could be the law of the party concerned. The words “in accordance with the law of that Party” might therefore be inserted after the words “in cases where the competent authorities”.

56. Mr. GROS ESPIELL (Uruguay) agreed with the representative of Lebanon that the present wording of sub-paragraph (b) (iv) made article 36 quite ineffective. In the absence of specific criteria, the words “is not sufficiently serious” lent themselves to possible abuse.

57. His delegation therefore supported the Lebanese proposal. It would abstain on sub-paragraph (b) (iv) if that proposal was not accepted.

58. Mr. ESPINO GONZALEZ (Panama) regretted that he could not support the Uruguayan proposal.

59. Dr. OLGUIN (Argentina) said that he would abide by the position adopted by his delegation at the 11th meeting of Committee II and support the Uruguayan proposal, because he considered that the wording of sub-paragraph (b) (iv) weakened the machinery for extradition.

60. Mr. de ARAUJO MESQUITA (Brazil) did not share the opinion of the representatives of Uruguay and Argentina. The decision to grant extradition or to refuse it had in the last resort to be taken by the party concerned and should not be hampered by rules relating to the degree of seriousness of the offence. His delegation would therefore abstain if the text proposed by Lebanon was adopted.

61. Dr. HOLZ (Venezuela) said that his delegation had abstained in the vote at the 11th meeting of Committee II, on the basis of the arguments put forward by Uruguay. Although it was true that a convention was an expression of the will of States, it was desirable, particularly because extradition was such a tricky question, to adopt as specific a text as possible. The text under consideration contained legal ambiguities, and the addition of the phrase proposed by the representative of Lebanon would suffice to protect it from arbitrary interpretation; it would in no way infringe the sovereignty of States, since the seriousness of the offence would be determined in accordance with their national law.

62. Mr. di MOTTOLA (Costa Rica) thought that it was absolutely necessary to avoid any lack of precision in a legal text, and would not vote for sub-paragraph (b) (iv) unless the Lebanese amendment was adopted.

63. Mr. BANNA (Lebanon) formally submitted his amendment.

64. Mr. VINUESA SALTO (Spain) also supported the Lebanese amendment, which would make it possible to interpret sub-paragraph (b) (iv) correctly and introduced an objective element. His delegation would abstain if that text was not adopted.

65. Mr. GROSS (United States of America) said that the amendment proposed by Lebanon might make sub-paragraph (b) (iv) somewhat ambiguous, because not all countries had a law which enabled them to determine the seriousness of an offence of that kind. That was the case in the United States, for example, which would therefore have to adopt such a law. In order to interpret sub-paragraph (b) (iv), it was necessary to refer to the beginning of paragraph 2, which read: “Subject to the constitutional limitations of a Party, its legal system and domestic law”, a reservation which applied to sub-paragraphs (a) and (b). He therefore requested the representatives of Lebanon and Uruguay to reconsider their position and withdraw their proposal in favour of the present text.

66. Mr. WARNANT (Belgium) said that his delegation had never been very much in favour of the limitation on extradition provided for in sub-paragraph (b) (iv), but had been willing to accept that provision in a spirit of conciliation, although it also raised technical difficulties. Countries which had signed extradition treaties did not have to determine the seriousness of the offence; they were bound to grant extradition. The idea put forward by Lebanon was a good one, in principle, but its practical application would raise difficulties, for the reasons already pointed out by the representative of the United States. It hardly seemed possible to draw up a sort of catalogue of offences according to their seriousness. The reference to the law and constitution of the parties at the beginning of paragraph 2 was intended to enable countries to con-
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sider the seriousness of the offence, but the amendment proposed by Lebanon would oblige them to do so, even if their domestic law contained no provision to guide them. For practical reasons, therefore, his delegation could not accept that amendment.

67. Mr. McKIM (Canada) said that his delegation was very concerned by the possible consequences of the amendment proposed by Lebanon, because the reference to domestic law raised difficulties for Canada, as it did for the United States. If the Conference adopted that provision, Canada would have to abstain or vote against it.

68. Dr. DANNER (Federal Republic of Germany) supported the statements by the representatives of the United States, Belgium and Canada and regretted that he could not accept the Lebanese amendment, which might cause difficulties in the interpretation of subparagraph (b)(iv).

69. Mr. BANNA (Lebanon) pointed out that, if the amendment proposed by his delegation was not accepted, it might happen that, for example, a request for extradition for an offence which would be punishable by hard labour in the country applied to might be refused, in accordance with the provisions of subparagraph (b)(iv), on the grounds that the offence was not sufficiently serious. It should be recognized that such a possibility could not be allowed to exist.

70. Mr. KROG-MEYER (Denmark) thought that the provisions of subparagraph (b)(iv) were necessary for some countries, and his delegation was prepared to accept them. However, the amendment proposed by Lebanon, which added another reservation, was unnecessary, because the first line of the subparagraph already provided that extradition should be granted “in conformity with the law of the Party to which application is made”.

71. The PRESIDENT noted that the text proposed by the Drafting Committee and the Lebanese amendment both had their advantages. However, it was necessary to be practical. Subparagraph (b)(iv) was a clause designed to enable the largest possible number of countries to accept article 36. The countries which would sign the Convention would obviously be anxious to ensure that it was properly applied and, if a strictly legal problem arose, the competent authorities of the party to which application was made would be requested to give an opinion based on domestic law. However, it did happen that requests for extradition were refused for political reasons without being referred to the law-making authorities. In order to avoid a prolonged discussion, it seemed wise to try to draft as general a text as possible.

72. Mr. GROS ESPIELL (Uruguay) considered that the Lebanese amendment would strengthen article 36. However, one of the arguments put forward by the representative of the United States warranted further consideration. Penal law was not the same in all countries and his delegation would have supported the Lebanese amendment on the basis of the Uruguayan penal system, which was based on the French, Spanish and Italian penal codes, in which offences were classified according to their degree of seriousness. Since the objection raised by the representative of the United States was important, the Uruguayan delegation would not oppose the adoption of subparagraph (b)(iv) in its present form.

73. Mr. CALENDA (Italy), speaking as a sponsor of the text reproduced in the Drafting Committee’s report, said that he would vote for subparagraph (b)(iv), which raised no difficulties for his country, since the Italian penal code classified offences according to their seriousness. However, he wished to draw attention to the fact that many countries were reviewing the provisions of their penal law which covered drug offences. It was therefore important to make the provisions concerning extradition, and, therefore, those of subparagraph (b)(iv), somewhat flexible.

74. Mr. CASTRO (Mexico) said that he would abstain on subparagraph (b)(iv), because it limited the right of a party to refuse extradition to cases where the offence was not considered very serious. Seriousness was not the only criterion to be applied in matters of extradition, because a refusal was often necessary in such a case for political and social reasons. Mexican law, for example, provided for the possibility of disregarding legal opinions in special cases.

75. Mr. BANNA (Lebanon) noted that, according to the arguments put forward by some delegations, the final text of subparagraph (b)(iv) was designed to make extradition measures more flexible, and that the determination of the seriousness of the offence by the competent authorities did not depend exclusively on the law of the party to which application was made. Under such conditions, his Government would not be bound by any more obligations than other Governments.

Paragraph 2 (b)(iv), as proposed by the Drafting Committee, was adopted by 55 votes to none, with 27 abstentions.

ARTICLE 11 (Rules of procedure of the Board) (E/CONF.63/L.5/Add.1)

76. Mrs. RODRIGUEZ MAYOR (Cuba), speaking in explanation of her vote, said that she had abstained because subparagraph (b)(iv) referred to subparagraphs (b)(i), (ii) and (iii), of which her delegation did not approve.

77. Dr. HOLZ (Venezuela), explaining his vote, said that, in conformity with the position adopted by his delegation in Committee II, he had abstained on subparagraph (b)(iv), although he supported subparagraphs (b)(i), (ii) and (iii).

Article 36 as a whole, as amended, was adopted by 71 votes to 3, with 8 abstentions.

ARTICLE 11 (Rules of procedure of the Board) (E/CONF.63/L.5/Add.1)

78. The PRESIDENT pointed out that the amendment proposed in the report of the Drafting Committee (E/CONF.63/L.5/Add.1) related only to paragraph 3 of article 11, and that its purpose was to replace the words “seven members” by the words “eight members”. He put to the vote the text of paragraph 3 of article 11.

Paragraph 3 of article 11, as proposed by the Drafting Committee, was adopted by 82 votes to none.

Article 11 as a whole, as proposed by the Drafting Committee, was adopted unanimously.
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ARTICLE 24 (Limitation on production of opium for international trade) (concluded)

79. Mr. GROSS (United States of America) said that, as a result of consultations held by the sponsors of the amendments to article 24 and several other delegations, those amendments were withdrawn.

The meeting rose at 12.30 p.m.

NINTH PLENARY MEETING
Wednesday, 22 March 1972, at 3.10 p.m.
President: Mr. ASANTE (Ghana)

AGENDA ITEM 11
Consideration of all amendments proposed to the Single Convention on Narcotic Drugs, 1961 (continued)
(E/CONF.63/2, E/CONF.63/5 and Add.1-6, E/CONF.63/6)

REPORT OF THE DRAFTING COMMITTEE (continued)
(E/CONF.63/L.5/Add.2-4)

ARTICLE 19 (Estimates of drug requirements) (E/CONF.63/L.5/Add.2)

Paragraph 1

Sub-paragraph (e)

Sub-paragraph (e), as proposed by the Drafting Committee, was adopted by 56 votes to 8, with 7 abstentions.

Sub-paragraph (f)

1. Mr. ANAND (India) said that, as he had explained on a number of occasions, he was not convinced of the value of, or the need for, the estimates system, especially if it was linked with actual production. Since there appeared to be a majority of members of the Conference in favour of retaining the system, however, the information required should be complete. The requirement under sub-paragraph (f) should include morphine, which was derived from opium.

2. The PRESIDENT said that, if there was no formal amendment or further comment, he would invite the Conference to vote on sub-paragraph (f).

Paragraph 1 (f), as proposed by the Drafting Committee, was adopted by 59 votes to 7, with 9 abstentions.

Sub-paragraphs (g) and (h)

3. Mr. STEWART (United Kingdom) said he wished to explain in advance why he intended to vote against sub-paragraphs (g) and (h). To begin with, they added nothing to the Convention or to the machinery established in it, and while they did not directly weaken the Convention, they could help to weaken it by creating misunderstanding. Then again, he was not himself sure of the meaning of the expression “synthetic drugs” and experts never seemed to agree on it.

4. Article 20 of the International Convention for limiting the manufacture and regulating the distribution of narcotic drugs, signed at Geneva on 13 July 1931, provided for post facto information to be sent to the Secretary-General on the manufacture or conversion of drugs together with the names and addresses of authorized persons and firms. The same obligation remained under the 1961 Convention and the Secretary-General’s note entitled “Manufacture of narcotic drugs”, dated 3 September 1971, contained the latest information provided by each party to the Convention on the manufacture of narcotic drugs, the drugs authorized to be manufactured or converted, the purpose, the amounts manufactured or converted and the names and addresses of the firms concerned. As indicated on page 37, of the note, 13 establishments in the United Kingdom were named for 1939 and he would estimate the same number for 1972. For the Union of Soviet Socialist Republics, his estimate would be 2, in accordance with page 36 of the note. Sub-paragraph (g) was superfluous, because there was no need for estimates when the facts were available and had to be communicated to the Board. Facts were better than forecasts, which often proved wrong.

5. He had been authorized to speak on behalf also of the delegations of Belgium, France and the Federal Republic of Germany, Italy, Luxembourg and the Netherlands, which would join his own delegation in voting against the sub-paragraphs.

6. Dr. EDMONDSON (Australia), said that he would abstain in the vote not only on sub-paragraphs (g) and (h) but also on paragraphs 2 (a) and (c), because, in his delegation’s opinion, it would be impossible to apply those provisions unless the term “synthetic drugs” was defined.

7. Mr. KIRCA (Turkey) suggested that the wording of the French version be amended to conform with the English version, which used the present participle “manufacturing”.

8. Mr. de BOISSONSEN (France) said that the French version used the future tense, which was correct, because it was a question of estimates.

9. Mr. KIRCA (Turkey) suggested that the English version be changed to the future tense.

Mr. Nikolić (Yugoslavia), first Vice-President, took the Chair.

Paragraph 1 (g), as proposed by the Drafting Committee, was adopted by 44 votes to 19, with 15 abstentions.

10. Dr. JOHNSON-ROMUALD (Togo), explaining his vote, said that he had voted in favour of sub-paragraph (g) and would vote in favour of sub-paragraph (h) because he believed that estimates, although their value might be debatable, should include synthetic drugs. He did not consider that the difficulty of defining synthetic drugs was insuperable.

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11. Mr. ANAND (India), explaining his vote, said that he had voted in favour of sub-paragraph (g) and would vote in favour of sub-paragraph (h) for the same reasons as the representative of Togo.

12. Mr. RATON (Deputy Legal Adviser to the Conference) said it was correct that the sentence should be in the future tense.

13. Mr. VINUESA SALTO (Spain) said that in the Spanish version the word "fabrican" should be replaced by the word "fabricardn".

14. The PRESIDENT invited the Conference to vote on paragraph 1(h).

Paragraph 1(h), as proposed by the Drafting Committee, was adopted by 45 votes to 18, with 14 abstentions.

Paragraph 2

Sub-paragraph (a)

15. Dr. JOHNSON-ROMUALD (Togo) said that there were a number of technical errors in sub-paragraphs (a), (b), (c) and (d) which would make their application difficult. He would, however, have confidence in the Board's practical interpretation of any provisions which led to complications as the result of technical errors.

16. Mr. WARNANT (Belgium) said he shared the views of the representative of Togo.

17. Dr. BABAIAIN (Union of Soviet Socialist Republics) said that the Board implemented the provisions of the Convention but was not authorized to interpret them. Interpretation was a matter for the parties and the Conference.

Paragraph 2(a), as proposed by the Drafting Committee, was adopted by 43 votes to 13 with 15 abstentions.

Sub-paragraph (b)

18. Dr. BABAIAIN (Union of Soviet Socialist Republics) said that he would like to hear an explanation why a reference to paragraph 3 of article 21 had been inserted after adoption of the text by Committee I.

19. Mr. WATTLES (Legal Adviser to the Conference), replying to the USSR representative, said that the purpose of paragraph 2 of article 19 was to define the term "total of the estimates" appearing in paragraph 3 and, by reference, in paragraph 4(a) of article 21 of the 1961 Convention and paragraph 1(b) of article 31, in both cases in connexion with the definition of permissible imports.

20. The Drafting Committee, under the rules of procedure adopted by the Conference, had the duty to co-ordinate all the texts adopted. It was evident that article 21 continued to apply to opium, since opium was a drug within the meaning of the 1961 Convention. Since paragraph 3 of article 21 was part of an article applying to opium, it seemed desirable to specify that the deductions referred to in that paragraph should be made. The text needed harmonizing. Since paragraph 2(a) referred to the deductions under paragraph 3 of article 21, it would cause confusion if paragraph 3 of article 21 were mentioned in paragraph 2(a) and not in paragraph 2(b), where the deductions were equally applicable. The Drafting Committee had accordingly added the reference in the interests of co-ordinating the text with article 21 and with the rest of the Convention.

21. Mr. ANAND (India) said that he was opposed to the inclusion of paragraph 2(b). His delegation was opposed to the estimates system and its use generally, but paragraph 2(b) made the position even worse, because it tended to link up estimates which might be completely erroneous with a country's actual production. It also seemed to mix up what was licit with what was illicit, and to interfere with licit production by deducting from it what, in the Board's opinion, might have gone into illicit production. So far as the Indian Government was concerned, production was licit when it came into its possession and that production was accounted for at the present time. Illicit production or illicit diversion, if any, occurred before the opium came into the Government's possession and to penalize a country for the misdeeds, if any, of the actual producers was unwarranted. The provisions were also unsound in that licit production to meet the medical and scientific needs of the world had to be reduced because of the so-called illicit production. Since the whole concept of the link-up was unjustified and the paragraph gave the Board unwarranted power which might well place it in an embarrassing position vis-à-vis a Government if it exercised that power, he would vote against paragraph 2(b).

Paragraph 2(b), as proposed by the Drafting Committee, was adopted by 47 votes to 10, with 26 abstentions.

Sub-paragraph (c)

22. Mr. STEWART (United Kingdom), speaking on behalf of his own delegation and those of Belgium, France, the Federal Republic of Germany, Italy, Luxembourg and the Netherlands, said that they would all abstain on sub-paragraph (c), as it presented certain difficulties for them.

23. Mr. de ARAUJO MESQUITA (Brazil) said that he would abstain in the absence of instructions from his Government.

24. Mr. ANAND (India) said that he would vote against sub-paragraph (c), because it did not contain a reference to paragraph 2 of article 21bis as proposed (E/CONF.36/5), concerning deductions. Illicit diversion could take place at any stage of manufacture or distribution. He could see no reason for discrimination in respect of synthetic drugs, which, as the USSR representative had pointed out earlier, were easier to divert to the illicit traffic than raw opium. The United Kingdom representative's comments, which implied that the estimate system was useless, related to synthetic drugs; the situation was very different as far as large-scale cultivation was concerned. There seemed to be different systems for controlling estimates of raw materials and estimates of synthetic drugs.

Paragraph 2(c), as proposed by the Drafting Committee, was adopted by 40 votes to 13 with 28 abstentions.
Sub-paragraph (d)

Paragraph 2 (d), as proposed by the Drafting Committee, was adopted by 56 votes to 10, with 15 abstentions.

Paragraph 5

Paragraph 5, as proposed by the Drafting Committee, was adopted by 52 votes to 10, with 19 abstentions.

Article 19 as a whole, as formulated by the Drafting Committee, was adopted by 49 votes to 12, with 23 abstentions.

25. Dr. BABAIAN (Union of Soviet Socialist Republics), explaining his vote, said that he had voted against all the amendments to article 19 and against article 19 as a whole, as amended. The system of estimates, as now amended, served no useful purpose; in fact, it complicated the work and the data submitted might lead to the drawing of false conclusions on the basis of which certain measures would be proposed. The attitude of some delegations had been inconsistent, depending on whether or not their own countries' interests were involved. All the necessary provisions were already in the 1961 Convention.

26. Dr. JOHNSON-ROMUALD (Togo), explaining his vote, said he had abstained in the vote on article 19 as a whole, as amended, for the reasons he had given earlier. He had full confidence in the Board's ability to interpret the Protocol and to apply article 19, which did include a number of useful provisions.

27. Mr. ANAND (India), explaining his vote, said that he had voted against article 19 as a whole, as amended, because he considered that the system of estimates served very little purpose in practice. Moreover, the article discriminated against producers of opium to the advantage of manufacturers of synthetic drugs. It also unrealistically linked up estimates with actual production and could place the Board in an embarrassing position vis-à-vis Governments.

28. Mr. KOZLJUK (Ukrainian Soviet Socialist Republic), explaining his vote, said that his misgivings concerning the amendments to article 19 had not been dispelled by the explanations given by the sponsors or by the discussion on them. The data provided would be more than dubious and would cause much unnecessary work. He had voted against article 19 as a whole, as amended, because article 19 of the 1961 Convention was perfectly satisfactory as it stood.

29. Miss SHILLETTO (Jamaica), explaining her vote, said she had abstained in the vote on article 19 as a whole, as amended, because she had not been present when article 19 had been discussed in Committee I and was not sure that she understood the full import of the amendments. Nor was she certain that the amended text fully reflected the views of delegations. She had abstained in the vote on paragraph 1 (g) and (h), because she felt that it would be more useful if the developed countries concentrated on other aspects of the drug situation instead of on the manufacture of synthetic drugs.

30. Mr. WARNANT (Belgium), explaining his vote, said that he had abstained in the vote on article 19 in a spirit of compromise.

AGENDA ITEM 12

Adoption of the Final Act and of an instrument or instruments to give effect to the amendments approved by the Conference

(E/CONF.63/L.1, E/CONF.63/C.2/L.13)

DRAFT OUTLINE OF AN AMENDING PROTOCOL PREPARED BY THE LEGAL ADVISER TO THE CONFERENCE (E/CONF.63/C.2/L.13)

31. The PRESIDENT invited the Legal Adviser to the Conference to introduce the draft outline of an amending protocol which he had prepared at the request of Committee II (E/CONF.63/C.2/L.13).

32. Mr. WATTLES (Legal Adviser to the Conference) said that Committee II had agreed that it was desirable to prepare a dependent protocol which would not contain a full set of obligations and would not obligate the parties to it to observe all the provisions of the 1961 Convention but instead would have the sole purpose of introducing amendments into the Convention. The draft had been prepared on that understanding.

33. He had sketched in the beginning of a preamble only, leaving it to delegations to complete it. Thereafter, he had included some forms of beginnings of articles. The first applied to the case where only one paragraph of the 1961 Convention was to be amended; the second to the case where a whole article was to be amended and the third to the case where a new article had to be inserted. Then came the final clauses, which he had labelled article A, article B, etc., to make reference to them easier.

34. He had provided in article A (Languages of the Protocol and procedure for signature, ratification and accession) that the Protocol should be open for signature by any party to the 1961 Convention. Since the draft had been circulated, he had been told by some delegations that they would prefer a wider formula. He considered that to be perfectly possible, but it would require a consequential amendment to paragraph 2 of article A, where it would have to be specified that it was subject to ratification by the parties to the 1961 Convention. To become a party to or ratify the Protocol alone would be meaningless, because what it would contain would be a series of amendments which would not stand by themselves in a coherent text. Therefore, to become a party to or ratify the Protocol, it would be necessary for a State to have first ratified or acceded to the 1961 Convention.

35. Foot-note 4 relating to article B (Entry into force) indicated that there had been a divergence of views in Committee II with regard to the number of instruments of ratification or accession which should be required to bring the Protocol into force. Paragraph 1 of article B provided that, in general, amendments entered into force at the same time as the Protocol. The last part of paragraph 1 of article B, which was in brackets, had been inserted at the request of a delegation which had thought that it might be desirable to bring amendments affecting only the obligations of States, and not the international administrative system of narcotics, into effect immediately among States which had ratified the Protocol.
36. In the first line of the English text of paragraph 2, the words "or accession" should be inserted after the word "ratification".

37. Article C reproduced a provision of the Vienna Convention on the Law of Treaties, which was thought by Committee II to be particularly pertinent in the situation involved in the amendment of the 1961 Convention.

38. Article D contained transitional provisions adapted from those of the 1961 Convention. He understood that, by a decision of the plenary, the provisions relating to the initial election of members of the Board should also be included in the transitional provisions. The text would follow paragraph 2 of article D of his draft.

39. Article E related to reservations. He had listed two of the provisions relating to the number of members and the length of the terms of office of the Board. The provision relating to the number of members who must concur in a vote to remove a member of the Board, which was in paragraph 4 of article 10, should also be mentioned. He had assumed that any State which wished to become a party to the Protocol would not insist on a separate and different Board from the one which operated the Convention for the rest of the parties.

40. Article F was a fairly traditional provision about certified true copies, both of the Protocol and of the Convention, as amended.

41. He would be happy to answer any questions or to take account of any proposals which delegations might wish to make.

42. Mr. GROS ESPIELL (Uruguay) said that the excellent document prepared by the Legal Adviser to the Conference had enabled Committee II, after a complex technical debate, to reach agreement (18th meeting of the Committee) on the legal form which the instrument to amend the 1961 Convention should take.

43. With regard to paragraph 1 of article A, he agreed that the Protocol should be open for signature only by the parties to the 1961 Convention, since it constituted a subsidiary instrument to that Convention. In view of the numerous translation problems which had arisen in the texts of the amendments which had been approved, should any discrepancies be found, Uruguay would be guided by the provisions of article 33 of the Vienna Convention on the Law of Treaties concerning the interpretation of texts which were equally authentic in two or more languages.

44. As far as paragraph 1 of article B was concerned, his delegation had at first been inclined to think that it might be possible to provide for the Protocol to enter into force when instruments of ratification or accession had been deposited by two-thirds of the present number of parties to the 1961 Convention. However, since hearing the comments of the representative of Israel, he was inclined to agree that the first figure in brackets [fortieth] was preferable. That figure was the same as in article 41, paragraph 1, of the 1961 Convention. He could not support the proviso at the end of paragraph 1, to which footnote 5 referred.

45. With regard to paragraph 2 of article B, the word "fortieth" should again be retained.

46. He had no comment on articles C and D.

47. In the case of article E, he thought it would be improved if it were worded more or less in the form: "Reservations shall be accepted in respect of any amendment contained in the Protocol other than the amendments to...". There would be three specific references, so as to include the three provisions to which the Legal Adviser to the Conference had referred.

48. He had no comments on article F.

49. The PRESIDENT invited the Conference to consider the Legal Adviser's draft article by article.

50. Mr. VAILLE (France) suggested that the Conference first adopt the title of the instrument: "Protocol amending the Single Convention on Narcotic Drugs, 1961". The title proposed by the Legal Adviser to the Conference was adopted unanimously.

51. Dr. BABAIAN (Union of Soviet Socialist Republics) suggested that discussion of the preamble and articles 1, 2 and 3 be postponed until later. It was so agreed.

52. Dr. AZARAKHCH (Iran), said he was not altogether satisfied with the limitation of signature of the Protocol to parties to the 1961 Convention. He therefore proposed that the following phrase be added at the end of paragraph 1: "or of any other State invited to and represented at the United Nations Conference to consider amendments to this Convention".

53. Dr. CARVALLO (Venezuela) said that, although he sympathized with the Iranian amendment, it would be more practical not to introduce it into article A, since the Protocol was obviously dependent on the 1961 Convention, and countries bound by the Protocol must also be bound by the 1961 Convention.

54. Mr. KIRCA (Turkey) said he saw no legal basis for the Iranian amendment. Iran should be urged to ratify the 1961 Convention before 31 December 1972, so that it could sign the Protocol.

55. Mr. WATTLES (Legal Adviser to the Conference) said that there was no major difficulty in accepting the Iranian amendment. It would be more practical not to introduce it into article A, since the Protocol was obviously dependent on the 1961 Convention, and countries bound by the Protocol must also be bound by the 1961 Convention.

56. Mr. OTHMAN (Libya) said he did not understand what point there could be in a non-party to the Single Convention signing the Protocol.

57. Mr. VINUESA SALTO (Spain) said he agreed with the Venezuelan representative that, since the Protocol was dependent on the 1961 Convention, it would be illogical for a country to become a party to the Protocol if it was not already party to the Convention. The Turkish representative had rightly pointed out that any State could become a party to the Protocol by first acceding to the 1961 Convention. Although the suggestion of
the Legal Adviser to the Conference might avoid a formal difficulty, an illogical situation would still be created.

58. Dr. AZARAKHCH (Iran) said that Iran had signed the 1961 Convention and was on the point of ratifying it. The ratification process would, however, be facilitated if it could sign the Protocol and submit it to Parliament for ratification at the same time as the Convention. It was difficult to see why countries which, under the present proposal, would be precluded from signing the Protocol, had been invited to the Conference.

59. Dr. BABAIAN (Union of Soviet Socialist Republics) said that article A was quite correctly worded, since it was obvious that the basic obligations arose out of the 1961 Convention and not from the Protocol, which was dependent on the Convention. By signing the Protocol, Governments which were not parties to the Convention would be assuming obligations which were not binding on them.

60. Mr. CALENDA (Italy) said that, although the Turkish and USSR thesis was formally tenable, the object of the Protocol was to enlist as many countries as possible in the performance of certain actions to combat the production and abuse of drugs. The purpose of the Iranian amendment was to eliminate the difficulties entailed in submitting two separate instruments for ratification. In that respect, Italy was in roughly the same situation as Iran.

61. Mr. KIRCA (Turkey) said that the Conference was not concerned with the domestic ratification procedures of individual States. Signature of the Protocol by non-parties to the Convention would not necessarily speed up those procedures; the States concerned could accede to the Protocol at the same time as they ratified the 1961 Convention, and would then be bound by both instruments.

62. Mr. OZGUR (Cyprus) suggested that the Iranian and Italian positions might be met by inserting the words "or signatory" after the words "any Party", at the end of paragraph 1.

63. Mr. VINUESA SALTO (Spain), supported by Mr. GROS ESPIEL (Uruguay), said that the provisions of article C eliminated the need for two processes of ratification. In that respect, Italy was in roughly the same situation as Iran.

64. Mr. WINKLER (Austria) said that his delegation could accept article A as it stood, although Austria was in a similar position to Iran and Italy and had not even signed the 1961 Convention. He had been convinced by the Turkish representative’s arguments, and believed that two bills would have to be passed through Parliament in any case.

65. On the other hand, he could not agree with the Spanish and Uruguayan representatives concerning the applicability of article C, since the procedure of acceding to the Protocol after it had entered into force would undoubtedly take a long time.

66. Dr. AZARAKHCH (Iran) said he could accept the suggestion of the representative of Cyprus and submitted it to the Conference as a formal proposal.

67. Mr. ROSENNE (Israel) said he had understood that articles A and C referred to international, not domestic, ratification procedures.

68. He was glad the Iranian representative had accepted the suggestion of the representative of Cyprus, which offered a satisfactory solution to the problem of adopting a clause which would facilitate the participation of States in both the Convention and the Protocol.

69. Mr. SURIAAMIDJAJA (Indonesia) said he supported the Iranian amendment, since Indonesia was in much the same situation as Iran.

70. Mrs. ABOU STEIT (Egypt) said that she too supported the Iranian proposal. Moreover, her delegation considered that there should be additions to paragraphs 2 and 3 to the effect that the Secretary-General should inform the parties to the Convention of the deposit of instruments of ratification and accession.

71. Mr. RANGEL de BAEZ (Panama) said he was in favour of the Iranian amendment, since the purpose of the Conference would be thwarted if signature of the Protocol were confined to the parties to the Convention.

72. Dr. AZARAKHCH (Iran) said that the French version of his amendment would read "... à la signature de toutes les Parties à la Convention unique et de tous ses signataires".

73. Mr. WATTLES (Legal Adviser to the Conference) said he would like to repeat his suggestion that the words "by any party to the Single Convention" should be added at the end of the first sentence of paragraph 2.

74. In reply to the Egyptian representative, he said that the Secretary-General's practice with regard to notifications in treaty matters had become very comprehensive and was now clearly established after 26 years of experience. Any action taken in that regard was automatically notified to all States Members of the United Nations, irrespective of any specific provision to that effect in the instrument in question.

75. Dr. BABAIAN (Union of Soviet Socialist Republics) said that, before a vote was taken on the Iranian amendment, he would like the Legal Adviser to the Conference to explain what the situation would be if a country ratified the Protocol and not the Single Convention.

76. Mr. WATTLES (Legal Adviser to the Conference) said that a State which ratified the Protocol and not the Convention would be bound by no obligations. That was why he had suggested an addition to paragraph 2 which would limit ratification of the Protocol to the parties to the Convention.

77. The PRESIDENT invited the Conference to vote on the Iranian amendment to insert the words "or signatory" after the words "any Party", in paragraph 1 of article A.

The Iranian amendment was adopted by 54 votes to 17, with 13 abstentions.

78. Dr. BABAIAN (Union of Soviet Socialist Republics), explaining his vote, said that he had voted against the amendment because a situation in which a State could sign the Protocol without thereby assuming any obligations was contrary to international law.

79. Dr. CARVALLO (Venezuela), explaining his vote, said that, in his opinion, the Conference had committed a legal error in adopting the Iranian amendment. Nevertheless, that error would be partially rectified by accept-
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80. Mr. KIRCA (Turkey), explaining his vote, said that he had voted against the amendment because his Government feared that an unfortunate precedent might thereby be created in the entire procedure of drawing up international treaties. He wished it to be placed on record that that precedent could not be invoked against Turkey at any international conference.

81. Mr. GROS ESPIELL (Uruguay), Mr. DURRIEU (Argentina) and Mr. VINUESA SALTO (Spain) said they associated themselves with the views expressed by the USSR, Venezuelan and Turkish representatives.

82. Mr. CASTRO (Mexico), explaining his vote, said he had abstained in the vote in order not to take any part in a decision which would set an unfortunate precedent for international conferences.

83. Mr. TANOE (Ivory Coast), explaining his vote, said he had voted for the amendment, despite the legal error it seemed to entail, because he believed that the amendment should be associated with the suggestion of the Legal Adviser to the Conference. If that suggestion were adopted, the decision could not be invoked as a precedent at any international conference.

84. Dr. JOHNSON-ROMUALD (Togo), explaining his vote, said that he had abstained in the vote because, although he sympathized with the motives of the amendment, he agreed with the arguments of those who had voted against it.

85. Mr. MAWHINNEY (Canada) said he could not agree that a legal error had been committed, since the Legal Adviser to the Conference had stated that the Egyptian amendment was acceptable with the proviso that the Protocol was subject to ratification by parties to the Convention.

86. Mrs. ABOU STEIT (Egypt) said that, following the adoption of the Iranian amendment, the text of paragraph 1 was fully satisfactory to her delegation. She saw no reason to alter the wording of paragraph 2 in the manner suggested by the Legal Adviser to the Conference; that change of wording would create a situation in which a State, being a signatory to the 1961 Convention, would be given the right to sign the amending Protocol but would at the same time be deprived of the right to ratify it. She did not believe that in fact any State would want to ratify the Protocol by itself.

87. The proposed rewording of paragraph 2 would involve a further complication. It would require a State to be a party to the Convention before it could ratify the amending Protocol, and article 41, paragraph 2, of the 1961 Convention stated that it came into force in respect of a ratifying State only "on the thirtieth day after the deposit by that State of its instrument of ratification". The result would thus be that the State concerned would have to wait unnecessarily for 30 days before it could ratify the amending Protocol. There was no good reason for such a complication.

88. Mr. ROSENNE (Israel) said that his delegation shared the views of the Canadian delegation. He saw no justification for the suggestion that the Conference had somehow made a legal error. Being a conference of plenipotentiaries, it had the sovereign right to take decisions and it had decided to open the amending Protocol for signature on behalf of any party or signatory to the 1961 Convention.

89. He would like to place it on record that, when he had cast his vote in favour of the Iranian amendment, he had done so on the assumption that the consequential amendment indicated by the Legal Adviser to the Conference would be made to paragraph 2.

90. Dr. HOLZ (Venezuela) said that he agreed with the statement by the representative of Israel that the Conference had the sovereign right to take any decision. His delegation had only intended to point out that the adoption of the Iranian amendment ran counter to international treaty practice. He therefore urged that the Conference should either reconsider its decision or at least insert in paragraph 2 the amendment suggested by the Legal Adviser to the Conference.

91. Mr. KOZLJUK (Ukrainian Soviet Socialist Republic) said that he regretted he was unable to agree with the Egyptian representative. He believed that the adoption of the Iranian amendment had created an undesirable precedent and he supported the views expressed by the representatives of Turkey, the USSR and Venezuela.

92. Mr. KIRCA (Turkey) said that the innovation in international treaty practice reflected in the adoption of the Iranian amendment created serious legal problems, to which the representative of the USSR had already drawn attention. The rectifying formula suggested by the Legal Adviser to the Conference had certain drawbacks. One was that it dealt only with the case of a State which had signed and ratified the Convention, but not with the case of a State which had acceded to it. Another was that it could be interpreted as meaning that a State which was only a signatory to the Convention and not therefore a Party to the Single Convention would have the right to ratify the Protocol.

93. He therefore suggested that no change be made in the first sentence of paragraph 2 but that an additional sentence be introduced at the end of the paragraph, to specify that a signatory which was not a party to the Convention might not ratify the amending Protocol before it became a party to the Convention. A consequential amendment would be made in article C by the insertion of an additional paragraph to deal with the problem raised by the Egyptian representative.

94. He would like to ask the Legal Adviser to the Conference whether the innovation that had just been made had been considered at any stage of the United Nations work on the codification of the law of treaties, either by the International Law Commission or by the United Nations Conference on the Law of Treaties held at Vienna in 1968 and 1969.

95. Mr. CALENDA (Italy) said that his delegation shared the views expressed by the representatives of Canada and Israel, and to some extent also those of the Egyptian representative.

96. Mr. WATTLES (Legal Adviser to the Conference), replying to the Turkish representative, said that neither the International Law Commission nor the United Nations Conference on the Law of Treaties had contem-
plated in the course of their work the possibility that a country might become a party to an amending protocol without being already a party to the amended convention. Such a situation would not have much meaning in international law. Both the Commission and the Conference had dealt with the case where the parties to a convention concluded an amending instrument to that convention.

97. He agreed that it would be necessary to consider in paragraph 2 the case not only of a State which ratified the 1961 Convention but also that of a State which acceded to it.

98. The PRESIDENT invited the Conference to vote on paragraph 1 as a whole, as amended by the adoption of the Iranian amendment.

Paragraph 1 of article A, as a whole, as amended, was adopted by 47 votes to 10, with 22 abstentions.

99. Dr. BABAIAN (Union of Soviet Socialist Republics), explaining his vote, said that since he had voted against the Iranian amendment, he had been obliged to abstain from voting on paragraph 1 as a whole, although his delegation supported the essential contents of that paragraph, to the effect that the Chinese, English, French, Russian and Spanish texts of the Protocol were equally authentic and that the Protocol would be open for signature until 31 December 1972.

100. Mr. GROS ESPIELL (Uruguay), explaining his vote, said that, although he too agreed with the basic contents of paragraph 1, he had been unable to vote in favour of that paragraph because, as he had already stated, a mistake had been committed in departing from established practice with regard to the States which could become parties to an instrument amending an earlier convention. His view had been borne out by the statement of the Legal Adviser to the Conference that neither the International Law Commission nor the United Nations Conference on the Law of Treaties had envisaged the possibility that an amending protocol might be open for signature and ratification by a State which was not a party to the treaty which the protocol was intended to amend.

101. He was deeply concerned that such important matters of international law and treaty practice should be treated somewhat lightly in a hurried debate on an oral amendment submitted to a Conference of plenipotentiaries just as it was about to vote on the final text of an important international treaty. He would therefore not participate in the votes on the various paragraphs of article A, although his delegation had no objection to the substance of such a standard final clause.

102. Dr. SHIMOMURA (Japan), explaining his vote, said that his delegation had voted in favour of the Iranian amendment, and also in favour of paragraph 1 as amended, but on the clear understanding that the first sentence of paragraph 2 would be amended in the manner suggested by the Legal Adviser to the Conference.

103. Mr. KIRCA (Turkey), explaining his vote, said that, for the reasons already stated by the Uruguayan representative, he had been obliged to vote against paragraph 1 as a whole, as amended, although his delegation did not object to the essential statement in the paragraph.

104. Dr. BÖLCS (Hungary), explaining his vote, said that he had been obliged to vote against paragraph 1 as a whole because of the introduction of the Iranian amendment. His delegation favoured the original text of paragraph 1 as proposed by the Legal Adviser to the Conference.

105. Mr. DURRIEU (Argentina), explaining his vote, said that he had been obliged to vote against paragraph 1 as a whole because of the adoption of the Iranian amendment.

106. Dr. HOLZ (Venezuela), explaining his vote, said that he too had voted against paragraph 1 as a whole because of the adoption of the Iranian amendment. He hoped that, on mature consideration, the Conference would to some extent correct its mistake by amending paragraph 2 on the lines suggested by the Legal Adviser to the Conference.

107. Mr. de ARAUJO MESQUITA (Brazil), explaining his vote, said that he had voted in favour of paragraph 1, as a whole, as amended, because for him the amendment was simply intended to speed up the process of ratification; it was his understanding that, in order to become a party to the Protocol by ratification or accession, a State would have to be a party to the 1961 Convention.

108. Mr. BRILLANTES (Philippines), explaining his vote, said that he agreed with the remarks of the Japanese representative. He had voted in favour of paragraph 1 as a whole, as amended, on the understanding that paragraph 2 would be amended by introducing the formula suggested by the Legal Adviser to the Conference.

109. Mr. di MOTTOLA (Costa Rica), explaining his vote, said that he had voted in favour of paragraph 1 as a whole, as amended, on the understanding that the amendment was simply intended to speed up the process of ratification; as a country's ratification of its signature to the 1961 Convention was still pending in 1972, 11 years later, every effort should be made to facilitate that ratification and to remove any complications that might arise from the existence of an amending protocol to which that same State wished to accede.

110. All that the innovation meant was that, if a State had signed but had not yet ratified the 1961 Convention, its Government would be able to obtain simultaneously the necessary parliamentary approval for ratification of the Convention and for accession to the amending Protocol. In view of the urgency of the drug problem and of the humanitarian considerations involved, that innovation was a desirable one. If a country's ratification of its signature to the 1961 Convention was still pending in 1972, 11 years later, every effort should be made to facilitate that ratification and to remove any complications that might arise from the existence of an amending protocol to which that same State wished to accede.

111. Mr. GOMEZ (Colombia), explaining his vote, said that he had voted in favour of paragraph 1 as a whole, as amended, for the reasons stated by the Brazilian representative.

112. Mr. LAM JAY (Mongolia), explaining his vote, said that he had voted against paragraph 1 as a whole because of the adoption of the Iranian amendment. His delegation favoured the original text.
113. Mr. PETROV (Bulgaria), explaining his vote, said that he had voted against paragraph 1 as a whole because he was opposed to the Iranian amendment, but he approved the essential contents of the paragraph.

114. Mr. LEDEBUR (Liechtenstein), explaining his vote, said that he had voted in favour of the Iranian amendment because his country had signed but had not yet ratified the 1961 Convention. He had voted, however, against paragraph 1 as a whole because of the legal difficulties to which the representatives of the USSR and Turkey had drawn attention. He hoped that the Conference would remove those difficulties by including in paragraph 2 the formula suggested by the Legal Adviser to the Conference.

Paragraph 2

115. Mr. de BOISSÉSON (France) said that he had voted in favour of the Iranian amendment to paragraph 1 in order to make the Protocol open for signature by the largest possible number of States. It was obvious, however, that a State which was not bound by the Convention could not become a party to the amending Protocol. In order to reflect that idea, he proposed that the first sentence of paragraph 2 be amended to read: “This Protocol is subject to ratification by States which have signed it and have ratified or acceded to the Single Convention” (“Le présent Protocole est soumis à la ratification des États qui l'ont signé et qui ont ratifié la Convention unique ou y ont adhéré”).

116. Mr. WATTLES (Legal Adviser to the Conference) said that the formula proposed by the French representative coincided exactly in substance with the suggestion he himself had made earlier in the meeting.

117. Mr. GROSS (United States) said that in that case he would support the French proposal.

The French amendment to the first sentence of paragraph 2 was adopted by 73 votes to none, with 3 abstentions.

Mr. Asante (Ghana) resumed the Chair.

118. Dr. HOLZ (Venezuela), explaining his vote, said that he had abstained from voting on the French amendment because, although his delegation approved of the contents of article A, the error made in amending paragraph 1 still subsisted.

119. Dr. BABAİAN (Union of Soviet Socialist Republics), explaining his vote, said that he had voted in favour of the French amendment because it was a legal consequence of the action taken by the Conference earlier, and because it partly rectified the error which had been committed in amending paragraph 1.

Paragraph 2 of Article A, as a whole, as amended, was adopted by 74 votes to none, with 3 abstentions.

Paragraph 3

Paragraph 3 of article A was adopted by 76 votes to none.

Article A as a whole, as amended, was adopted by 62 votes to none, with 17 abstentions.

ARTICLE B (Entry into force)

Paragraph 1

120. Mr. KIRCA (Turkey) said that his delegation wished to propose, as a logical consequence of the amendments which the Conference had adopted with respect to article A, the addition, after the words “with article A”, of the words: “by Parties to the Single Convention”.

121. Mr. de BOISSÉSON (France) said that he had some difficulty with the Turkish proposal, since the effect of his own delegation’s amendment to paragraph 2 of article A was that the Protocol should be ratified by States which had ratified the Convention but which were not necessarily parties to the Convention. A State could not become a party to the 1961 Convention until 30 days after the deposit of its instrument of ratification. The effect of the Turkish proposal would be that, with respect to the entry into force of the Protocol, no account would be taken of the instrument of ratification deposited by a State which had ratified the Convention but which would not become a party thereto until the 30-day waiting period had elapsed. It did not seem desirable to eliminate from the total number of instruments of ratification received, the instrument deposited by a State in an intermediate position of that kind. His delegation could not accept the Turkish proposal.

122. Mr. KIRCA (Turkey) said that a specified number of ratifications was required in order for the amendments to enter into force. If a State which had ratified the 1961 Convention, or acceded thereto, without being bound by its provisions could, by the fact of depositing its instrument of ratification or accession, speed up the entry into force of the amendments, it would be illogical, because that State would not yet be bound by those amendments. In order to be bound by the provisions of the Protocol, the State would have to wait until 30 days had elapsed. Some States would find themselves bound by the amending Protocol, since they were parties to the Single Convention and parties to the Protocol, by virtue of the deposit of an instrument of ratification or accession by a State not yet bound by the Convention. Important legal difficulties could therefore arise.

123. In his delegation’s view, the most appropriate solution would be to include in article C a paragraph stating that the time-limit laid down in paragraph 2 of article 41 would not apply to States which were only signatories to the Convention at the time of signature of the Protocol.

124. Mrs. ABOU STEIT (Egypt) said that a country which was merely a signatory to the 1961 Convention and which had signed the Protocol as well could not deposit both instruments of ratification at the same time. If that State were counted among the 40 States required for the Protocol to come into force, States which were not bound by the Convention would not be bound by the Protocol, because the same number of days were required for the coming into force of the Convention and of the Protocol. The Turkish delegation’s point would therefore be met by the present text of the paragraph.

125. Mr. KIRCA (Turkey) said that his delegation had not been convinced by the Egyptian representative’s argument and maintained its proposal.
126. Mr. GROSS (United States of America) asked whether the Legal Adviser to the Conference considered the Turkish proposal necessary or whether the present text was sufficient to cover the situation.

127. Mr. WATTLES (Legal Adviser to the Conference) said he thought that the Turkish proposal was unnecessary for the reasons given by the Egyptian representative, whose views he entirely shared.

128. Dr. HOLZ (Venezuela) said he thought that the Turkish proposal deserved attention, especially since the Legal Adviser to the Conference had informed the Conference that the Protocol was a legal instrument dependent on the 1961 Convention. The article should therefore refer to the parties to the Convention.

129. Dr. BABAIAN (Union of Soviet Socialist Republics) said he thought that the Turkish proposal was appropriate. He believed that the passage in brackets in paragraph 1 were adopted, then certain provisions would go into force without any delay.

130. Mr. WATTLES (Legal Adviser to the Conference) said that the effect of signature of a treaty depended on its final clauses. Under the final clauses of the 1961 Convention and of the Protocol as now drafted, signature did not have the effect of binding signatory States.

131. Mr. BEEDLE (United Kingdom) said that he understood the Turkish delegation's position. He did not agree with the Turkish proposal, however. The United Kingdom delegation was convinced by the reasons given by the Egyptian representative that, if the articles came into force only as between the parties ratifying the Protocol, no disadvantage would be involved for parties to the Convention which had not yet found it possible to ratify the Protocol. His delegation would therefore vote against the Turkish proposal.

132. As the Turkish representative had pointed out, the provisions of the Protocol could be brought into force with respect to parties to the 1961 Convention on an action taken by States which were not parties to the Convention before they ratified the Protocol. The United Kingdom delegation was convinced by the reasons given by the Egyptian representative that, if the articles came into force only as between the parties ratifying the Protocol, no disadvantage would be involved for parties to the Convention which had not yet found it possible to ratify the Protocol. His delegation would therefore vote against the Turkish proposal.

133. Mr. ROSENNE (Israel) said that his delegation entirely shared the views of the Egyptian representative.

134. Dr. BABAIAN (Union of Soviet Socialist Republics) said that if the words in brackets in paragraph 1 were adopted, then certain provisions would go into force without any delay.

135. Mr. GROS ESPIELL (Uruguay) said that his delegation agreed the Turkish representative.

136. On a point of procedure, he thought that the Legal Adviser to the Conference should not be asked to give an opinion on whether an amendment proposed by a sovereign State Member of the United Nations was appropriate or not. The function of the Legal Adviser to the Conference was to supply general information on questions of international law, and not to pass judgment on measures proposed by sovereign States.

137. The PRESIDENT invited the Conference to vote on the Turkish proposal to add after the words “with article A”, the words “by Parties to the Single Convention”.

138. The word “fortieth” was adopted by 58 votes to 9, with 2 abstentions.

139. The Turkish amendment was rejected by 37 votes to 23, with 19 abstentions.

140. The PRESIDENT invited members to decide which of the words “fortieth” or “fifty-fifth”, at present within brackets, should be retained.

141. Dr. BABAIAN (Union of Soviet Socialist Republics) said that his delegation had abstained because article A had been amended in a way it considered to be contrary to international law. In his delegation's view, only parties to the 1961 Convention which had assumed obligations under that instrument could be parties to the Protocol. In the same way, his delegation believed that the 40 States ratifying the Protocol should be parties to the 1961 Convention and be bound by it.

142. Paragraph 2 of article B was adopted by 68 votes to none, with 10 abstentions.

143. Article B as a whole, as amended, was adopted by 59 votes to none, with 19 abstentions.
related to the number of instruments of ratification or accession, without prejudice to States which were parties by virtue of a declaration of succession made in accordance with what was now customary practice in the United Nations.

The meeting rose at 8 p.m.

TENTH PLENARY MEETING
Thursday, 23 March 1972, at 9.35 a.m.
President: Mr. ASANTE (Ghana)

AGENDA ITEM 12
Adoption of the Final Act and of an instrument or instruments to give effect to the amendments approved by the Conference (continued)
(E/CONF.63/L.1, E/CONF.63/C.2/L.13)

DRAFT OUTLINE OF AN AMENDING PROTOCOL PREPARED BY THE LEGAL ADVISER TO THE CONFERENCE (continued)
(E/CONF.63/C.2/L.13)

ARTICLE C (Effect of entry into force)
1. The PRESIDENT invited the participants to comment on article C (E/CONF.63/C.2/L.13). Since no comments were forthcoming, he put article C to the vote.

Article C was adopted by 54 votes to none.

ARTICLE D (Transitional provisions)
2. The PRESIDENT indicated that, if article D was adopted in its present form, the second paragraph (second version) and the third paragraph of article 10, as proposed by the Drafting Committee (E/CONF.63/L.5/Add.1) would be added to it and would constitute paragraphs 3 and 4 of the article relating to transitional provisions.

3. Mr. RATON (Deputy Legal Adviser to the Conference) read out the second and third paragraphs of article 10, which the Conference had already adopted at the 7th plenary meeting by 88 votes to none, with 1 abstention, and by 84 votes to none, with 1 abstention, respectively.

4. Mr. BRILLANTES (Philippines) requested that the Conference should take a decision on his delegation's proposal to add to article 10 a provision reading as follows: "The first election after the increase in the membership of the Board shall take place at the expiration of the term of the present members" (see E/CONF.63/L.5/Add.1, foot-note 2).

5. Mr. WATTLES (Legal Adviser to the Conference) said that he saw some difficulty in stating that elections would take place at the expiration of the term of the present members, since there might not be a sufficient number of parties to the Protocol by then and, consequently, its provisions would not have come into force. Indeed, it might not enter into force until after the second or even the third election.

6. Mr. BRILLANTES (Philippines) said that he would not press his proposal.

7. The PRESIDENT put to the vote the text of article D as it appeared in the draft outline preferred by the Legal Adviser to the Conference, with the addition of the second paragraph (second version) and the third paragraph of article 10, as set out in the report of the Drafting Committee.

Article D, with that addition, was adopted by 67 votes to none.

ARTICLE E (Reservations)
8. Mr. WATTLES (Legal Adviser to the Conference) said that if the Conference applied the principle that no reservation was allowed in respect of articles concerning the composition, size and functions of the Board, a reference to article 11, paragraph 3, would have to be added at the end of article E.

9. Mr. GROSS (United States of America), recalling the discussion held and the votes taken on article 14 in the plenary Conference, in Committees I and II and in the Working Group, proposed that article 14, paragraphs 1 and 2, article 19 and article 21bis should be added to those articles in respect of which reservations were allowed under article E. He also proposed that the following articles, in respect of which no reservation would be allowed, should be enumerated in article E of the draft Protocol: article 2, article 9, paragraphs 1, 4 and 5, article 10, paragraphs 1 and 4, and articles 11, 12, 14bis, 16, 20, 22, 35, 36 and 38, as well as the Costa Rican proposal (E/CONF.63/C.1/L.20), if it was adopted.

10. Mr. CASTRO (Mexico) referred to the position taken by his delegation on amendments which permanently modified the administrative structure provided for in the 1961 Convention, namely, the amendments to articles 9, 10 and 16. He said that those articles should be regarded as not forming part of the Protocol, in order to avoid the administrative structures being understood differently, depending on whether or not countries had signed the Protocol.

11. Mr. KIRCA (Turkey) proposed that article 36, paragraph 2(b), relating to extradition—a provision which required thorough study by the Turkish authorities—should be added to the list of articles in respect of which reservations could be made at the time of signature. Otherwise, his delegation could not sign the Protocol immediately; other delegations were perhaps in the same position.

12. Dr. BABAIA (Union of Soviet Socialist Republics) pointed out that the Conference had yet to examine in plenary several articles to which changes, which could lead delegations to review their position, might be made. He requested that reservations should be allowed in respect of certain articles until such time as members of the Conference knew exactly what alternative was being proposed with regard to those provisions. Article 12, paragraph 5, for example, presented difficulties for his delegation.
13. The PRESIDENT said that, if there was no objection, the Conference would adjourn the discussion of article E until it had completed its consideration of the remaining amendments.

That proposal was adopted without objection.

ARTICLE F

Article F was adopted by 72 votes to none, with 2 abstentions.

14. Mr. VINUESA SALTO (Spain) said that he was sorry to revert to the article just voted on, but he thought he should point out that, in consequence of the amendment to article A adopted by the Conference at the 9th plenary meeting, it seemed essential that a certified true copy of the Protocol should be transmitted also to all signatories to the 1961 Convention. The words "and to the signatories to the said Convention" should therefore be added at the end of the first sentence of article F.

15. The PRESIDENT said that, since that amendment was of a technical nature, the Spanish representative's proposal could be considered, if the members of the Conference had no objection.

16. Mr. WATTLES (Legal Adviser to the Conference) said that the proposed modification was of a technical nature and arose from an earlier amendment; custom required that a certified true copy be sent to any State which signed the Convention or became a party to it.

17. Mr. KIRCA (Turkey) requested that the word "notify" should be used instead of "transmit" in article F, so as to follow the terminology used in article 51 of the 1961 Convention.

18. Mr. ROSENNE (Israel) pointed out that the article of the 1961 Convention which corresponded to article F was not article 51. Article F related to copies intended for the national archives of States.

19. Mr. KIRCA (Turkey) said that he would not press his amendment.

20. The PRESIDENT invited the Conference to take a decision on the Spanish amendment, which called for the addition of the words "and signatories" after the word "Parties" in the first sentence of article F.

The Spanish amendment was adopted unanimously.

AGENDA ITEM 11

Consideration of all amendments proposed to the Single Convention on Narcotic Drugs, 1961 (continued)

E/CONF.63/2. E/CONF.63/5 and Add.1-6, E/CONF.63/6

REPORT OF THE DRAFTING COMMITTEE (continued)

E/CONF.63/L.5/Add.3

ARTICLES 14 (Measures by the Board to ensure the execution of provisions of the Convention) (E/CONF.63/ L.5/Add.3)

Paragraph 1

Sub-paragraph (a)

21. Mr. KIRCA (Turkey) drew attention to an error in the English and French versions of paragraph 1 (a) of article 14 as proposed by the Drafting Committee (E/CONF.63/L.5/Add.3): the Drafting Committee had decided to replace, after the words "a request for information" in the last sentence of sub-paragraph (a), the word "or" by the word "and". He said that that error should be rectified.

It was so decided.

22. Mr. KIRCA (Turkey) recalled further that it had been decided to replace in the first line of the French text of sub-paragraph (a), the expression "sur la base d'un examen" by the expression "après examen", which was used in the present text of article 14 of the 1961 Convention. In that case also, the text should be modified in accordance with the decision taken.

It was so decided.

23. Mr. KIRCA (Turkey) then proposed that the word "confidentielle" in the last sentence of the French text of paragraph 1 (a) as proposed by the Drafting Committee should be put in the plural, as the matter had been discussed in the Drafting Committee and it had been agreed that that adjective applied to the request for information, the explanation given, the proposal for consultations and the consultations held; he wished to point out that the request for information and the explanation constituted the first procedure, the proposal for consultations and the consultations themselves the second.

Mr. Nikolić (Yugoslavia), first Vice-President, took the Chair.

24. Dr. BABAIAN (Union of Soviet Socialist Republics) asked for some clarification of the confidential nature of the procedures; was it a matter of a case being settled between the country concerned and the Board, to the exclusion of other countries, or did it mean that the Board would not disclose its sources of information even to the country concerned? His delegation considered that if the Board had information which led it to believe that the drug situation in a country was unfavourable, it should communicate both the information and its source to that country.

25. Mr. KIRCA (Turkey) found the Soviet representative's view perfectly logical; if a Government was to be able to give explanations to the Board, it had to be aware of the information in question and know its source. In his view, however, there was no need to alter the text of article 14 in order to make the point clear; it would be sufficient if that explanation appeared in the summary record of the present meeting.

26. Mr. WARNANT (Belgium) said that he agreed with the Turkish representative's remarks in reply to the Soviet representative's point. He would like to know what exactly was the relationship between the two distinct procedures mentioned by the Turkish representative and the powers of the Board. Did the first procedure correspond to the Board's power to request explanations and the second to its right to propose to a Government the opening of consultations?

27. Mr. KIRCA (Turkey) replied that, depending on the circumstances, the Board could decide either to request explanations from a country (first procedure) or to propose to it the opening of consultations (second pro-
28. Mr. GROSS (United States of America) said that the question raised by the representative of the Soviet Union concerning the confidential nature of information had been studied at length by the Working Group and that consideration had been given to including in the sub-paragraph a phrase specifying that the Board should disclose its source of information to the Government concerned. However, that had been deemed unnecessary and the phrase in question had been omitted. The problem had also been considered in detail by Committee I, and to reopen discussion of the matter would be to waste the Conference's valuable time.

29. Mr. ANAND (India) said that, in his view, a drafting change was required in the English text, since the word "or" had been replaced by "and" in the last sentence of sub-paragraph (a). If the "explanation" furnished by a Government resulted from the "request for information" made by the Board, the comma between the word "information" and the words "and an explanation" should be deleted.

30. Mr. KIRCA (Turkey) supported the Indian proposal, which he thought a very wise one. Pursuing the idea further, he said that the word "information" should be replaced by "explanations", since that was what they really were. The word "explanations" was also used at the end of the first sentence of the same sub-paragraph and the same procedure was involved in both cases. The use of the term "information" might give rise to some uncertainty on the matter. There was already a confusion of the same kind in the drafting of the 1961 Convention.

31. Mr. WARNANT (Belgium) supported the Turkish representative's proposal and suggested that the phrase in question should read as follows: "... a request for explanations and the reply given by a Government ...".

32. Mr. SAGOE (Ghana) said that he saw no parallel whatsoever between the Indian and Turkish proposals; although he agreed that the comma in the English text should be deleted; it was unnecessary to replace the word "information" by the word "explanations".

33. Mr. ANAND (India) agreed that the replacement of the word "information" by the word "explanations" would not solve the problem; it would, on the contrary, complicate it, since the word "information" had a broader meaning which might include explanations; furthermore, the word "information" had been used in the present text of the 1961 Convention.

34. He maintained his proposal to delete the comma between the word "information" and the words "and an explanation" in the English text.

35. Mr. KIRCA (Turkey) said that he agreed to the deletion of the comma after the word "information" in the last sentence of the English text, since the end of sub-paragraph (a) referred to two, and not three, procedures. He failed to understand the Indian representative's misgivings concerning his delegation's proposal to replace the word "information" by the word "explanations"; both terms came under one and the same procedure: the one provided for in article 14 of the 1961 Convention.

A second procedure was now being added, namely, consultations.

37. The terms "explanations" and "information" related to the same thing in both the 1961 Convention and the version now proposed. Nevertheless, he withdrew, in order to avoid any difficulties, his proposal to replace the word "information" by the word "explanations".

38. Mr. WARNANT (Belgium) said that the points very clearly made by the Turkish representative deserved to be fully reflected in the summary record.

39. The PRESIDENT asked whether delegations agreed to the deletion of the comma after the word "information" in the last sentence of sub-paragraph (a) of the English text proposed by the Drafting Committee, in accordance with the Indian proposal.

   It was so agreed.

Mr. Asante (Ghana) resumed the Chair.

40. Mr. KIRCA (Turkey) repeated his proposal that the word "confidentielle" in the last sentence of paragraph 1 (a) of the French version proposed by the Drafting Committee should be put in the plural, since, in that text, that adjective applied to two procedures and not to one.

   The Turkish representative's proposal was adopted.

41. Dr. JOHNSON-ROMUALD (Togo) formally moved the closure of the debate on article 14, paragraph 1 (a).

42. The PRESIDENT said that under rule 31 of the rules of procedure, two speakers could speak against the motion for closure of the debate before that motion was put to the vote.

43. Mr. ANAND (India) observed that some delegations might have drafting amendments to propose before the closure of the debate.

   The motion for closure of the debate was carried by 75 votes to none, with 5 abstentions.

44. The President put to the vote article 14, paragraph 1 (a), as proposed by the Drafting Committee and as amended during the course of the discussion.

   Paragraph 1 (a), as amended, was adopted by 69 votes to 8, with 4 abstentions.

45. Mr. ANAND (India), explaining his vote, said that he had abstained in the vote for two reasons. First of all, as he had stated in Committee I, his country considered that too great an expansion of the Board's sources of information might prove harmful. Secondly, the closure of the debate had made it impossible for his delegation to propose an amendment which would have consisted in replacing the words "shall have the right to", in the English text at least (eleventh line), by the word "may".

Sub-paragraph (c)

   Paragraph 1 (c), as proposed by the Drafting Committee, was adopted by 70 votes to 9, with 3 abstentions.

Sub-paragraph (d)

46. Dr. BABAIAN (Union of Soviet Socialist Republics), referring to the last phrase of the sub-paragraph, which stated that the Board could draw the attention of the General Assembly to the matter, asked whether the
Conference was competent to take decisions determining action by the Economic and Social Council in the field of narcotic drugs. He himself did not think that it was.

47. Mr. RATON (Deputy Legal Adviser to the Conference) said that, in any case, the adoption of such a sub-paragraph would not alter the well-established procedure followed by the Council.

48. Mr. ANAND (India) said that, in his opinion, the Conference was not entitled to tell the Council what it should do.

49. He asked whether the phrase in question should not be underlined, like the amendments and additions in the text proposed by the Drafting Committee.

50. The PRESIDENT said that the phrase in question should, in fact, be underlined.

51. Dr. WIENIAWSKI (Poland) said that, like the representatives of the Soviet Union and India, he considered that the Conference was not competent to give instructions to the Council.

52. Mr. RATON (Deputy Legal Adviser to the Conference) observed that the phrase in question, as worded, merely meant that the Council might or might not draw the attention of the General Assembly to the matter. The phrase was perhaps superfluous, but it was not inadmissible.

53. Dr. BABAIAN (Union of Soviet Socialist Republics) requested that the question of the competence of the Conference in the matter should be put to the vote.

54. The PRESIDENT observed that only a specific proposal—for example, a proposal to delete the last phrase in article 14, sub-paragraph (d)—could be put to the vote.

55. Mr. VINUESA SALTO (Spain) said that, like the Deputy Legal Adviser to the Conference, he thought that the phrase in question, which provided that the Council "may" call the attention of the General Assembly to the matter, did not in any way affect the procedure to be followed by the Council and left the latter free to decide the matter itself. In his opinion, the phrase might well be unnecessary.

56. Dr. BABAIAN (Union of Soviet Socialist Republics) said that it was his understanding that the rules of procedure provided that a delegation could ask for a decision determining the procedure to be followed by the Council in the field of narcotic drugs, which has already been established by the United Nations Charter?"

59. Mr. de ARAUJO MESQUITA (Brazil) said he took it that what the representative of the Soviet Union wished to know was not whether the Conference was competent to decide what action should be taken by the Council, but rather whether it was competent to indicate to the Council a matter which the latter could draw to the General Assembly's attention.

60. Mr. GROSS (United States of America) moved the closure of the debate.

61. The PRESIDENT, after noting that no speaker opposed the motion made by the United States representative, put that motion to the vote.

The motion for closure of the debate was carried by 64 votes to 1, with 15 abstentions.

62. The PRESIDENT declared the discussion on the question of the competence of the Conference closed.

63. Mr. GROSS (United States of America), speaking on a point of order, observed that the questions under discussion had already been debated in the Working Group and in Committee I. To simplify matters, he suggested that the Conference should decide whether to retain or to delete the last phrase in sub-paragraph (d) beginning with the words "after considering the reports of the Board".

65. The PRESIDENT said that the Conference could not depart from the path which it had already taken.

66. Mr. di MOTOLA (Costa Rica), speaking on a point of order, said that the preliminary question should be put to the vote.

67. Dr. JOHNSON-ROMUALD (Togo), speaking on a point of order, said that the Conference could not take a decision on the question raised by the representative of the Soviet Union until it had first considered whether the proposed text really determined the procedure to be followed by the Council. That preliminary question should therefore be put to the vote.

68. Dr. DANNER (Federal Republic of Germany) supported the remarks of the representative of Costa Rica.

69. The PRESIDENT put to the vote, under rule 35 of the rules of procedure, the motion of the Soviet Union on the competence of the Conference to adopt the clause in the last phrase of sub-paragraph (d), beginning with the words "after considering...".

It was decided, by 58 votes to 10, with 18 abstentions, that the Conference possessed the necessary competence.

70. Mr. NIKOLIĆ (Yugoslavia), explaining his vote, said that he had abstained in the vote, because he considered that the phrase which had been voted on was
unnecessary, since it did not state that the Council must draw the attention of the General Assembly to the matter but that it might do so.

71. Dr. BERTI (Venezuela), explaining his vote, said that he had abstained because, like the representatives of Spain and Costa Rica, he considered that the vote should have been taken on a specific proposal.

72. Mr. STAHELIN (Switzerland), explaining his vote, said that his delegation had abstained because, since Switzerland was not a member of the United Nations, it should not take any decision on the procedure to be followed by the Council.

73. Mr. VINUESA SALTO (Spain), explaining his vote, said that his delegation had voted in favour of the Conference on the understanding that the provisions of sub-paragraph (d) did not in any way prejudge the powers of the Council.

74. Mr. PATHMARAJAH (Ceylon) observed, in explanation of his vote in favour of the motion, that the Conference was competent to make recommendations to the Council and that the clause under consideration was in fact a recommendation. He also drew attention to Article 62 of the Charter of the United Nations.

75. Mr. KIRCA (Turkey), speaking in explanation of vote, said that the Conference was competent to adopt the last phrase in sub-paragraph (d), which merely drew attention to a procedure within the competence of the Economic and Social Council, in accordance with Articles 62, paragraph 1, and 63, paragraph 2, of the Charter.

76. Mr. ANAND (India) proposed that sub-paragraph (d) should be put to the vote in two parts, the first vote being taken on the first part of that sub-paragraph, up to the last phrase, and the second one on the last phrase.

77. The PRESIDENT put to the vote the last phrase in sub-paragraph (d), beginning with the words “after considering”.

The last phrase of sub-paragraph (d) was adopted by 62 votes to 10, with 14 abstentions.

Paragraph 1 (d), as a whole, as proposed by the Drafting Committee, was adopted by 72 votes to 10, with 6 abstentions.

78. Mr. ANAND (India), explaining his vote, said that his delegation had abstained in the vote on Paragraph 1 (d) as a whole and would abstain in the vote on article 14 as a whole. He regretted that the first of the two votes which had just been taken had not been on sub-paragraph (d) with the exception of the last phrase.

79. Mr. CASTRO (Mexico), explaining his vote, said that, in abstaining, his delegation had not wished to support a provision which would give the Board such extensive powers.

80. Mr. WARNANT (Belgium), speaking on a point of order, drew attention to the fact that it had been noted in Committee I that the new wording of article 14 would necessitate a change in paragraph 2: the reference in paragraph 2 to “paragraph 1 (c)” should be replaced by a reference to “paragraph 1 (d)”.

81. The PRESIDENT put to the vote article 14 as a whole, drawing attention to the correction to be made to paragraph 2, just mentioned by the representative of Belgium.

Article 14, as a whole, as amended, was adopted by 72 votes to 10, with 5 abstentions.

82. Mr. GHAUS (Afghanistan), explaining his vote, said that his delegation had abstained because it reserved its Government’s position with respect to article 14, paragraphs 1 (a) and (d), as amended.

83. Dr. WIENIAWSKI (Poland) and Mr. STAHL (Czechoslovakia), explaining their votes, said that they had voted against article 14 for the reasons which they had already indicated in committee.

84. Mrs. RODRIGUEZ MAYOR (Cuba), explaining her vote, said that her delegation had voted against article 14, since it considered that that provision gave the Board powers which were detrimental to the sovereignty of States.

85. U PYI SOE (Burma), in explanation of his vote, said that he had voted against article 14 because he had not been in favour of amending the article and granting the Board powers which gave it a supra-national character. He thought that article 14, in its new form, was unlikely to foster good relations between the Board and States.

86. Dr. BABAIAN (Union of Soviet Socialist Republics), explaining his vote, said that he had voted against article 14 for reasons which he had already explained a number of times.

Draft resolutions

Draft resolution adopted by Committee II at its 12th meeting (E/CONF.63/L.4)

87. The PRESIDENT invited the Conference to consider the draft resolution adopted by Committee II relating to the secretariat of INCB (E/CONF.63/L.4). He drew attention to the fact that that text dealt with article 16 of the 1961 Convention, the amended text of which had been adopted by the Conference at the 7th plenary meeting.

88. Mr. KIRCA (Turkey) said that he would abstain in the vote on the draft resolution, for the reasons which he had already stated in connexion with article 16.

89. Dr. BABAIAN (Union of Soviet Socialist Republics), Mr. NIKOLIĆ (Yugoslavia) and Dr. BERTI (Venezuela) said that they would abstain in the vote because they considered the draft resolution unnecessary.

Draft resolution E/CONF.63/L.4 was adopted by 54 votes to none, with 24 abstentions.

The meeting rose at 12.45 p.m.
Draft resolutions (concluded)

ELEVENTH PLENARY MEETING

Thursday, 23 March 1972, at 2.40 p.m.

President: Mr. ASANTE (Ghana)

ELEVENTH PLENARY MEETING

Thursday, 23 March 1972, at 2.40 p.m.

President: Mr. ASANTE (Ghana)

Draft resolution submitted by Afghanistan and the Ivory Coast (E/CONF.63/L.7)

1. The PRESIDENT invited the Conference to consider the draft resolution on assistance in narcotics control submitted by Afghanistan and the Ivory Coast (E/CONF.63/L.7).

2. Mr. GHAUS (Afghanistan), introducing the draft resolution, said that the word “technical” in the English version had been introduced into the title in error.

3. During the discussion in Committee II of the Afghan amendment to the preamble of the 1961 Convention on Narcotic Drugs (E/CONF.63/L.1) although all delegations had supported the principle of assistance to developing countries in narcotics control, the majority had considered that that principle should be set out in a separate resolution, rather than in the preamble. His delegation and that of the Ivory Coast, the latter having by then become a sponsor of the proposal, had agreed, in a spirit of compromise, to submit the proposal in the form of a draft resolution to the plenary Conference.

4. The underlying principle was now stated in the last operative paragraph of the draft. The developing countries found it very difficult to combat illicit traffic and cultivation without assistance from the international community, and those which had banned cultivation of the raw materials of drugs in the interests of combating drug abuse were experiencing serious economic difficulties. To compensate for the hardships caused by the ban on cultivation, it was essential to provide economic incentives for the population to engage in economic activities more attractive and profitable than the cultivation of the opium poppy.

5. Reference was made in the third preambular paragraph of the draft resolution to the United Nations Fund for Drug Abuse Control, which could play an important practical role in United Nations assistance, and attention was drawn in the fourth preambular paragraph to the organic link between the new article 14bis (technical and financial assistance) and assistance to the developing countries in fulfilling their obligations under the 1961 Convention.

6. Mr. GROSS (United States of America) said that his delegation was glad to support the draft resolution, as amended by the United States representative. His Government had decided to contribute 60 million lire—about $ US 100,000—to the United Nations Fund for Drug Abuse Control.

7. Mr. GHAUS (Afghanistan) said he could accept that amendment on behalf of the sponsors.

8. Dr. AZARAKHCH (Iran), Mr. NAIK (Pakistan) and Mrs. CONTRERAS (Guatemala) said they supported the draft resolution.

9. Dr. JOHNSON-ROMUALD (Togo) said that he too supported the draft resolution, because those developing countries which were not yet contaminated by drug abuse had to protect themselves against the infiltration of that evil. Their economic priorities were already extremely pressing, so the international community ought to consider how it could help them to bear the additional financial burden involved.

10. Mr. CALENTA (Italy) said that his delegation supported the draft resolution, as amended by the United States representative. His Government had decided to contribute 60 million lire—about $ US 100,000—to the United Nations Fund for Drug Abuse Control.

11. Mr. OUMA (Kenya) and Mr. PATHMARAJAH (Ceylon) supported the draft resolution and said they were glad to hear that it was also supported by the United States delegation.

12. The PRESIDENT said that the decision to establish the United Nations Fund for Drug Abuse Control had been taken by the Economic and Social Council an its resolution 1559 (XLIX) and approved by the General Assembly in its resolution 2719 (XXV). Perhaps it would be more accurate to rephrase the third preambular paragraph to read “Welcoming the establishment, pursuant to General Assembly resolution 2719 (XXV), of a United Nations Fund for Drug Abuse Control”.

13. Mr. GHAUS (Afghanistan) said he could accept that change.

14. Mr. KIRCA (Turkey) said that his delegation supported the draft resolution, although it wished to stress that technical and financial assistance to the developing countries should come from bilateral sources, as well as from the international community.

15. Mr. ANAND (India) said that his delegation also supported the draft resolution, since in some situations, despite governmental efforts, India had found the problem of narcotics control too serious to tackle alone and therefore welcomed co-operative action at the international level. It was with that thought in mind that it had proposed an addition to article 35 of the 1961 Convention, providing that the Board should give advice to Governments, on request, on methods of reducing the illicit traffic. India would be glad to render technical assistance to other countries, although it could provide no financial assistance.

Draft resolution E/CONF.63/L.7 submitted by Afghanistan and the Ivory Coast, as amended, was adopted by 68 votes to none, with 9 abstentions.

16. Dr. BABAIAIN (Union of Soviet Socialist Republics), explaining his vote, said he had abstained in the vote because, although the USSR had every sympathy with the needs of the developing countries, it doubted,
in the light of experience, whether a voluntary fund could provide the necessary financial assistance. His delegation also doubted whether it was wise to associate the draft resolution with the new article 14bis, whether reference should not have been made to UNDP, and whether the obligations of the developing countries under the 1961 Convention should have been directly linked with assistance from the international community.

17. Dr. WIENIAWSKI (Poland), explaining his vote, said that he had abstained for the same reasons as the USSR representative.

18. Mrs. RODRIGUEZ MAYOR (Cuba), explaining her vote, said that she had abstained in the vote, not because her delegation did not support technical and financial assistance to the developing countries, but because it could not agree with the reference to article 14bis.

DRAFT RESOLUTION SUBMITTED BY THE HOLY SEE
(E/CONF.63/L.6 and Rev.1)

19. The PRESIDENT invited the Conference to consider the draft resolution on social conditions and protection against any addiction submitted by the Holy See (E/CONF.63/L.6 and Rev.1).

20. Mgr. FOUGERAT (Holy See), introducing the draft resolution, said that he had submitted an amendment to the preamble of the 1961 Convention in Committee II, but had subsequently decided, in the light of the debate, to submit a draft resolution to the plenary Conference. That draft, issued initially under the symbol E/CONF.63/L.6, had since been revised following consultations with various delegations, and the changes proposed had been circulated under the symbol E/CONF.63/L.6/Rev.1. In the revised text, the title of the resolution had been amended to read “Social conditions and protection against drug addiction”, without any specific reference to youth. Specific reference to youth had also been deleted from the third preambular paragraph and operative paragraph 1. With regard to the fourth preambular paragraph, some of the representatives he had consulted seemed to think that the words “social conditioning has” should be replaced by the words “economic and social factors have”. Operative paragraph 2 had been replaced by an entirely new text, and in operative paragraph 3 the term “sound physical” and psychic development” had been replaced by the words “physical and psychic health”.

21. It should be borne in mind that the draft was a general recommendation, without legal force, but with an exhortatory value; it was important to address such a resolution to world public opinion, which tended to adopt a critical view of international efforts to combat drug abuse, and to prove that the Conference had not ignored the social and educational aspects of the problem.

22. Mr. CALENDÁ (Italy) said he supported the draft resolution, because it broadened the scope of the Conference’s work and showed public opinion that the Conference was concerned at the extension of drug abuse among the youth of the world.

23. Mr. STEWART (United Kingdom) said that, despite the high moral standards and noble purposes of the draft resolution, his delegation was beset by doubts as to the advisability of adopting it. First, the Conference had well-defined terms of reference, limited to the consideration of amendments to the 1961 Convention; his delegation accordingly doubted whether the Conference was competent to discuss or adopt the Holy See’s draft. Secondly, some of the wording made it doubtful whether the draft resolution was likely to command universal acceptance, despite its lofty moral tone; for example, the term “social conditioning” in the fourth preambular paragraph, taken in isolation, seemed to have nothing to do with drug addiction, while the new wording of operative paragraph 2, when compared with the fourth preambular paragraph, did not seem to add anything to the text and amounted to mere exhortation. Thirdly, his delegation wished to draw attention to resolution 2859 (XVI) which the United Nations General Assembly had adopted as recently as 20 December 1971; that resolution, on youth and dependence-producing drugs, contained an extremely detailed preamble and five operative paragraphs which provided for specific action to be taken by the United Nations system in increasing the effectiveness of action to combat drug abuse, with special reference to the problems of youth.

24. Consequently, by adopting the draft resolution before it, the Conference would merely be repeating in exhortatory form a General Assembly resolution which was not merely declaratory, but called for a report to the Economic and Social Council on specific action. Perhaps the representative of the Holy See would consider withdrawing his draft resolution, in order to prevent any division of opinion that a discussion might provoke and to save the time of the Conference for the work which it had been convened to perform. On the other hand, there might be some other procedural way in which the noble sentiments of the draft resolution could be conveyed to the right instance which could initiate action.

25. Mr. CARGO (United States of America) said that the draft resolution touched upon broad social, cultural, educational and psychological problems, whereas there was still much dispute among world experts concerning the extent to which different factors affected drug abuse. Moreover, the draft far exceeded the terms of reference of the Conference, which had been convened specifically to consider amendments to the 1961 Convention. The United Kingdom had rightly drawn attention to a detailed General Assembly resolution on the subject of youth and drugs, and other competent United Nations bodies were already dealing with the subject matter of the draft. He therefore formally moved that the Conference refer the draft resolution, as amended by its sponsor, without a decision, to the President for transmission to the Secretary-General of the United Nations, requesting him to refer it to the competent United Nations organ for appropriate consideration.

26. Mr. KROG-MEYER (Denmark) said that, although his delegation appreciated the underlying motives of the draft resolution, it opposed the initiative, because it considered that the Conference was not competent to deal with the subject, and because of the incompleteness
of the argumentation in the text. As far as the question of competence was concerned, the Conference was attended mostly by legal experts and technicians in health matters; there were few trained psychiatrists present, and on the whole delegations were not competent to deal with the complex matters raised in the draft. Moreover, they had not been forewarned of a discussion on the subject and no paper had been provided as a basis for such deliberations.

27. With regard to the causes of drug addiction, his department in the Danish Ministry of Foreign Affairs had for six years been dealing in detail with the clinical cases of some 500 young drug addicts. Social conditions of course represented one of the elements of drug abuse by young people, yet experience had shown that many of the young addicts came from comfortable homes in Denmark, so that "deplorable social and economic conditions" could not be held responsible for their addiction. It had then been asked whether broken homes could be regarded as a cause, but it had been found that while that was a contributing factor it was not the essential element. When the root of the problem had been sought in the conditions provided by a welfare State, that also had been shown to be merely a contributing factor.

28. Mr. HOOGWATER (Netherlands), on a point of order, said that, although he agreed with many of the Danish representative's views, his statement was out of order, since the terms of reference of the Conference were to consider amendments to the 1961 Convention.

29. The PRESIDENT ruled that the Danish representative's statement was in order, since the Conference was discussing the draft resolution submitted by the Holy See.

30. Mr. KROG-MEYER (Denmark) said that his country's experience had shown that the causes of drug abuse were manifold. It was therefore highly doubtful whether the Conference was competent to decide whether the factors mentioned in the draft resolution covered all those which lay at the root of drug abuse.

31. He agreed with the United Kingdom representative that the term "social conditioning" in the fourth preambular paragraph was unfortunate, since it had the connotation of an attempt to impose certain attitudes on fellow citizens. Operative paragraph 2, even as amended by its sponsor, also, contained elements objectionable to his delegation's way of thinking, since it implied, probably unintentionally, discrimination against under-privileged elements.

32. Since the arguments in the draft were partly true but did not encompass the whole truth, the draft resolution might do more harm than good in the common effort to solve the drug problem. He therefore could not subscribe to the text even as a draft, and could not support the United States motion.

33. Dr. JOHNSON-ROMUALD (Togo) said that the reactions provoked by the draft resolution were not surprising in an era in which men were preoccupied with material considerations. Nevertheless, to say that the terms of reference of the Conference were limited to amendments to the 1961 Convention was tantamount to a doctor saying that he should deal only with the symptoms, not with the causes, of a disease. It had been claimed that the Conference had been convened specifically to consider the legal aspects of combating drug abuse, that there was already a General Assembly resolution on the subject and that the Conference had no time to deal with the matter, in view of its heavy agenda. Only at the 10th plenary meeting, however, the Conference had spent over an hour discussing whether a comma should be retained or deleted; representatives might agree or disagree on the core of the problem, but they could hardly dismiss the subject entirely.

34. The problem of drug abuse was essentially a human problem, and to ignore its moral aspects would mean reducing man to the status of an amoral being. His delegation fully supported the draft resolution and welcomed its introduction.

35. Mr. de BOISSESON (France) said that the draft resolution had been criticized for different and sometimes contradictory reasons. Some had argued that it was useless to repeat what had already been said; others had claimed that the draft was superfluous because it was too far-reaching; others had raised the question of competence; and yet others had criticized the draft on grounds of incompleteness and vague motivations.

36. In his opinion, sound principles should always be restated. Delegations were convened to combat a social evil; much had been said about mitigating it by calculating estimates and the debates had been replete with interesting and subtle legal controversies: but it was salutary to hear one voice raised to declare that the problem transcended the purely legal and administrative aspects. Eleven years had passed since a similar Conference had been held to adopt the Single Convention on Narcotic Drugs; it was therefore not so often that an opportunity arose for making a declaration of principle. The French delegation would support the draft resolution.

37. Mr. CORREA da CUNHA (Brazil) said there could be no denying that drug addiction weakened moral values and that many young people in the world were affected by that social evil. Educational action in the matter was invaluable, for in combating drug addiction, the international community was combating vice, crime and corruption. His delegation would therefore support the draft resolution.

38. Dr. BABAIAN (Union of Soviet Socialist Republics) said that when he had raised the question of the competence of the Conference in another connexion at the 10th meeting, he had been told by certain delegations that the Conference was competent to deal with any question. Yet now that the Conference had before it a draft resolution concerning the very core of the problem for which it had been convened, the question of its competence was again being raised. It had also been argued that the jurists, psychologists and physicians attending the Conference were too narrowly specialized to understand the meaning of the draft resolution, but every citizen who had the interests of his country and people at heart could certainly understand the problem, especially if his country was plagued by drug abuse.

39. The opposition that the draft resolution had engendered was understandable; indeed, it raised a very im-
important political problem in stating that drug abuse was the result of social conditions and conveying the idea that those conditions must be changed for the better. By making it clear that various social conditions were all links in a single chain, the draft resolution pointed to the core of the problem and would have great psychological significance by bringing it to the attention of world public opinion and of Governments.

40. The sponsor's amendments to the draft improved the original text, and the USSR delegation could now support it; it was sobering for the Conference to be reminded that it was not by increasing the membership of the Board from 11 to 13, by providing the Board with more statistical data, or by obtaining information from non-governmental organizations that the problem of drug abuse would finally be solved.

41. Dr. HOLZ (Venezuela) said that the draft resolution was entirely consistent with the aims of the Conference, since the purpose of amending the 1961 Convention was to make it a more effective instrument for combating and controlling drug abuse. It had introduced a vital element into the discussion.

42. Dr. JOHNSON-ROMUALD (Togo) said he opposed the motion for the closure of the debate in view of the vital importance of the draft resolution. He supported it and would vote for it if it were discussed.

43. The PRESIDENT in accordance with rule 31 of the rules of procedure, said that two speakers were permitted to oppose the motion.

44. Dr. EDMONDSON (Australia) said that the draft resolution reflected some of the preoccupations of social scientists, and that it was a human, moral and social aspect of the problem, not merely the legal aspect. Despite the legal measures for control provided by the 1961 Convention, the problem was still growing. He endorsed the views expressed by the USSR representative, but he also agreed with the representatives of the United States of America and Denmark that the draft resolution involved so many issues that it would be better to refer it to United Nations experts with the requisite experience. He agreed with the comments of the Danish representative on the causes and effects of drug addiction and on the social environment in which it was most prevalent.

50. On the draft resolution itself, he considered that the substance of operative paragraph 2 was covered by other articles of the 1961 Convention. Operative paragraph 3 was somewhat imprecise; moreover, it was more correct to speak of "mental" health than "psychic" health.

51. The PRESIDENT asked whether the representative of the Holy See wished to comment on the United States representative's suggestion.

52. Dr. SULIMAN (Sudan) said that the essential purpose of the Conference was to discuss the international problem of drug addiction, not merely the legal aspects. Despite the legal measures for control provided by the 1961 Convention, the problem was still growing. He endorsed the views expressed by the USSR representative on the causes and effects of drug addiction and on the social environment in which it was most prevalent.
60. Mr. ANAND (India) said that he was surprised at the opposition to the draft resolution. There was nothing in it to which exception could be taken and the Conference had already declared itself competent to discuss any matter. His delegation supported the draft resolution because its purpose was praiseworthy and because it placed the problem of drug addiction in its proper perspective. As for the objection that it merely repeated what had already been said elsewhere, it was sometimes necessary to repeat a statement many times to achieve results.

61. He suggested that the word "narcotic" be deleted from operative paragraph 2, since the term "narcotic drug" was not to be found in the 1961 Convention.

62. Mr. GROSS (United States of America) said that he would withdraw the earlier proposal of the United States.

63. He suggested that in the fourth preambular paragraph of the draft resolution, the words "conditioning has" be replaced by the words "factors have"; that in operative paragraph 2, the word "illegal" be deleted; and that in operative paragraph 3, the word "psychic" be replaced by the word "psychological".

64. Mgr. FOUGERAT (Holy See) said he could accept the three United States amendments. He could also accept the Indian amendment to delete the word "narcotic". He assumed the term "drugs", by itself, was satisfactory in English.

65. Dr. BABAIAN (Union of Soviet Socialist Republics), referring to the Indian amendment, said he would prefer the Russian version to be kept as it was.

66. Mr. ROSENNE (Israel), said that the term "narcotic drugs" appeared in the title and the preamble of the English version of the 1961 Convention, which was why it had been thought unnecessary to define it in article 1. He wondered why the word "narcotic" should be deleted in one language and not in the others.

67. Mr. KIRCA (Turkey) said he supported the Indian amendment, because the term "drug" would also cover psychotropic substances which were the most dangerous source of addiction.

68. Mgr. FOUGERAT (Holy See) said that he could agree that psychotropic substances should be included in the term "drugs".

69. U HLA OO (Burma) and Dr. OLGÜN (Argentina) said that they supported the draft resolution.

70. Mrs. OLSEN de FIGUERAS (Costa Rica) said that her delegation could also support the draft resolution.

71. She proposed, however, that the word "deplorable", in the third preambular paragraph, be deleted and that the words "social conditioning", in the fourth preambular paragraph, be replaced by the words "social and economic factors".

72. Mr. KIRCA (Turkey) said that there appeared to be a general feeling in favour on the draft resolution. He moved, therefore, that the debate be closed and that the Conference proceed to vote.

73. The PRESIDENT recalled that, in accordance with rule 31 of the rules of procedure, two speakers could oppose the motion.

74. Mr. ASHFORTH (New Zealand) said that his delegation opposed the motion to close the debate, since there were still one or two points on which it wished to have clarification.

The motion for the closure of the debate was carried by 77 votes to 1, with 4 abstentions.

75. The PRESIDENT put to the vote the Costa Rican amendment to delete the word "deplorable", in the third preambular paragraph. The Costa Rican amendment was rejected by 47 votes to 26, with 10 abstentions.

The draft resolution of the Holy See (E/CONF.63/ L.6 and Rev.1), as amended, was adopted by 77 votes to 2, with 9 abstentions.

76. Dr. AZARAKHCH (Iran), explaining his vote, said that his delegation had abstained from voting because it did not think that the resolution covered the problem of drug addiction broadly enough. In some countries, only the poor were drug addicts, but in others addiction was found among the richer classes. There were also differences between countries which lacked educational facilities and those which provided education of university standard.

77. Mr. GHAUS (Afghanistan), explaining his vote, said that his delegation had voted in favour of the resolution because it felt that its successful implementation would do much to eliminate the demand for narcotic drugs at its source and thus contribute to the suppression of the illicit traffic.

78. Mr. STURKELL (Sweden), explaining his vote, said that his delegation had voted against the resolution because it felt that the matter was too complex to be discussed in the present forum and ought to be referred to some more appropriate United Nations organ.

79. Dr. JOHNSON-ROMUALD (Togo), explaining his vote, said that his delegation had voted in favour of the resolution because it embodied a principle not only of legal, but also of overwhelmingly human, importance.

80. Dr. SULIMAN (Sudan), explaining his vote, said that his delegation had abstained from voting on the resolution because, while agreeing essentially with its substance, it objected to the use of the term "drug addiction", a term which WHO had already replaced by the term "drug dependence".

Mr. Nikolić (Yugoslavia), first Vice-President, took the Chair.

Report of the Credentials Committee
(E/CONF.63/L.8)

81. The PRESIDENT invited the Conference to consider the report of the Credentials Committee (E/ CONF.63/L.8).

82. Mr. RATON (Deputy Legal Adviser to the Conference) said that the President of the Conference had received a letter from Dr. Fazil Kucük, Vice-President
of Cyprus, stating that Mr. Ozgur was not authorized to sign the final document of the Conference on behalf of the Turkish community of Cyprus.

83. Mr. OZGUR (Cyprus) said that his delegation's credentials had been signed in strict conformity with the rules of procedure governing the Conference, and it was therefore obvious that the letter referred to by the Deputy Legal Adviser to the Conference constituted an interference in the proper functioning of the Government of Cyprus. It was particularly irresponsible, since his delegation had already been appointed a member of the Credentials Committee (2nd plenary meeting).

84. Mr. KIRCA (Turkey) said that he wished to state for the record that his delegation would abstain from voting on the report of the Credentials Committee.

The report of the Credentials Committee (E/CONF.63/L.8) was adopted.

**AGENDA ITEM 11**

Consideration of all amendments proposed to the Single Convention on Narcotic Drugs, 1961 (continued)

(E/CONF.63/2, E/CONF.63/5 and Add.1-6, E/CONF.63/6)

**REPORT OF THE DRAFTING COMMITTEE (continued)**

(E/CONF.63/L.5/Add.4-6)

**ARTICLE 9 (Composition and functions of the Board)**

(continued*)

(E/CONF.63/L.5/Add.4)

**Paragraphs 4 and 5**

85. The PRESIDENT invited the Conference to consider the text for article 9, paragraphs 4 and 5, proposed by the Drafting Committee (E/CONF.63/L.5/Add.4).

86. Dr. BABAIAN (Union of Soviet Socialist Republics) proposed that the words "in co-operation with Governments", in paragraph 4, be replaced by the words "in agreement with Governments". That change would at least be necessary in the Russian version, if not in the French and English versions.

87. Mr. GROS EPIELLI (Uruguay) said that his delegation would prefer to retain the equivalent of the words "in co-operation" in the Spanish version.

88. Mr. GROSS (United States of America) said that there was a vast difference between the meaning of "in co-operation with Governments" and "in agreement with Governments". Since there were quite a few actions which the Board might need to take without obtaining the specific agreement of Governments, his delegation preferred to retain the present wording. To substitute the words "in agreement" would be inconsistent with article 14 as adopted by the Conference at the 10th plenary meeting.

89. Mr. CHAPMAN (Canada) said that he agreed with the United States representative that the USSR proposal would change the meaning of paragraph 4.

90. Mr. KIRCA (Turkey) said that in his opinion the word "co-operation" in the present context implied agreement; he therefore saw no need to change the present wording.

91. Mr. ANAND (India) said that his delegation preferred the words "in agreement with Governments", because this seemed to be more in conformity with such provisions in the 1961 Convention as article 12, paragraph 5, which stated: "The Board shall as expeditiously as possible confirm the estimates, including supplementary estimates, or, with the consent of the Government concerned, may amend such estimates".

92. Mr. KIRCA (Turkey) proposed that the word "production" be inserted after the word "cultivation" at the beginning of paragraph 4.

93. Mr. STEWART (United Kingdom) said that his delegation would oppose the replacement of the word "co-operation" by the word "agreement" in the English version, because the word "agreement" would substantially change the meaning and intent of the paragraph. Perhaps it would help the USSR representative if he explained that the English meaning of the word "co-operation" went beyond simple agreement; in the context of the paragraph it implied consent and willingness to act together and with the Board in furthering what was specified in the paragraph.

94. Dr. OLGUIN (Argentina) said that his delegation also considered that the proposed amendment would entail a change of meaning, and it therefore preferred the word "co-operation".

95. He proposed that at the end of paragraph 4 the words "and use or consumption" be inserted after the word "manufacture".

96. Dr. BABAIAN (Union of Soviet Socialist Republics) said he was grateful to the representatives of Turkey and the United Kingdom for solving his difficulty over the word "co-operation". He would be satisfied if the Russian wording conformed with the definition given by the United Kingdom representative.

97. Mr. CASTRO (Mexico) said that his delegation preferred the expression "in agreement" because it suggested co-operation between the Board and Governments as sovereign bodies.

98. Dr. BOLCS (Hungary) formally proposed the replacement of the word "co-operation" by the word "agreement" or any other word which had the same sense.

99. Mr. GROSS (United States of America) said he would vote against the Hungarian amendment. It was important to retain the word "co-operation", since it would not impose any additional restraint on the Board and it conformed with the intention of other articles of the 1961 Convention, such as article 14, paragraph 1 (b).

100. Mr. GROS EPIELLI (Uruguay) said that he would vote in favour of retaining the word "co-operation", for the same reasons as the United States representative. What had been a linguistic question had now become a substantive one; co-operation necessarily implied agreement, but agreement did not always imply co-operation.

101. U PYE SOE (Burma) said that he would vote for the Hungarian amendment, since there could be no co-operation without prior agreement.

102. Mr. STEWART (United Kingdom) said that he would oppose the amendment, because it would weaken...
the paragraph. Parties to the Convention were already under an obligation to co-operate with one another and with international organizations—for example in articles 4 and 35—and the use of the word "co-operation" would not add to the burden of obligations on countries becoming parties to the Convention.

103. The PRESIDENT invited the Conference to vote on the Hungarian amendment to replace the word "co-operation" in paragraph 4 by the word "agreement". The Hungarian amendment was rejected by 61 votes to 14, with 7 abstentions.

104. Dr. BABAİAN (Union of Soviet Socialist Republics), explaining his vote, said that he had voted in favour of the amendment because, although he was satisfied with the explanations given by the United Kingdom and Turkish representatives, he still had doubts about the interpretation of the word in Russian.

105. The PRESIDENT invited the Conference to vote on the Turkish amendment to insert the word "production" after the word "cultivation", at the beginning of paragraph 4. The Turkish amendment was adopted by 67 votes to 5, with 8 abstentions.

106. The PRESIDENT invited the Conference to vote on the Argentine amendment to insert the words "and use or consumption" after the word "manufacture" at the end of paragraph 4. The Argentine amendment was adopted by 70 votes to 2, with 10 abstentions.

Paragraph 4 of article 9, as amended, was adopted by 71 votes to none, with 12 abstentions.

The meeting rose at 6.40 p.m.

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TWELFTH PLENARY MEETING

Thursday, 23 March 1972, at 8.20 p.m.

President: Mr. ASANTE (Ghana)

AGENDA ITEM 11

Consideration of all amendments proposed to the Single Convention on Narcotic Drugs, 1961 (continued)
(E/CONF.63/2, E/CONF.63/5 and Add.1-6, E/CONF.63/6)

REPORT OF THE DRAFTING COMMITTEE (continued)
(E/CONF.63/L.5/Add.4-6)

ARTICLE 9 (Composition and functions of the Board) (continued) (E/CONF.63/L.5/Add.4)

Paragraph 5 (continued)

1. The PRESIDENT invited the Conference to resume its consideration of the report of the Drafting Committee, and put to the vote the text of paragraph 5 of article 9, as proposed by the Drafting Committee; that text had already been submitted to the Conference at its 11th plenary meeting (E/CONF.63/L.5/Add.4).

Paragraph 5 of article 9 was adopted by 51 votes to none, with 8 abstentions.

Article 9, as a whole, as amended, was adopted by 55 votes to none, with 7 abstentions.

ARTICLE 10 (Terms of office and remuneration of members of the Board) (concluded)* (E/CONF.63/L.5/Add.4)

Paragraph 4

Paragraph 4 was adopted unanimously.

Article 10, as a whole, as amended, was adopted unanimously.

ARTICLE 12 (Administration of the estimate system) (E/CONF.63/L.5/Add.4)

2. The PRESIDENT invited the Conference to consider paragraph 5 of article 12, as proposed by the Drafting Committee (E/CONF.63/L.5/Add.4). He drew its attention to foot-note 2 in which the Drafting Committee had stated that it had not considered itself competent to take a decision on the Indian representative's suggestion that, in view of the wording adopted for article 9, paragraph 4, the words "in co-operation with Governments" should also be inserted in paragraph 5 of article 12 after the words "availability for such purposes". The Drafting Committee had considered that the amendment was one of substance rather than of form.

3. Mr. ANAND (India) said that, if Committee I, which had considered the amendment at its 18th and 19th meetings, had thought it to be one of substance, it would not have referred it to the Drafting Committee. The majority of the members of the Committee had clearly been in favour of the insertion of the words suggested and that was why the Chairman of Committee I had decided (19th meeting of the Committee) to refer the suggestion to the Drafting Committee.

4. Mr. GROSS (United States of America) said that in the Drafting Committee's text the amendment proposed at the beginning of paragraph 5 was confined to the statement of a single objective, that of "limiting the use and distribution of drugs to an adequate amount required for medical and scientific purposes and to ensuring their availability for such purposes". The Indian proposal would impose an unwarranted restriction on the statement of that objective and would, moreover, be at variance with the rest of the first sentence, which was the same as the present text of article 12 of the 1961 Convention and provided that the Board would confirm the estimates "as expeditiously as possible". It would also be inconsistent with the second sentence of the proposed paragraph 5, which referred to a possible "disagreement between the Government and the Board" and therefore clearly showed that there might not necessarily be agreement or co-operation between the Government and the Board on the subject.

* Resumed from the 7th plenary meeting.
5. For all those reasons, the United States delegation opposed the Indian proposal.

6. Dr. EL HAKIM (Egypt), referring to the observations of the Indian representative, said that the text proposed by the Drafting Committee already provided the necessary safeguards. Under the provisions of that paragraph, the estimates could clearly not be prepared without there having been some communication with the Government concerned.

7. Dr. BABAIAIN (Union of Soviet Socialist Republics) said that he fully supported the views expressed by the Indian representative. It was obvious that if Committee I had not agreed to that representative’s suggestion, the Chairman of that Committee would not have decided to refer the matter to the Drafting Committee. When the Chairman had taken that decision, no delegation had raised any objection. He therefore supported the Indian representative’s suggestion that the words “in co-operation with Governments” should be inserted in paragraph 5 of article 12.

8. The PRESIDENT put to the vote the Indian proposal that the words “in co-operation with Governments” should be inserted in the first sentence of paragraph 5, after the words “availability for such purposes”.

The proposal was rejected by 43 votes to 20, with 11 abstentions.

Paragraph 5 of article 12, as proposed by the Drafting Committee, was adopted by 59 votes to 9, with 7 abstentions.

9. Dr. BABAIAIN (Union of Soviet Socialist Republics), explaining his vote, said that he had voted against paragraph 5 because, in his view, the Board had no right to interfere in the internal affairs of sovereign States and it was for the latter alone to determine their drug requirements for medical and scientific purposes.

10. Mr. ANAND (India), stressing once again that Committee I could not have referred the suggestion to the Drafting Committee, explained his vote, said that he had voted against paragraph 5 because, in his view, the Board had no right to interfere in the internal affairs of sovereign States and it was for the latter alone to determine their drug requirements for medical and scientific purposes.

11. He further deplored the fact that an attempt had been made to confuse two entirely different issues. The aim stated in the first part of the first sentence of paragraph 5 was to limit the use and distribution of drugs to an adequate amount required for medical and scientific purposes and to ensure their availability for such purposes. Only the countries concerned were competent to do that, first, because they, and not the Board, were the producers, and, secondly, because they alone could determine their requirements for medical and scientific purposes. Hence, the Board could act in an advisory capacity only, for it would otherwise be interfering in the internal affairs of States. The second part of the sentence, on the other hand, referred to the confirmation of estimates, an entirely different matter, with respect to which the Board clearly had competence.

12. Dr. WIENIAWSKI (Poland), explaining his vote, said that his delegation had voted against paragraph 5 for the reasons he had explained in detail in Committee I.

13. Mr. NIKOLIĆ (Yugoslavia), explaining his vote, said that he had abstained in the vote on paragraph 5 because the idea that the Board might publish estimates different from those prepared by Governments seemed to him completely absurd. The Board would certainly never do that, since it would not wish to interfere in the internal affairs of States.

14. Mr. KOZLJUK (Ukrainian Soviet Socialist Republic), explaining his vote, said that he had voted against paragraph 5 because, in his view, the Board was not competent to determine the drug requirements of countries for medical and scientific purposes nor to ensure their availability. That was the exclusive responsibility of the Governments concerned.

15. Mr. KIRCA (Turkey), speaking in explanation of vote, said that the provisions of the amendments originally proposed by France and the United States to paragraph 5 of article 12 (E/CONF.63/2), which had been considered at the twenty-fourth session of the Commission on Narcotic Drugs, empowered the Board to modify estimates prepared by Governments. The text which had just been adopted did not authorize the Board to do that, but merely to publish its own estimates. That was why the Turkish delegation had voted in favour of paragraph 5.

16. Dr. JOHNSON-ROMUALD (Togo), explaining his vote, said that his delegation had voted in favour of paragraph 5 for the reasons stated by the representative of Turkey. It was confident that the Board would use the new powers conferred upon it as judiciously as it had in the past.

17. The PRESIDENT said that, in the absence of objection, paragraph 5 having been adopted and the remaining paragraphs of article 12 being unchanged, he took it that the Conference had also adopted article 12, as amended, and that a vote would not be necessary.

That proposal was adopted without objection.

ARTICLE 22 (Special provision applicable to cultivation) (E/CONF.63/L.5/Add.4)

18. Mr. KIRCA (Turkey) said that the comma in the last line of paragraph 2 should be deleted because the words “unless they are required for lawful purposes” referred to the verb “destroy” only and not to the verb “seize”.

19. Mr. ANAND (India) said that Committee II had decided to add the words “unless they are required for lawful purposes” to take account of an objection raised by the representative of New Zealand. However, the clause might be misinterpreted. Having informally consulted the representative of New Zealand and other delegations, he proposed that the clause should be replaced by the following wording, upon which the delegations concerned had agreed: “except for small quantities required by the party for its own scientific and research purposes”.

20. Dr. EL HAKIM (Egypt) said that, in his view, the original amendment to article 22 (E/CONF.63/5)
was far better than the amendment under consideration. He failed to see for what lawful purpose cannabis might be required.

21. Dr. BABAIAN (Union of Soviet Socialist Republics) said that he agreed with the representative of Egypt. While opium might in some cases be used for lawful purposes, the same could not be said of cannabis.

22. Mr. GROSS (United States of America) supported the wording proposed by the representative of India.

23. Mr. SAGOE (Ghana), supported by Mr. STEWART (United Kingdom), suggested that the words “all possible measures” should be replaced by the words “appropriate measures”.

24. Mr. VINUESA SALTO (Spain) suggested that the word “asegurar” in the Spanish text should be replaced by the word “secuestrar”.

25. He said that the Egyptian representative’s objection was a valid one. The question was whether cannabis could be used for lawful purposes. If not, the reference to cannabis should be deleted.

26. Mr. GROS ESPIELL (Uruguay) supported the Spanish representative’s proposal that the word “asegurar” should be replaced by the word “secuestrar”.

27. Mr. ESPINO GONZALEZ (Panama) said that he could accept the wording proposed by the Drafting Committee for paragraph 2 of article 22, but he too would like the word “asegurar” in the Spanish text to be replaced by the word “secuestrar”.

28. If, as was apparent from consultations which had been held, New Zealand needed small quantities of cannabis for scientific experiments, it could obtain some from the competent bodies in the countries where the plant grew wild.

29. Dr. EL HAKIM (Egypt) formally proposed the deletion of the words “or the cannabis plant”.

30. Mr. ASHFORTH (New Zealand) said that New Zealand needed some of the cannabis seized for scientific research (chemical research and elementary medical research), in order to study the pharmacological effects of cannabis. New Zealand had found, particularly in chemical research, that there was a considerable difference between cannabis plants obtained from different areas of the country and also between the cannabis found in various parts of New Zealand and the samples imported from abroad. The suggestion that New Zealand should obtain all the cannabis it required from foreign countries was therefore hardly acceptable. In any case, scientific research in his country was carried out under very strict controls. Moreover, only a very small quantity was used for medical purposes and that was taken entirely from the stocks imported from abroad.

31. He supported the text proposed by the Indian representative, but thought that it might be preferable to delete the words “its own”. The point was that not every country had the research facilities available to say, New Zealand and it was desirable that the research undertaken should be of benefit to the world community at large.

32. Mr. CHAPMAN (Canada) said that his country was in approximately the same situation as New Zealand; scientific and clinical experiments were being conducted in Canada and the cannabis used in them was grown domestically under extremely strict control. He therefore supported the text proposed by the Indian representative, as amended by the New Zealand representative.

33. Mr. KIRCA (Turkey) considered that it would be more appropriate to insert the Indian amendment at the beginning of paragraph 2 and to make the text read, for example, as follows: “Except for small quantities required for medical and scientific research purposes, a Party prohibiting cultivation of the opium poppy or the cannabis plant shall take...”.

34. Dr. El HAKIM (Egypt) said that his delegation could support the Indian amendment, provided that the words “its own” were deleted.

35. Mr. MIRAS (Greece) supported the Turkish proposal, as amended by the proposal of the representative of Ghana.

36. Miss SHILLETTTO (Jamaica) supported the proposals and remarks of the representatives of Turkey, Ghana, New Zealand, Canada and Egypt.

37. Mr. ZAFERA (Madagascar) said the Egyptian suggestion that any reference to the cannabis plant should be deleted from article 22 would affect the scope of the article, whose title would have to be changed accordingly. His delegation was opposed to such an amendment, which would have the effect of attaching greater importance to scientific research than to the prohibition of the cultivation of dangerous substances.

38. Dr. OLGUIN (Argentina) said that, in his opinion, the cannabis plant could be used for scientific research. His delegation supported the text of article 22 as proposed by the Drafting Committee. It supported the Spanish delegation’s proposal that the Spanish text should be brought into line with the English text; it nevertheless wished to point out that one meaning of the verb “asegurar” was “to put in a safe place”.

39. Mr. ANAND (India) said that he could not agree to the Turkish amendment to the text proposed by India which would move the phrase beginning “except for small quantities...” to another position; on the other hand, he agreed that the words “its own” should be deleted. The amendment would then read as follows: “except for small quantities required by the party for scientific and research purposes”.

40. Mr. ULUCEVIK (Turkey) withdrew his delegation’s proposal and proposed the following text: “except for small quantities required by the Parties for medical and scientific research purposes”.

41. Mr. ANAND (India) considered that the word “Party” should be kept in the singular.

42. The PRESIDENT said he would invite the Conference to vote on the two amendments to the text of paragraph 2 of article 22, as submitted by the Drafting Committee. In response to a comment by the Panamaian delegation concerning the reservations expressed by Spanish-speaking delegations with regard to the Spanish text of the article, he explained that the Conference would be voting on the English text.
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43. Mr. RATON (Deputy Legal Adviser to the Conference), replying to a question asked by the Turkish delegation, said that the Ghanaian proposal to replace the words "all possible" by the word "appropriate" applied to all the languages.

44. The PRESIDENT proposed that the Conference should first vote on the Indian amendment, which consisted in replacing the words "unless they are required for lawful purposes", in paragraph 2 of article 22, as proposed by the Drafting Committee, by the following: "except for small quantities required by the Party for scientific or research purposes".

The Indian amendment was adopted by 66 votes to none, with 16 abstentions.

45. The PRESIDENT put to the vote the Ghanaian amendment, which consisted in replacing the words "all possible", before the word "measures", by the word "appropriate".

The Ghanaian amendment was adopted by 60 votes to 1 with 27 abstentions.

46. Dr. BABAIAN (Union of Soviet Socialist Republics), explaining his vote, said that his delegation had abstained in the vote on the Ghanaian amendment because both wordings were equally acceptable in Russian.

47. Mr. de BOISSESON (France) said that, in his opinion, the word "possibles" was preferable in French.

Article 22 as a whole, as amended, was adopted by 74 votes to none, with 7 abstentions.

48. Mr. ESPINO GONZÁLEZ (Panama), drawing attention to corrections which his delegation would like to see made to the Spanish text of article 22, as set forth in the report of the Drafting Committee, said that the word "prohiba" did not take an accent over the "i"; as a translation of the verb "to seize", "confiscar" was preferable to "secuestrar" in Spanish; and the word "plantación" should be instead of "planta", because it was a question of seizing a whole crop, and not a single plant.

49. Mr. CASTRO (Mexico) said that he had no objection to the replacement of the word "asegurar" by the word "secuestrar"; "confiscar", on the other hand, might give rise to difficulties from the legal standpoint.

50. Dr. OLGUÍN (Argentina) agreed that there was a slight difference in meaning between "secuestrar" and "confiscar"; what was needed was a verb whose meaning was as close as possible to "seize" in English. With regard to the suggestion that the word "planta" should be instead of "plantación", he considered the former word to be more appropriate.

The President said that the secretariat would take account of the observations made concerning the Spanish text.

51. The PRESIDENT said that the secretariat would take account of the observations made concerning the Spanish text.

52. Mr. SAGOE (Ghana), explaining his vote, said that his delegation had voted in favour of article 22, paragraph 2, because in his country, although the cannabis plant was prohibited, the Minister of Health was empowered to authorize its cultivation for scientific and research purposes.

53. Mrs. FERNÁNDEZ (Philippines), explaining her vote, said that her delegation had abstained because any cannabis plants or opium poppies seized in her country had always been destroyed; no lawful use was made of those plants in the Philippines.

54. U PYI SOE (Burma), explaining his vote, said that his delegation had voted in favour of the amendment to article 22, paragraph 2, as set forth in the report of the Drafting Committee, because it corresponded exactly to the practice followed in Burma.

ARTICLE 20 (Statistical returns to be furnished to the Board) (E/CONF.63/L.5/Add.4)

55. The PRESIDENT invited the Conference to consider the amendment to article 20 proposed by the Drafting Committee which consisted in adding to paragraph 1 a sub-paragraph (g) reading "Ascertained area of cultivation of the opium poppy".

56. Dr. BABAIAN (Union of Soviet Socialist Republics) considered that the wording of the sub-paragraph was too vague because the opium poppy could be cultivated for its flowers, for its seeds or for the production of morphine. The sub-paragraph should therefore be deleted, or it should be made clear that the statistical returns to be furnished to the Board should indicate the area of cultivation of the opium poppy intended for the production of morphine. For its part, his delegation proposed that sub-paragraph (g) should be deleted.

57. Dr. Olguín (Argentina) supported the amendment proposed by the Drafting Committee.

58. Mr. de BOISSESON (France) and Mr. HUYGHE (Belgium) noted that the amendment to article 20 proposed by the Drafting Committee was incomplete, since it failed to stipulate that, if sub-paragraph (g) was adopted, article 20, paragraph 3, of the 1961 Convention would have to be deleted and replaced by paragraph 4, which would become the new paragraph 3.

59. Dr. Olguín (Argentina) supported the amendment proposed by the Drafting Committee.

60. The PRESIDENT invited the Conference to vote on the USSR delegation's proposal that sub-paragraph (g) of paragraph 1 should be deleted.

The USSR proposal was rejected by 42 votes to 10, with 25 abstentions.

61. The PRESIDENT said that the Conference now had to vote on paragraph 1, sub-paragraph (g) as proposed by the Drafting Committee; it would then consider the effects of that decision on the rest of the article.

62. Mr. ULUCEVIK (Turkey) said that, in voting on sub-paragraph (g), the Conference would at the same time be taking a decision on the addition of the word "and" at the end of sub-paragraph (f), on the deletion of article 20, paragraph 3, and on the consequential renumbering of paragraph 4 as paragraph 3. In the opinion of his delegation, the vote should be taken on that understanding.

63. The PRESIDENT invited the Conference to take a decision first of all on sub-paragraph (g) of paragraph 1.
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The new sub-paragraph (g) as proposed by the Drafting Committee, was adopted by 57 votes to 10, with 12 abstentions.

64. The PRESIDENT said that if there was no objection, he would take it that the Conference considered that the present paragraph 3 of article 20 of the 1961 Convention was deleted.

65. Dr. Babaian (Union of Soviet Socialist Republics) proposed that the Conference should vote on whether to retain paragraph 3, because there was nothing to indicate that the inclusion of sub-paragraph (g) in article 20, paragraph 1, would necessarily require the deletion of paragraph 3.

66. Mr. Wattles (Legal Adviser to the Conference), replying to a question by the representative of the Netherlands, explained that only those States which had ratified the Protocol or which had acceded to it would be bound by the obligations which it imposed. States parties to the Convention would continue to be subject to the provisions of article 20, paragraph 3.

67. Mr. de Boisseson (France) said that an amendment calling for the deletion of article 20, paragraph 3, had in fact been referred to the Conference. That amendment was contained in the text of the joint amendments (E/CONF.63/5). The Conference could not vote in favour of retaining a paragraph which was already included in the Convention. It could vote only for its deletion.

68. Mr. Nikolić (Yugoslavia) said that to wish to delete a provision of the 1961 Convention was absurd.

69. The PRESIDENT read out an excerpt from the summary record of the 19th meeting of Committee, in which it was stated that the Chairman had put to the vote the proposal that paragraph 3 of article 20 of the 1961 Convention should be deleted, and that the proposal had been adopted by 33 votes to 14, with 12 abstentions.

70. Mr. Calenda (Italy) said that, since Committee I had taken a decision, it was necessary to abide by that decision.

71. Mr. Uluevik (Turkey) proposed that the text of article 20, as a whole, as amended, should be reproduced in the Protocol. That article would therefore consist of paragraph 1, with sub-paragraph (g), and paragraph 2, the former paragraph 4 having been deleted.

72. After an exchange of views, in which Mr. Huyghe (Belgium), Mr. Gross (United States of America), Mr. Chapman (Canada) and Mr. Nikolić (Yugoslavia) took part, the President invited the Conference to take a decision on the recommendation of Committee I that paragraph 3 of article 20 should be deleted.

73. Mr. Gross (United States of America) said that he wished to explain his vote before the voting took place. In Committee I, he had voted in favour of the addition of sub-paragraph (g) to paragraph 1 of article 20, on the clear understanding that the sub-paragraph would replace paragraph 3. The sponsors of the amendment were in no way seeking to destroy the 1961 Convention. Rather, they were trying to improve it. Many representatives and, in particular, the representative of Yugoslavia, had expressed concern for small farmers, but it was also necessary to be concerned about the countless victims of drug addiction. If INCB was to carry out its control functions effectively, it had to know what was the total amount of opium poppy cultivated in a country, whatever the purpose for which it was cultivated. His delegation would vote in favour of the deletion of paragraph 3.

74. Mr. Nikolić (Yugoslavia), explaining his vote before voting took place, said that he had wished merely to draw attention to the practical impossibility of keeping track of the small amounts of opium poppy grown by peasants in their gardens for purposes other than opium production.

75. Dr. El Hakim (Egypt), explaining his vote prior to the voting, said that he would vote in favour of the deletion of paragraph 3, because paragraphs 1 (a) and (g) of article 20 covered both cultivation and production.

76. Mr. Kirca (Turkey), explaining his vote prior to the voting, said that he could vote in favour of the deletion of paragraph 3 of article 20 only in the case of the Protocol, but not in the case of the Convention, since the new sub-paragraph (g) of paragraph 1 expressed an obligation and did not merely indicate what could be done, as paragraph 3 did. Consequently, the two provisions could not logically be retained in the same text. It was, however, clearly understood that paragraph 3 would be deleted only for parties which ratified the Protocol.

77. The President put to the vote the proposal to delete paragraph 3 of article 20 of the 1961 Convention.

At the request of the Yugoslav representative, the vote was taken by roll-call. Liberia, having been drawn by lot by the President, was called upon to vote first.

In favour: Liberia, Liechtenstein, Luxembourg, Madagascar, Malawi, Morocco, Netherlands, New Zealand, Nicaragua, Nigeria, Norway, Pakistan, Panama, Peru, Philippines, Portugal, Republic of Korea, Republic of Viet Nam, Saudi Arabia, Sierra Leone, Singapore, South Africa, Spain, Sweden, Switzerland, Tunisia, Turkey, United Kingdom of Great Britain and Northern Ireland, United States of America, Uruguay, Venezuela, Argentina, Australia, Austria, Belgium, Brazil, Canada, Ceylon, Colombia, Costa Rica, Cyprus, Dahomey, Denmark, Egypt, El Salvador, Federal Republic of Germany, Finland, France, Ghana, Greece, Guatemala, Holy See, Indonesia, Iran, Israel, Italy, Jamaica, Japan, Jordan, Kenya, Khmer Republic, Kuwait, Laos.


Abstaining: Libya, Mexico, Niger, Togo, Afghanistan, Algeria, Bolivia, Burma, Chile, India, Ivory Coast.

The proposal to delete paragraph 3 was adopted by 63 votes to 10, with 11 abstentions.

78. Dr. Babaian (Union of Soviet Socialist Republics), explaining his vote, said that he had voted against the deletion of paragraph 3, of article 20 because it was possible without such drastic action to take into account
the consequences of the amendments to paragraph 1. It would have been sufficient to indicate in the Protocol that paragraph 3 of article 20 of the 1961 Convention would not apply to those countries which ratified the Protocol. Moreover, paragraph 3 was not incompatible with the new paragraph 1 (g) and it would have been even more useful to retain it because it gave the parties a means of informing the Board what proportion of the land used for opium poppy cultivation was reserved for opium production as such. Under the new provisions, the Board would certainly know how much land was used for opium poppy cultivation in general, but it would have no means of knowing how much of that land was used for a particular purpose. Far from improving the Convention, therefore, the Conference had only complicated the task of the Board.

79. Mr. ANAND (India), explaining his vote, said that he had abstained in the vote on sub-paragraph (g), just as he had abstained in Committee I. Since the Conference had decided to delete paragraph 3 of article 20, he suggested that it could have been replaced by a new wording, which might read: "In addition to the matters referred to in paragraph 1 of this article, the Parties shall furnish to the Board for each of their territories information in respect of the ascertainable area (in hectares) of cultivation of the opium poppy".

Article 20 as a whole, as amended, was adopted by 64 votes to 10, with 4 abstentions.

ARTICLE 35 (Action against the illicit traffic) (E/CONF.63/L.5/Add.4)

80. The PRESIDENT invited the Conference to consider the amendments to article 35 of the 1961 Convention proposed by the Drafting Committee (E/CONF.63/L.5/Add.4) and consisting of the addition of two sub-paragraphs, (f) and (g).

Sub-paragraph (f)

Sub-paragraph (f), as proposed by the Drafting Committee, was adopted by 77 votes to none, with 4 abstentions.

Sub-paragraph (g)

81. Mr. NIKOLIČ (Yugoslavia) considered that the phrase "if requested by a Party, the Board may offer its advice to it" should be more strongly worded.

82. Mr. de BOISSÉNÓN (France) was of the same opinion.

83. Mr. KIRCA (Turkey) formally proposed that, in the French text, the phrase in question should be replaced by the words "à la demande d’une Partie, l’Organe pourra l’aider...". The English text would not have to be altered.

The Turkish representative's proposal was adopted.

Sub-paragraph (g), as proposed by the Drafting Committee and subject to the amendment adopted to the French text, was adopted by 73 votes to none, with 9 abstentions.

ARTICLE 35 as a whole, as amended, was adopted by 75 votes to none, with 9 abstentions.

ARTICLE 21bis (Limitation of production of opium) (E/CONF.63/L.5/Add.5)

85. The President invited the Conference to consider the text of article 21bis submitted by the Drafting Committee (E/CONF.63/L.5/Add.5).

86. Dr. BABAIAN (Union of Soviet Socialist Republics) said that his delegation maintained the position it had already adopted concerning the text of article 21bis. The application of the provisions of an international instrument could not be extended to a State which was not party to it. Intervention in such a case by any international body would constitute inadmissible interference in the domestic affairs of States.

87. Mr. ULUCEVIK (Turkey) asked whether the word "legitimes" in the French text of paragraph 2 actually meant "licites". If it did, he would have no objection to raise. However, he thought he should point out that what was legitimate under the domestic law of a State might not be licit under the 1961 Convention. He therefore proposed that, in order to avoid any confusion, the word "legitimes" should be replaced by the word "licites".

88. Mr. GROS ESPIELL (Uruguay) supported the Turkish proposal. In the Spanish text, the word "legítimos" should be replaced by the word "licitos".

The Turkish amendment was adopted.

Article 21bis, as amended, was adopted by 69 votes to 10, with 8 abstentions.

89. Mr. ANAND (India), explaining his vote, said that he had voted against the article for the reasons he had already given in Committee I. The purpose of estimates should be only to provide an indication of the quantity produced, but the wording of the draft of article 21bis tended to require that the quantities produced be strictly in accordance with the estimates furnished. The article thus penalized States for abuses by dishonest cultivators and required them to reduce their licit production, and that could only be detrimental to the supply of drugs to users who needed them for legitimate medical or scientific purposes.

90. Mr. GHAUS (Afghanistan), explaining his vote, said that he had abstained, because his delegation still reserved its position on the article.

91. Mr. MAYOR (Switzerland), explaining his vote, said that he had abstained because his delegation had opposed, in Committee I, the amendments to article 19.

92. Dr. BABAIAN (Union of Soviet Socialist Republics), explaining his vote, said that he had voted against article 21bis because, as he had previously stated, its provisions allowed the Board to interfere in the domestic affairs of States, and even in the affairs of those which were not or would not be parties to the Convention or to the amending Protocol. Moreover, the use of the word "territory" in paragraph 1 was a remnant of colonialism and was, for that reason, inadmissible.

93. Dr. WIENIAWSKI (Poland), explaining his vote, said that he had voted against article 21bis for the same reasons as the representative of the Soviet Union.
ARTICLE 38bis (E/CONF.63/L.5/Add.6)

94. The PRESIDENT suggested that, in view of the late hour, speakers should limit their statements to two minutes, on the understanding that they would be allowed a little more time in the case of a controversial text. He invited the Conference to consider the report of the Drafting Committee relating to some supplementary provisions which might constitute a new article to be numbered 38bis (E/CONF.63/L.5/Add.6).

95. Dr. BABAIAN (Union of Soviet Socialist Republics) said that he took it that the President's request that speakers limit their statements to two minutes applied to article 21bis and the explanations of vote. As far as the rest of the proceedings were concerned, however, a separate decision would have to be taken in each individual case, since representatives should have an opportunity to express the views of their Government.

96. Mr. CHAPMAN (Canada) said that the Costa Rican amendment to article 35 (Action against the illicit traffic) submitted in Committee I (E/CONF.63/C.1/L.20) had been well received by most delegations but had given rise to some discussion as to the appropriate place for it in the proposed Protocol and on the possible risk of duplication with the other provisions of article 35.

97. It was on the basis of that Costa Rican amendment that it was now proposed to draft an article 38bis. In order to ensure the widest possible acceptance for it, his delegation formally proposed that the new article should be entitled “Agreements on regional centres” and that in the text proposed by the Drafting Committee the introductory sentence should be amended as follows: the opening words “It is desirable that each Party, as part of its action…” should be replaced by the words “If a Party considers it desirable as part of its action…”. In the third and fourth lines the words “should promote” would be replaced by the words “it shall promote”. The sentence would then continue with the words appearing in sub-paragraph (c) and sub-paragraphs (a) and (b) would be deleted. That wording would reflect the idea that it was essential to help countries with limited resources to establish suitable centres for research and education in the matter of drugs.

98. Mrs. OLSEN de FIGUERAS (Costa Rica) said that she accepted the text proposed by the Canadian representative, since the question of giving assistance in that field to countries with limited resources was indeed the most important and urgent one.

99. The PRESIDENT noted that the Conference now had before it only one proposal concerning article 38bis, namely the one just formulated by the Canadian representative.

100. Mr. HUYGHE (Belgium) supported the wording for article 38bis proposed by the Canadian representative, since the question of giving assistance in that field to countries with limited resources was indeed the most important and urgent one.

101. Mr. GROS ESPIELL (Uruguay) said that, when the question had been considered in the Drafting Committee, the Mexican representative had submitted a text which embodied the substance of the Costa Rican proposal but improved its form. Unfortunately, that text had not been considered. The Conference now had before it a proposal by Canada which seemed quite unnecessary. A State did not need to be a party to the Convention in order to promote or to conclude agreements with other countries in the same region for the purpose of establishing regional centres. If the intention was merely to express a wish, it would be sufficient to adopt a resolution inviting States to conclude such agreements. He would not vote against the article, since he supported the objectives of the amendment, but he would abstain in the vote on it, since the Uruguayan Government fully intended to engage in consultations and to conclude agreements on that point even if the Convention contained no provision on the subject.

102. Dr. BABAIAN (Union of Soviet Socialist Republics) said he was surprised at the Costa Rican representative’s unhesitating acceptance of the Canadian representative’s proposal, which was a complete recasting of the original Costa Rican text. He had misgivings with regard to the new text and regretted the elimination of the former sub-paragraph (a), which stressed the importance of counteracting activities and publicity which stimulated the illicit use of, and traffic in, drugs.

103. Mr. CALENDA (Italy) supported the article 38bis, proposed by Costa Rica, as amended by the Canadian representative.

104. Mr. KROG-MEYER (Denmark) said that he appreciated the position of the representative of Uruguay, but he had gained the impression from informal conversations that a number of small countries needed a framework in which to organize co-operation in the field of narcotic drugs. He would therefore support the amendment proposed by Canada.

105. Mr. VINUESA SALTO (Spain) said that he fully endorsed the views expressed by the representative of Uruguay. While he did not oppose the aims of the amendment, he would abstain in the vote on it.

106. Mr. ULUCEVIK (Turkey) said that the word “desirable” had no place in a legal text. He also found it surprising that the regional centres would be required to confine their activities to problems relating to the control of the illicit use of, and traffic in, drugs. He therefore suggested to the delegations which desired to retain article 38bis that the article should be entitled “Establishment of regional centres” and be worded on the following lines:

“The Board may provide the Parties concerned, at their request, with technical advice concerning the establishment of regional centres for research and education for the purpose of their joint struggle against illicit activities relating to the cultivation, production, manufacture and use of, and traffic in, drugs”.

107. Mr. OUMA (Kenya) said he supported the new article 38bis, as amended first by the Canadian representative and later by the Turkish representative.

108. Mr. CASTRO (Mexico) thanked the representatives of Uruguay and Spain, who had drawn attention to his country's efforts to facilitate the adoption of the Costa Rican proposal. His delegation would be prepared to support the Canadian proposal, subject to a slight amendment of the Spanish text, in which the word “científica” should be inserted after the word “investigación”, in order to avoid any confusion. He could not support the Turkish proposal.
109. Mr. CHAPMAN (Canada) accepted the amendment proposed by the Mexican representative.

110. Dr. EL HAKIM (Egypt) said that the changes introduced by the Drafting Committee and the proposal made by the Canadian representative turned what had originally been a draft article into a draft resolution. The Turkish representative’s proposal would again give the text the form of an article and his delegation would accordingly support it.

111. Dr. JOHNSON-ROMUALD (Togo) pointed out that the text that had been referred first to the Drafting Committee and then to the Conference in plenary was no longer a Costa Rican amendment, but the text of an article which had been duly adopted by Committee I and on which the Conference was new called upon to take a decision. The text had been discussed at great length in Committee I. Its provisions were especially important for the developing countries, particularly the African countries, which were therefore anxious to see them included in a convention. The debate could not be reopened at that stage and he urged the Conference to take an immediate decision first on the substance of the draft article and then on its appropriate position in the Protocol.

112. Mr. CARGO (United States of America) recalled that serious objections had been raised to the original Costa Rican proposal. The proposal just made by the Canadian representative considerably improved the text proposed by the Drafting Committee, eliminating the controversial parts of the original proposal while retaining the most useful part of it. The importance of regional centers was widely recognized and the United States delegation would therefore support the Canadian proposal. It could not, however, support the Turkish representative’s proposal, which would transfer the initiative to the Board, whereas in the original proposal it had lain with the parties. It was more logical and appropriate for the parties to request technical advice from the Board if they saw fit. It had been said that the proposed article was merely the expression of a wish and therefore had no place in an international convention, but the 1961 Convention contained other similar provisions, such as article 38, paragraph 2.

113. Mr. SAMSOM (Netherlands) said he shared the views expressed by the United States representative.

114. Mr. KIRCA (Turkey) explained that, in the first place, the wording which he had proposed, namely “The Board may provide the Parties concerned, at their request…” did not in any way deprive the parties of their initiative, as the United States representative believed. In the second place, although certain important international instruments admittedly contained provisions which did not specify rights or obligations, it was nevertheless preferable to avoid the expression of a mere wish in that type of instrument. Lastly, the text he had proposed went further than the Canadian proposal, since it specified that the activities of the regional centers would extend not only to the illicit use of, and traffic in, drugs, but also to illicit production, cultivation and manufacture.

115. Dr. BERTI (Venezuela) said there could be no doubt that the Costa Rican delegation’s sound idea of establishing regional centers was perfectly compatible with the 1961 Convention and particularly with the third, fifth and seventh paragraphs of its preamble. The wording proposed by the Canadian representative would be quite acceptable if it were amended as proposed by the Mexican representative and his delegation would support it in that form.

116. Mrs. CONTRERAS (Guatemala) said she agreed with the Venezuelan representative.

117. Dr. OLGUÍN (Argentina) said that he had supported the principle of the Costa Rican proposal in Committee I (20th meeting) and that his position remained unchanged. Nearly all the articles of the Convention were related to the various stages of illicit activities—cultivation, production, manufacture, traffic and use—and it was therefore perfectly logical to include an article that would cover the social aspects of the drug problem, such as education, prevention, social reintegration and research. The regional centers it was proposed to establish in addition to ensuring co-ordinated action, would relieve the new countries of the burden of the often costly measures needed in that field. Such an article would not be the first provision of the Convention that was not mandatory in character and it was therefore consistent with legal practice.

118. Mr. di MOTTOLA (Costa Rica) said that he had accepted the Canadian proposal, which retained the principal element of his original proposal, i.e. the establishment of regional centers. The main reason why he was prepared to abandon the other elements of his proposal was that the Conference had adopted decisions, for example, the resolution on social conditions and protection against drug addiction submitted by the Holy See and adopted at the 11th plenary meeting, which included some of the ideas contained in that proposal. In his opinion, article 38bis was not superfluous, because the regional centers were vital to the Latin American countries, because such centers could not be established without the assistance of the Board and because that assistance could not be furnished unless it was expressly provided for in an article of the Convention. His delegation could accept either the Canadian or the Turkish proposal and left it to the Conference to decide between them.

119. Mr. de ARAUJO MESQUITA (Brazil) said that he was in favour of the article proposed by the Costa Rican delegation, as amended orally by the representative of Canada. He could see no technical objection to its inclusion in an international convention.

120. Mr. STURKELL (Sweden) said that he supported the Canadian proposal. It would be desirable for the specialized agencies already dealing with the problem to participate in the establishment of the proposed regional centres. He therefore proposed that the words “or the specialized agencies” should be inserted after the words “the technical advice of the Board” in the opening sentence.

121. Dr. JOHNSON-ROMUALD (Togo) said that he wished to reply to the arguments which had been advanced against the proposed article 38bis. The article was largely based on the resolution of the Holy See, which had been adopted by the Conference. The vote in Com-
mittee I had made it clear that the article met a need, especially in the case of the African countries, and that was why his delegation had stressed the importance of giving it a legal character by including it in the Convention. A draft resolution merely expressed a wish, whereas an article in a convention carried greater weight, even if it was not mandatory. He regretted that, as a result of a procedural manoeuvre, it had been necessary to abandon the reference to the problem of publicity, which had been the subject of lengthy debates in Committee I. He also deplored the fact that some representatives, who had unequivocally supported the Costa Rican proposal in Committee I, had reversed their decision. He himself would abstain in the vote on the proposed amendments, which considerably weakened the original text.

122. Mr. OLUWOLE (Nigeria) said that he would support any proposal designed to facilitate co-operation among the parties in their efforts to combat illicit traffic and drug abuse. He unreservedly supported draft article 38bis, as amended by the Canadian representative.

123. The PRESIDENT first put to the vote the Turkish amendment to the text proposed by the Drafting Committee, as being furthest removed in substance from the original proposal. The Turkish amendment was rejected by 33 votes to 19, with 27 abstentions.

124. The PRESIDENT noted that the Conference had before it a Canadian amendment, modified by a Mexican sub-amendment, to insert the words “for” and “research” in the last part of the sentence. In addition, the Swedish delegation had formally proposed that the Canadian amendment should be modified by the insertion of the words “or the specialized agencies” after the words “the technical advice of the Board”. He invited the Conference to vote first on the Swedish amendment.

The Swedish amendment was adopted by 33 votes to none, with 46 abstentions.

125. The PRESIDENT invited the Conference to vote on the Canadian amendment, as modified by the Mexican and Swedish amendments. The Canadian amendment to article 38bis, as modified by the Mexican and Swedish amendments, was adopted by 38 votes to 4, with 38 abstentions.

126. Mr. de BOISSESON (France) said he wished to make it clear that his delegation was voting on the English text of the amendment and reserved its position with respect to the French version.

127. The PRESIDENT said that, in the absence of any objection, he would take it that article 38bis, as amended, was adopted. The President’s proposal was adopted without objection.

128. Mr. ULCEVIK (Turkey), explaining his vote, said that, although his delegation did not regard article 38bis as a legal text in the true sense, it had voted in favour of it, because it contained a useful idea which should be carried into effect.

129. Mr. GROS ESPIELL (Uruguay), explaining his vote, said that his delegation had abstained for the reasons already given in his previous statement. His delegation commended the Costa Rican delegation on its initiative and hoped that the desired contacts would be established with a view to the establishment of the proposed regional centres.

130. Mr. TOKINOYA (Japan), explaining his vote, said that his delegation had voted in favour of the Canadian amendment because it recognized the importance of regional co-operation in the fight against illicit traffic in drugs. His delegation nevertheless maintained its reservations with regard to the Costa Rican proposal.

131. Dr. JOHNSON-ROMUALD (Togo), explaining his vote, said that he had voted against the Canadian amendment because it retained only one of the ideas in the original proposal, all of which were equally useful.

AGENDA ITEM 12

Adoption of the Final Act and of an instrument or instruments to give effect to the amendments approved by the Conference (continued *)

FINAL ACT OF THE UNITED NATIONS CONFERENCE TO CONSIDER AMENDMENTS TO THE SINGLE CONVENTION ON NARCOTIC DRUGS, 1961 (E/CONF.63/L.9)

132. The PRESIDENT invited the Conference to vote on the text entitled “Draft Final Act of the United Nations Conference to consider amendments to the Single Convention on Narcotic Drugs, 1961” (E/CONF.63/L.9) and to postpone consideration of the article of the Protocol concerning reservations until the following day.

133. Mr. BEEDLE (United Kingdom) asked that his country should be designated as “United Kingdom of Great Britain and Northern Ireland” in the list of States represented at the Conference (ibid., para. 3).

134. Mr. STAHL (Czechoslovakia) asked that Czechoslovakia should be designated as “Czechoslovak Socialist Republic”.

135. Mr. LAMJAY (Mongolia) asked that Mongolia should be designated as “Mongolian People’s Republic”.

136. The PRESIDENT said that all the States represented at the Conference would be described by the official name used by the United Nations.

The draft Final Act of the United Nations Conference to consider amendments to the Single Convention on Narcotic Drugs, 1961 (E/CONF.63/L.9) was adopted without objection.

AGENDA ITEM 11

Consideration of all amendments proposed to the Single Convention on Narcotic Drugs, 1961 (concluded)

(E/CONF.63/2, E/CONF.63/5 and Add.1-6, E/CONF.63/6)

ARTICLE 2 (Substances under control) (concluded**)

(E/CONF.63/5)

137. The PRESIDENT said that as a result of the amendments to the 1961 Convention which the Confe-

* Resumed from the 10th plenary meeting.
** Resumed from the 8th plenary meeting.
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Mr. WATTLES (Legal Adviser to the Conference) indicated the changes to be made in the text of article 2, paragraphs 6 and 7, as proposed. In paragraph 6, the words “articles 19, 21bis” should be replaced by the words “article 19, paragraph 1, sub-paragraph (f), and of articles 21 to...”, the rest of the paragraph remaining unchanged. In paragraph 7, the words “articles 19, 20, 21bis” should be replaced by the words “article 19, paragraph 1, sub-paragraph (e), article 20, paragraph 1, sub-paragraph (g), article 21bis and in articles...”, the rest of the paragraph remaining unchanged.

Mr. WATTLES (Legal Adviser to the Conference) indicated the changes to be made in the text of article 2, paragraphs 6 and 7, as proposed. In paragraph 6, the words “articles 19, 21bis” should be replaced by the words “article 19, paragraph 1, sub-paragraph (f), and of articles 21 to...”, the rest of the paragraph remaining unchanged. In paragraph 7, the words “articles 19, 20, 21bis” should be replaced by the words “article 19, paragraph 1, sub-paragraph (e), article 20, paragraph 1, sub-paragraph (g), article 21bis and in articles...”, the rest of the paragraph remaining unchanged.

Mr. ANAND (India), explaining his vote, said that his delegation had abstained because it had objections to articles 19 and 21bis, which were mentioned in article 2.

Dr. BABAIAN (Union of Soviet Socialist Republics), explaining his vote, said that his delegation had voted against the new text of paragraphs 6 and 7 because of the position it had adopted with regard to articles 19 and 21bis and the paragraph mentioned of article 20.

The PRESIDENT said that, in the absence of any objection, he would take it that the Conference approved article 2 as a whole, as amended.

The meeting rose at 1.40 a.m. on Friday, 24 March 1972.
in an international instrument as to the form of reservations or the system of reservations itself. The provisions laid down should be applied in accordance with the relevant provisions of the Vienna Convention on the Law of Treaties and customary practice. Article E should accordingly be maintained as it stood, subject to the inclusion of the full list of amendments with respect to which no reservations might be made. The list which the United States representative had suggested was basically acceptable to his delegation and had clearly been prepared in a spirit of compromise. With that list, the basic structure of the Protocol could not be destroyed by reservations, and therefore, although he had certain reservations concerning the inclusion or non-inclusion of certain articles, he was prepared to support it.

8. Mr. von KELLER (Federal Republic of Germany) said that he fully supported the United States proposal. It was very important that reservations should be permitted with respect to some of the new provisions, since it would be difficult to convince politicians in his country, for instance, of the need for some of them.

9. Mr. BURESCH (Austria) said that he too was in full agreement with the United States proposal, although his delegation did not consider it absolutely necessary to include article 2, paragraph 4, in the list of articles regarding which reservations were permitted, since article 39 of the 1961 Convention permitted the application of stricter national control measures than those required by the Convention.

10. Mr. CASTRO (Mexico) said that his delegation could support the proposed list of amendments to articles of the Convention to be incorporated in the article of the Protocol concerning reservations, for the reasons already stated by the representative of Uruguay.

11. Mr. NIKOLIĆ (Yugoslavia) said he congratulated the United States representative on the spirit of compromise he had shown. While he personally did not think that the second list (articles in respect of which reservations might be made) need have been so long, he appreciated that it had been drawn up in order to enable delegations which had had doubts about the inclusion of certain provisions to accede to the Protocol. He accordingly supported the United States proposal.

12. Mr. de WAERSEGGER (Belgium) said that he entirely agreed with the United States proposal. His delegation would have been in a difficult position if reservations had not been permitted in respect of articles 19 and 21bis.

13. He personally did not think that it was necessary to make provision for reservations in respect of article 2, paragraph 4, article 35 and article 36, paragraph 1(b), in the first case for the reasons stated by the representative of Austria, in the second case because of the inclusion of the proviso concerning constitutional, legal and administrative systems, and in the third case because the word "may" was used in article 36, paragraph 1(b).

14. Mr. de BOISSESON (France) said that he was in full agreement with the proposal by the representative of the United States and hoped that it would enable the great majority of representatives to sign the Protocol.

15. Mr. ANAND (India) said that he was in broad agreement with what the representative of the United States had said and could agree that no reservations should be permitted in respect of article 9, paragraphs 1 and 5, article 10, paragraphs 1 and 4, article 11, article 14bis, article 16, article 22, article 35, article 36, paragraph 1(b), article 38 and article 38bis. He did not think there was any need to include article 2, paragraph 4, in the list of articles in respect of which reservations might be made, since parties could always take stronger measures than those stipulated under the provisions of the 1961 Convention. To apply the reservations clause to a provision which was less strict than in the original Convention seemed incongruous. With regard to article 9, paragraph 4, he understood that the United States representative felt strongly that it would keep the Board in constant touch with Governments. However, as he had said earlier (11th plenary meeting), he did not like the use of the words "in co-operation". The United Kingdom representative had stated that it included the concept of "agreement", because there could be no co-operation without agreement, and on that understanding he could accept its inclusion in the first list proposed by the United States, if that was the general wish.

16. There was one point on which he would like clarification; it concerned article 2, paragraphs 6 and 7, which according to the President were consequential on the new phraseology used in articles 19 and 21bis. Was it not therefore necessary that article 2, paragraphs 6 and 7 should also be included in the list of articles in respect of which reservations were permitted?

17. The PRESIDENT said that that was a question for the Conference to decide.

18. Mr. de ARAUJO MESQUITA (Brazil) said that he could give his full support to the United States proposal, since article 2, paragraph 4, had been included in the list of articles regarding which reservations might be made. His delegation would not have been able to sign the Protocol unless it had been so included.

19. Mrs. ZAEFFERER de GOYENE Che (Argentina) said that, since the United States proposal provided the necessary flexibility, she could support it.

20. Mr. CALENDA (Italy) said that he fully supported the United States proposal, which conformed to the spirit and attitude of the sponsors of the amendments to the 1961 Convention.

21. Dr. BABAIA N (Union of Soviet Socialist Republics) said that the decisions which the Conference took with regard to reservations would decide the fate of the Protocol itself. Though a spirit of mutual understanding had been shown in the recent discussions, there were a number of articles in the new instrument which created serious difficulties and which were in any case unacceptable to his Government. For that reason, delegations when taking their decisions on the question of reservations should be realistic and understand clearly the legal consequences which might ensue if a spirit of compromise was not shown generally. International co-operation in international drug control would be disrupted, and it would be those Governments which had not shown the necessary spirit of compromise which would be responsible.
22. For his delegation, the inclusion in the list of articles regarding which reservations might be made of article 12, paragraphs 5, article 14, article 19, article 21bis and article 20, paragraph 1 (g) made the United States proposal agreeable to him, since those were the articles which his delegation had found it impossible to accept.

23. He understood the difficulties which the representative of India experienced with article 9, paragraph 4, which had been the subject of drafting difficulties.

24. Mr. KIRCA (Turkey) said that the list proposed by the United States representative was fully acceptable to his delegation. As he had indicated earlier (8th plenary meeting), his delegation's only difficulty concerned article 36, paragraph 2 (b). He hoped that, by the time the Protocol was opened for signature, he would have received the necessary instructions enabling him to sign it without having to enter a reservation in respect of that provision. He thanked the United States representative for his spirit of understanding.

25. Dr. BÖLCS (Hungary) said that his delegation could support the United States proposals.

26. He endorsed the view expressed by the delegations of India and the USSR concerning article 9, paragraph 4. In his delegation's view, the conditions laid down in respect of which reservations might be made, since the 1961 Convention made it possible for each party to apply more stringent measures.

27. Mr. SAGOE (Ghana) said that his delegation warmly supported the United States proposals, particularly for article 2, paragraph 4. His delegation had expressed some misgiving concerning that article, since it conflicted with Ghana's drug laws. His delegation had therefore been relieved to learn that the article would be included in the list of amendments regarding which reservations might be made, which would no doubt make it possible for his country to accept article 39 of the 1961 Convention and to consider ratifying the Protocol.

28. Mr. HOOGWATER (Netherlands) thanked the United States representative for his proposals, which his delegation supported and which he thought would prove acceptable to all delegations.

29. With regard to the point raised by the Indian representative, his delegation felt that if the Conference permitted reservations to be made in respect of article 2, paragraphs 6 and 7, it might have the effect of allowing undue freedom to States to enter reservations. If such reservations were made on the basis of articles 19 and 21bis, the reservation in respect of article 2, paragraphs 6 and 7, would be only consequential, but if an autonomous reservation were made in respect of article 2, paragraphs 6 and 7, the position might be quite different. The point should be cleared up by the Legal Adviser to the Conference.

30. Mr. ANAND (India) said that even if article 2, paragraphs 6 and 7, were not included in the first list, it would create no legal problem if a party wished to reserve its position with regard to article 21. He assumed that the intention of article 2, paragraphs 6 and 7, was that if a party acceded to the Protocol as a whole, without making any reservations, then all the articles mentioned in those paragraphs would be applicable. However, if a party entered a reservation in respect of any of the articles mentioned in those paragraphs, those reservations would be valid in spite of the fact that the articles in question were mentioned in the paragraphs. His delegation would like to know whether any legal conflict would arise vis-à-vis article 2, paragraphs 6 and 7, in respect of which no reservation could be entered, if a party wished to reserve its position with respect to article 21bis. In his delegation's view, the Conference would need to be enlightened about the relevant legal aspects before it could decide whether article 2, paragraphs 6 and 7, should be included in the reservations list.

31. Mr. GROSS (United States of America) said there could be no question but that article 2, paragraphs 6 and 7, were consequential and applied only if no reservation had been made in respect of the article referred to. If a reservation had been made in respect of the article referred to, then obviously that particular country would not be bound by the consequential amendment.

32. Dr. BABAIAN (Union of Soviet Socialist Republics) said that if a country entered a reservation in respect of a given article, that article would not apply to the country concerned. In his delegation's view, the situation was quite clear.

33. Mr. ANAND (India) said that he would not press the point.

34. Dr. HOLZ (Venezuela) said that there was a danger that a protocol could be either too rigid or too flexible. An unduly rigid protocol might have the result that only a few States would sign it. On the other hand, if a protocol was too flexible, it might become adulterated and be an impractical legal instrument. The United States proposal represented a compromise solution and his delegation would vote in favour of it.

35. Mr. CHAPMAN (Canada) said that his delegation also agreed that it should be possible for States to enter reservations in respect of those articles that caused serious difficulties. Nevertheless, it was important that the spirit of compromise should not be carried to the extent of making the Protocol meaningless. His delegation felt that the United States proposals for articles on which reservations could not be made had struck the right balance and would support them.

36. Mr. GOBIEC (Poland) said that he welcomed the spirit of compromise displayed by the United States delegation. His delegation could accept the proposed list of articles on which reservations would not be permitted. The list was short enough to enable many States to become parties to the Protocol. He was particularly pleased that it did not include article 20, paragraph 1 (g).

37. Mr. OUMA (Kenya) said that his delegation also supported the list of articles in respect of which reservations might not be made, which had been proposed by the United States delegation.

38. Dr. EDMONDSON (Australia) said that although his delegation would have preferred there to be fewer articles on which reservations might not be made, it would accept the United States proposal in a spirit of compromise.
39. Dr. BABAIAN (Union of Soviet Socialist Republics) said that his delegation felt it would be better to set out in the text those amendments on which reservations might be entered rather than those on which they might not.

40. Mr. WATTLES (Legal Adviser to the Conference) said that, from the legal point of view, it made no difference whether the wording was positive or negative. In his view, it was preferable to list the articles on which reservations might not be made.

41. Dr. BABAIAN (Union of Soviet Socialist Republics) said he would not press the point.

42. The PRESIDENT said that the text of article E which it was now proposed that the Conference should adopt consisted of the first two lines of the articles as set out in the draft outline prepared by the Legal Adviser to the Conference (E/CONF.63/C.2/L.13) and the words "the amendments to", followed by the first list proposed by the United States representative, namely, "article 2, paragraphs 6 and 7; article 9, paragraphs 1, 4 and 5; article 10, paragraphs 1 and 4; article 11; article 14bis; article 16; article 22; article 35; article 36, paragraph 1 (b); article 38, and article 38bis."

43. Mr. ROSENNE (Israel) said that the favourable attitude of his delegation to article E, as it had emerged from the debate, was based on the assumption that the article meant what it said and referred only to genuine reservations in respect of amendments to the 1961 Convention contained in the Protocol. In his view, it was understood that other purported reservations, and statements masquerading as reservations, were inadmissible. His delegation had explained its reasons in Committee II at its 18th meeting. His delegation understood the word "reservations" to be used in its accepted international sense, as found in the relevant international instruments, notably the Vienna Convention on the Law of Treaties, which had served as the basis for the final clauses. Indeed, that interpretation had been confirmed by the discussions in the plenary meeting.

44. Mr. KIRCA (Turkey) said that, before the vote was taken, he would like to propose that, at the end of article E, a provision be added along the lines of article 50, paragraph 4, of the 1961 Convention; in fact the same wording could be used.

45. The PRESIDENT asked if there were any objections to the Turkish proposal.

46. Mr. ROSENNE (Israel) said he had no objection if that was the desire of the Conference, but he doubted whether it was really necessary to start going any further into the matter at that stage. Article 50 of the 1961 Convention would in any case remain, including its own paragraph 4. Since 1961, there had been far-reaching developments precisely in the area of the law of treaties, and he thought the whole question of reservations was now clarified, including the procedure and the matter of the withdrawal of reservations—a process which was to be encouraged—and he doubted whether the article on reservations in the Protocol need be made any more complicated.

47. Mr. GROSS (United States of America) said he fully understood the view of the representative of Israel but felt that, in an instrument such as the Protocol, the provision in question would be useful, and he therefore supported the Turkish proposal.

48. Dr. BABAIAN (Union of Soviet Socialist Republics) said that he too supported the Turkish proposal.

49. The PRESIDENT said he would take it that, if there were no formal objection, the Conference accepted the proposal by the representative of Turkey to add at the end of article E a text identical to that of paragraph 4 of article 50 of the 1961 Convention.

The Turkish proposal was adopted without objection.

Article E as amended was adopted unanimously.

The meeting rose at 11.40 a.m.
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terminology bulletin giving the names of countries and the corresponding adjectives of nationality.\(^1\) The entries in that bulletin gave, for each country, the title to be used for all ordinary purposes in the United Nations, followed by the country's full title as normally used in formal documents. Those entries reflected the wishes of States, and their contents were left entirely to the choice of the Governments concerned. The bulletin thus merely reflected the information officially received by the Secretariat from delegations at United Nations Headquarters. In the present instance, the short title "Czechoslovakia" had been used because that title had been accepted by the delegation of that country in other lists of the same character.

5. The PRESIDENT said that, if there was no objection, he would suggest that the Conference accepted the text in document E/CONF.63/7 as a true reflexion of the Final Act which it had already adopted.

The proposal was adopted without objection.

ADOPTION OF THE PROTOCOL AMENDING THE SINGLE CONVENTION ON NARCOTIC DRUGS, 1961 (E/CONF.63/8)

6. The PRESIDENT invited the Conference to consider the text of the Protocol amending the Single Convention on Narcotic Drugs, 1961 (E/CONF.63/8). The preamble and the various articles of the Protocol had already been adopted by the Conference at previous plenary meetings. The Conference would now have to examine the text, in order to ensure that it accurately reflected the decisions it had already taken.

Title and preamble

7. Mr. KIRCA (Turkey) asked whether it was not advisable to use, in the French title of the Protocol, the word "amendments" in the plural.

8. Mr. de BOISSÉSON (France) said that it was perfectly correct in French to say "Protocole portant amendment", with the last word in the singular.

The title and preamble of the Protocol were adopted.

Article 1

9. Mr. KIRCA (Turkey) suggested that, in the French version of article 1 and the subsequent articles, the future tense "sera modifié" be replaced by the present tense, "est modifié", which was more usual in French.

10. Mr. WATTLES (Legal Adviser to the Conference) said it was true that, in the French language, it was customary to use the present tense of the verb to express an obligation imposed by a treaty; the same meaning was habitually rendered in English by the auxiliary verb "shall". In the 1961 Convention, however, such expressions as "shall be" had been rendered in the French version by the future "sera" or "seront". Since that form had been adopted in the 1961 Convention and in a number of later United Nations conventions, the secretariat had felt bound to use it in the present Protocol as well.

Article 1 of the Protocol was adopted.

Article 2

11. Mr. ANAND (India) said he noticed that the new paragraph 4 of article 9 of the 1961 Convention used the term "trafficking", whereas elsewhere in the Protocol the term "traffic" was used. It would be better if uniform terminology were used throughout the instrument. Perhaps the Legal Adviser to the Conference could say which of the two terms was the correct one.

12. Mr. WATTLES (Legal Adviser to the Conference) said that in the 1961 Convention both terms, "traffic" and "trafficking", were used in the various articles. In the Protocol, the secretariat had used for each article the wording that had emerged from the work of the Drafting Committee following the adoption of the article.

Article 2 of the Protocol was adopted.

Article 3

13. Dr. HOLZ (Venezuela) said he noticed that, in the English and French versions of the various articles, the article was mentioned first and the paragraph second, whereas in the Spanish version the formula used was "los párrafos 1 y 4 del artículo 10" or similar wording, the paragraph being mentioned before the article. He suggested that the Spanish form be brought into line with that used in the other languages.

14. The PRESIDENT said he hoped the Venezuelan representative would not press his suggestion, since the delay involved in making a change of that kind would make it impossible for the Protocol to be ready for signature the following morning as proposed.

15. Dr. HOLZ (Venezuela) said he would withdraw his suggestion; there was no problem of interpretation.

Article 3 of the Protocol was adopted.

Article 4

Article 4 of the Protocol was adopted.

Article 5

16. Dr. BABAIAN (Union of Soviet Socialist Republics) said he would like to have it noted in the record of the meeting that he had voted against article 5 of the Protocol when it had been adopted by the Conference.

Article 5 of the Protocol was adopted.

Article 6

17. Dr. BABAIAN (Union of Soviet Socialist Republics) said that his delegation had voted against article 6 of the Protocol and maintained its position.

18. Mr. GROSS (United States of America) said that there was an error in the tenth line of the English version of paragraph 4 (a) of article 14 of the Convention,
where the words "are being" had been transposed to read "being are".

19. The PRESIDENT said that the necessary correction would be made.

20. Mr. KIRCA (Turkey) said that, in the French version of paragraph 1 (a), a comma should be placed after the word "intergouvernementales" in the first sentence.

21. The PRESIDENT said that, if there were no further comments, he would take it that, subject to the corrections by the United States and Turkish representatives, the Conference accepted the text of article 6.

   Article 6 of the Protocol was adopted.

Article 7

22. Dr. BABAIAN (Union of Soviet Socialist Republics) said he felt obliged to place on record the fact that his delegation had voted against article 14bis of the Convention, since silence might be interpreted as a change of mind.

23. Mr. KIRCA (Turkey) said he noticed that the text of the new article 14bis in article 7 of the Protocol ended with the words "referred to in articles 2, 35, 38 and 38bis". If he recalled rightly, article 38bis had not been included when the Conference had adopted the text of article 14bis. He had no objection to the inclusion of article 38bis, but he did feel that the Conference should take a formal decision on the point.

24. The PRESIDENT said that the addition of a reference to article 38bis in article 14bis was a consequential change which had been made without any vote. He would therefore put the question of the inclusion of article 38bis to the vote.

   The proposal to include a reference to article 38bis in article 14bis of the Convention was adopted by 72 votes to none, with 1 abstention.

   Article 14bis of the Convention, as a whole, was adopted by 78 votes to none, with 7 abstentions.

   Article 7 of the Protocol was adopted.

25. The PRESIDENT said he assumed that, since the explanations of vote which had accompanied the earlier consideration of that article still applied, there would be no need for further explanations.

26. Dr. BABAIAN (Union of Soviet Socialist Republics) asked what procedure would be adopted by the secretariat to correct the various errors and inconsistencies in the Russian version of the Protocol. There were a number of grammatical errors in the Russian version, which in its present form was unacceptable for signature by his own delegation.

27. Mr. WATTLES (Legal Adviser to the Conference) said that the text had been reviewed that morning to ensure consistency before the document was presented for signature the next day. If that proved impossible, the appropriate procedure would be to issue a procès-verbal of rectification.

28. Dr. BABAIAN (Union of Soviet Socialist Republics) said he failed to see how participants in the Conference could sign a Protocol containing typographical and grammatical errors and then issue a list of corrigenda. If the secretariat could not assure him that all those errors would be eliminated from the Russian version before it was presented for signature, he would be obliged to read out the correct Russian version of each article as it came up for acceptance at the present meeting.

29. The PRESIDENT said he hoped that would not be necessary. He had not been notified of any errors of substance in any of the versions, but if extensive changes were needed it might not be possible to adopt the procedure mentioned by the Legal Adviser to the Conference, and signature of the Protocol would then have to be postponed. Perhaps the USSR representative would give the secretariat a list of the corrections he wished to have incorporated in the Russian version, at the end of the meeting.

30. Mr. CHAWLA (India) said it might be wiser to deal with the corrections to the Russian version at the present meeting, as the secretariat might find some of them unacceptable or consider that they would change the meaning. That might delay the signing of the Protocol.

31. Dr. BABAIAN (Union of Soviet Socialist Republics) said that the corrections he had in mind would not change the meaning, as they were designed merely to give a proper, grammatical Russian rendering of the present English text.

Article 8

Article 8 of the Protocol was adopted.

Article 9

32. The PRESIDENT said that the word "should" in the introductory phrase of the English version should be replaced by the word "shall".

Article 9 of the Protocol was adopted.

Article 10

Article 10 of the Protocol was adopted.

Article 11

Article 11 of the Protocol was adopted.

Article 12

Article 12 of the Protocol was adopted.

Article 13

33. Mr. BEEDLE (United Kingdom) said that the word "its" at the end of sub-paragraph (g) of article 35 of the Convention was ambiguous. He suggested that the words "its borders" be replaced by the words "the borders of the Party".
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34. Mr. ROSENNE (Israel) suggested that the amended wording should read "the borders of that Party".
   
   It was so agreed.

35. Mr. de BOISSESON (France) and Dr. BERTI (Venezuela) said that a similar amendment should be made to the French and Spanish versions respectively.

36. Dr. BABAIAIN (Union of Soviet Socialist Republics) said he would submit an amended Russian version of sub-paragraph (g) to bring it into line with the English.

   Article 13 of the Protocol was adopted.

   Article 14 of the Protocol was adopted.

   Article 15 of the Protocol was adopted.

37. Mr. de BOISSESON (France) recalled that article 38bis had been adopted by the Conference at its 12th plenary meeting on the basis of the English text only. He now wished to propose that the words "le considère souhaitable" at the beginning of the French text should be replaced by the words "l'estime souhaitable" and that, in the concluding phrase, the words "en vue de lutter contre les problèmes" should be replaced by the words "en vue de résoudre les problèmes".

38. Dr. BÖLCS (Hungary), supported by Mr. KIRCA (Turkey), proposed that, in the introductory phrase of the French text, the words "de la drogue" should be replaced by the words "des stupéfiants", which were used at the end of the sentence.

39. Dr. BABAIAIN (Union of Soviet Socialist Republics) said that he would provide a corrected Russian version of article 38bis, in order to bring the Russian text into line with the English.

40. The PRESIDENT said that, if there were no further comments, he would take it that, subject to the correction proposed by the French and Hungarian representatives, the Conference accepted the text of article 16 of the Protocol.

   Article 16 of the Protocol was adopted.

41. Mr. VINUESA SALTO (Spain) said he wished to place it on record that his delegation deplored the fact that article 38bis had been adopted without examination by the Drafting Committee. That fact, which had led to a discussion on drafting points at that late stage of the Conference, had resulted in the inclusion of some unsatisfactory wording. For example, the article stated that a party would have "due regard to its constitutional, legal and administrative systems" when it promoted the establishment of agreements on the development of regional centres for scientific research and education. Such a statement was superfluous, since it was inconceivable that any State would fail to take its constitutional, legal and administrative systems into account when promoting the conclusion of international agreements.

42. Mr. OKAWA (Japan) asked whether any steps were being taken to ensure that the Chinese text, which, under article 17, paragraph 1, was equally authentic with the English, French, Russian and Spanish texts, was in complete correspondence with the other texts.

43. Mr. WATTLES (Legal Adviser to the Conference) said that, since the People's Republic of China had not been represented at the Conference, arrangements had been made to produce the Chinese text at a later stage, after the original of the Protocol had been transmitted to United Nations Headquarters for deposit. That procedure had been adopted for reasons of economy, in order to avoid the expense of bringing a staff of Chinese translators and calligraphers to Geneva to prepare the Chinese text.

44. Dr. BABAIAIN (Union of Soviet Socialist Republics) said he would supply a more satisfactory Russian translation of the word "signatory" in paragraph 1 of article 17.

45. The PRESIDENT said that if there were no further comments, he would take it that, subject to that correction of the Russian text, the Conference accepted the text of article 17 of the Protocol.

   Article 17 of the Protocol was adopted.

   Articles 18, 19, 20, 21 and 22 of the Protocol were adopted.

46. The PRESIDENT said that, if there were no comments, he would take it that the Conference accepted the texts of articles 18, 19, 20, 21 and 22.

   Articles 18, 19, 20, 21 and 22 of the Protocol were adopted.

47. In reply to a question by Mr. GROSS (United States of America), the PRESIDENT said that the Conference had completed its consideration of the texts of the preamble of the Protocol and of the various amendments to the articles and the new articles of the single Convention on Narcotic Drugs, 1961, as contained in document E/CONF.63/8, in order to confirm that those texts accurately reflected the decisions taken by the Conference at earlier plenary meetings. It had not, however, yet taken a decision on the Protocol as a whole. He would therefore invite the Conference to vote on the substance of the Protocol as a whole, after which delegations could make statements in explanation of their votes.

48. Mr. NIKOLIĆ (Yugoslavia) asked whether reservations could be expressed in connexion with the vote.

49. Mr. WATTLES (Legal Adviser to the Conference) explained that the decision about to be taken by the Conference related only to the question whether the Protocol was to be adopted and opened for signature and ratification. A State which voted in favour of adoption of the Protocol was not bound to sign it nor was a State which signed it bound to ratify it.

50. The PRESIDENT invited the Conference to vote on the Protocol as a whole.
At the request of the representative of Denmark, a vote was taken by roll-call.

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

In favour: Madagascar, Malawi, Mexico, Morocco, Netherlands, Nicaragua, Nigeria, Norway, Pakistan, Peru, Philippines, Portugal, Republic of Korea, Republic of Viet-Nam, Saudi Arabia, Senegal, Sierra Leone, Singapore, South Africa, Spain, Sweden, Switzerland, Thailand, Togo, Tunisia, Turkey, United Kingdom of Great Britain and Northern Ireland, United States of America, Uruguay, Venezuela, Yugoslavia, Afghanistan, Argentina, Australia, Austria, Belgium, Bolivia, Brazil, Canada, Ceylon, Chile, Colombia, Costa Rica, Cyprus, Dahomey, Denmark, Egypt, El Salvador, Federal Republic of Germany, Finland, France, Ghana, Greece, Guatemala, Holy See, India, Indonesia, Iran, Israel, Italy, Ivory Coast, Jamaica, Japan, Jordan, Khmer Republic, Kuwait, Laos, Lebanon, Liberia, Liechtenstein, Luxembourg.

Against: None.

Abstaining: Mongolia, Panama, Poland, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, Algeria, Bulgaria, Burma, Byelorussian Soviet Socialist Republic, Cuba, Czechoslovakia, Hungary.

The Protocol amending the Single Convention on Narcotic Drugs, 1961, as a whole, was adopted by 71 votes to none, with 12 abstentions.

51. Mr. GROS ESPIELL (Uruguay), speaking in explanation of vote, said that his delegation had voted in favour of adoption of the Protocol as a whole and was in general agreement with each of the provisions adopted for the purpose of improving the text of the 1961 Convention and increasing the effectiveness of international action against the illicit production, manufacture and use of narcotic drugs. It was that same desire to cooperate in a task of fundamental importance to humanity that had prompted Uruguay to join the States sponsoring the original proposals for amendment submitted to the Conference in documents E/CONF.63/5 and Add.1-6.

52. Uruguay would accordingly sign the Final Act of the Conference. Unfortunately, it was not a signatory of the 1961 Convention and therefore could not sign the Protocol. The Uruguayan Government would, however, immediately initiate the necessary national procedures with a view to acceding to the Convention under article 40, paragraph 3, since the period during which the Convention had been open for signature had expired on 1 August 1961. Had that period not expired, his delegation would have been able to sign the 1961 Convention forthwith, since it had full powers to do so. Once the necessary procedures for accession to the 1961 Convention had been completed, his country would take immediate steps to comply with the necessary requirements in order to become a party to the amending Protocol.

53. Dr. BABAIAN (Union of Soviet Socialist Republics), speaking in explanation of vote, said that he had abstained from voting on the Protocol as a whole because it contained a number of provisions which were unacceptable to his Government. As his delegation had pointed out during the discussion, it was inappropriate that some of the Protocol's provisions should extend to States which were not parties to the Convention, particularly since article 40 discriminated against a number of States by means of a formula which prevented them from becoming parties. His delegation was also opposed to the granting of extensive powers to the Board which would make it a virtually supra-national body and were inconsistent with the sovereignty of States. In his delegation's view, it was not for the Board to determine the drug requirements of States; such interference might have serious consequences for public health and welfare in the countries concerned. His delegation had also pointed out that the amendments to the articles relating to statistics would do little to promote a solution of the drug problem as a whole. The provisions of the amended 1961 Convention to which his delegation had serious objections were article 12, paragraph 5, and articles 14, 19, 20 and 21bis.

54. He welcomed the spirit of understanding and compromise which had led to the adoption of the article on reservations, since that article enabled reservations to be made in respect of a number of articles, in particular those which were unacceptable to his Government.

55. His delegation took an optimistic view of the Protocol and believed that it would make a definite contribution to the prevention and control of drug abuse. However, in his delegation's view, social conditions were one of the main elements in drug addiction. The Conference had adopted a resolution on that subject, which his delegation regarded as useful, even though it did not completely reflect its views. In its opinion, the principal part in efforts to combat the illicit use of drugs must be played by national measures.

56. In conclusion, his delegation deplored the fact that a number of States had not been invited to the Conference, despite their great interest in the problem with which it was concerned.

57. Dr. BERTSCHINGER (Switzerland), speaking in explanation of vote, said that his delegation had voted in favour of adoption of the Protocol. Unfortunately, for administrative reasons, he would be unable to sign the Protocol the following day. He was confident, however, that the observer for Switzerland at United Nations Headquarters would shortly be instructed to sign it.

58. Mr. ROSENNE (Israel), speaking in explanation of vote, said that, as his delegation had mentioned several times in the course of the Conference, especially in Committee II, Israel was not a producing country and hardly a consuming country, but was an involuntary country of transit, the transit traffic being conducted by smugglers proceeding from one or other of the neighbouring States. In his delegation's view, the legal régime required to deal with the general problem would have to be properly adapted to meet the situation in which Israel found itself, taking into account also the state of its relations with the neighbouring States. In that part of the world, the problems with which the 1961 Convention and the amending Protocol attempted to deal were of regional scope, and the proper implementation of those international engagements required regional action by all the States of the area without exception.
59. He wished to make the following formal declaration for incorporation verbatim in the records of the Conference:

"After the representative of Israel has signed this Protocol subject to ratification, the Government of Israel will not proceed to ratify it until it has received assurances that all the neighbouring States which intend to become parties to it will do so without reservation or declaration, and that the so-called reservation or declaration referring to Israel, made by one of Israel's neighbours in connexion with its participation in the 1961 Single Convention on Narcotic Drugs and quoted by the representative of Israel at the 18th meeting of Committee II on 18 March 1972, is withdrawn."

60. His signature of the Final Act was subject to that same declaration.

61. Mr. OLUWOLE (Nigeria), speaking in explanation of vote, said that his delegation had voted in favour of adoption of the Protocol because it whole-heartedly supported the amendment of the 1961 Convention. The discussion at the Conference had shown a desire for compromise and co-operation in efforts to produce an instrument to combat illicit drug activities and protect all individuals regardless of creed, colour or place of residence against those activities. As an importer and consumer of drugs, Nigeria would, within the context of the Convention and of the amending Protocol, endeavour to protect its territory against illicit traffic in drugs and would co-operate with other parties in combating drug problems. His delegation, however, regretted that, owing to circumstances unforeseen by its Government, it would be unable to sign the Protocol.

62. Mr. ZAFERA (Madagascar), speaking in explanation of vote, said that, although his delegation was not fully satisfied with some of the amendments, it had voted in favour of adoption of the Protocol, because it was convinced that that instrument would be helpful in efforts to combat the drug menace. The amendments as a whole and the resolutions adopted by the Conference constituted a step forward in international co-operation for the control of drug abuse. His delegation's reservations would be expressed at the appropriate time.

63. U WIN PE (Burma), speaking in explanation of vote, said that, while his delegation was in general agreement with the broad principles underlying the amendments, the voting on individual amendments had shown that some of them would involve difficulties of implementation. His delegation had also fully explained the special circumstances affecting its country, which was very sensitive, and, he believed, rightly so, to misunderstanding on the part of other parties to the 1961 Convention. It was necessary to take into account the difficult situations that would arise if certain acts by outside authorities were imposed on his country. Therefore, while his delegation appreciated the initiative taken by the sponsors of the amendments, it was unfortunately unable to accept the proposals as a whole and had abstained from voting on the Protocol as a whole. The Protocol undoubtedly constituted an important advance in the common struggle against drug abuse, but the spirit of constructive co-operation had unfortunately emerged too late in the Conference to make it possible to prepare an instrument capable of being signed and ratified by all countries without numerous reservations.

65. His delegation could not, for instance, understand the insistence on amending article 12, paragraph 5, and article 19 of the 1961 Convention. In its opinion, the resulting changes in the estimates system would not be conducive to the efficient administration of that system.

66. With respect to the amendments to article 14, his delegation considered that governmental organs were the only legitimate sources of information for all international bodies. It was not appropriate to place INCB in a position equal or even superior to that of States. Poland had co-operated with the Board and its predecessors for many years and the Government and the body in high esteem, but, for formal reasons, it could not agree to such wide powers being conferred upon it. A similar situation arose with regard to article 21bis. His delegation opposed the introduction of that new article into the 1961 Convention, because it did not consider that the Board should be given the right to interfere in matters that lay exclusively within the sovereign jurisdiction of States. Even supposing the provisions of that new article were to be applied, they would affect only opium production for medical purposes and would have no impact on illicit opium production.

67. He had not dwelt on what he regarded as the weak points of the Protocol in order to belittle the work of the Conference. As was generally realized, both achievements and failures in the struggle against the illicit traffic had their source not so much in legal instruments as in the existence or non-existence of a spirit of co-operation between countries. It was clear from the participation of a large number of States in the Conference and from the lively discussions which had taken place that the problem of drug control was being taken seriously throughout the world and that an active search was being made for the best possible solution. Despite the existing legal and formal differences in the approach to a number of questions, his delegation felt confident that the same spirit of co-operation would prevail in the future.

68. Lastly, as his delegation had already pointed out, the fact that several countries had been prevented from attending the Conference was contrary to the universal approach necessary for a successful fight against drug abuse.

69. Mr. ANAND (India), speaking in explanation of vote, said that his delegation had voted in favour of adoption of the Protocol in the light of the very clear explanation given by the Legal Adviser to the Conference regarding the significance of the vote. His delegation's vote did not commit his country in any way and did not alter his delegation's position as stated during the discussion of the various provisions of the Protocol.

70. Mrs. RODRIGUEZ MAYOR (Cuba), speaking in explanation of vote, said that her delegation had
abstained from voting on the adoption of the Protocol because of its objection to a number of amendments which, in its view, conferred upon the Board powers that were incompatible with the sovereignty of States.

71. In the discussion in Committee II, her delegation had defended the right of all States to become parties to the 1961 Convention and hence to the amending Protocol. Since the question of narcotic drugs was of importance to the whole international community, she could see no reason why certain States should be discriminated against in the matter, nor could she see why all States should not have been invited to participate in the Conference.

72. Her delegation had opposed the various sub-paragraphs of sub-paragraph (b) of paragraph 2 of article 36 of the Convention, dealing with extradition, because it believed that that complex procedure should not be based on manifestly unreliable information. That did not mean, of course, that her country was in any way lukewarm in its struggle against the illicit traffic. As her delegation had stated in Committee II (12th meeting), the Cuban Penal Code had recently been applied to two United States citizens who had landed on Cuban territory and whose plane had been found to conceal a large quantity of cannabis; the Cuban courts had sentenced those offenders to four years' imprisonment. His country would continue the struggle against drug offenders whenever they made use of Cuban territory.

73. Lastly, the Cuban delegation believed that the article on reservations contained provisions which left the door open for States to make whatever reservations were appropriate or necessary on becoming parties to the Protocol.

74. Mr. PETROV (Bulgaria), speaking in explanation of vote, said that he had abstained from voting on the Protocol as a whole, for the reasons that had already been fully stated by the USSR representative.

75. Mr. KOZLJUK (Ukrainian Soviet Socialist Republic), speaking in explanation of vote, said that the spirit of the 1961 Convention and would enhance the effectiveness of the international control system.

77. In the opinion of the Turkish Government, the text just adopted would not make the Board a supra-national body, since it would not take executive decisions. As a result of the compromises reached on articles 12, 14 and 21bis, those articles no longer contained any provisions that could be regarded as impinging upon national sovereignty. The wording of article 14 had resolved the doubts that his delegation had originally felt about the possibility of the Board becoming involved in political polemics with States; it was now clear that the Board would be able to continue to play an impartial and non-political role. Article 14bis was particularly satisfactory, because it filled a serious gap in the 1961 Convention by giving the Board the necessary power to furnish technical and financial assistance to States which needed it.

78. His Government's recent decision to ban the cultivation of the opium poppy had received almost unanimous support from the Turkish people. That situation had not been due to the threat of sanctions, but to the fact that a statesmanlike appeal had been made to the conscience of the people and to their sense of duty to the rest of mankind. His Government was confident that the Board would act in the same spirit. The need was for measures of co-ordination and constructive co-operation between the countries that were victims of the drug scourge and the producing countries. The provisions of article 14bis could well make it possible for the Board to initiate such co-operation. In conclusion, he confirmed that he would sign the amending Protocol the following day on behalf of his Government.

79. Mr. GHAUS (Afghanistan), speaking in explanation of vote, said that his delegation had voted in favour of the Protocol on the basis of the explanation given by the Legal Adviser to the Conference immediately before the vote. Its affirmative vote did not, however, mean that it had withdrawn the reservations it had previously expressed.

80. Mr. GROSS (United States of America) said that his delegation particularly welcomed the remarks made by the representative of Turkey, whose Government had taken a very important decision the previous year with a view to eliminating illicit production and trafficking. But even those delegations that had abstained in the vote on the amending Protocol had in effect conceded that a major step forward had been taken in international drug control. After briefly outlining the history of drug control since 1912, since when 11 international treaties on drugs had come into being, he said he welcomed the recognition that, in the face of the dangers of drug abuse,
national and international interests coincided, a recogni-
tion that had led to the decision to give the Board ex-
panded functions to assist in the world-wide struggle
against drug abuse. The 96 States that had participat-
ed in the Conference had shown a very constructive attitude
and he hoped that their Governments would, like his
own, ratify the Protocol at an early date.

81. Mr. GARCÉS (Colombia), speaking in explanation
of vote, said that, as a sponsor of the amendments, his
delegation had voted in favour of the Protocol, which
would be of great assistance in the campaign against the
illicit cultivation, production and manufacture of, and
trafficking in, drugs. His Government would now con-
sider what steps had to be taken in order to accede to the
1961 Convention and the amending Protocol, as well
as to the 1971 Convention on Psychotropic Substances.
In view of its firm belief in international co-operation,
it would, with other delegations, sign the amending
Protocol the following day.

Closure of the Conference

82. Mr. WINSPEARE GUICCIARDI (Under-Secre-
tary-General, Director-General of the United Nations
Office at Geneva), speaking also on behalf of the Secre-
tary-General of the United Nations, congratulated the
Conference on the success of its work, which had been due
mainly to the recognition of three important facts. The
first was that no results could be achieved in inter-
national co-operation without some acceptance of com-
promises on national positions and provisions; the
second was that national activities, particularly those
relating to drug control, had to be harmonized with the
interests of the international community as a whole, and
the third, that, without external aid, several countries
were unable to collaborate fully in international efforts
for the benefit of mankind as a whole. It was also under-
standable, perhaps indeed obvious, that because of those
facts and because of the changing situation in the world,
the functions of the Board had to be adapted and streng-
thened. It had therefore been decided to increase its
membership from 11 to 13, which would make it possible
to elect members from a wider range of countries and
possibly from more countries with a direct interest in the
problem. The Conference had also decided to expand the
Board’s mandate, and it would henceforth receive fuller
information on the actual situation with regard to drug
control and the drug problem in general. He believed
that the new provisions represented a very successful
attempt to improve not only the procedures of narcotics
control but also the implementation of the control
measures.

83. The PRESIDENT said that he was personally con-
fident that the Protocol just adopted would be of great
assistance in improving international control measures,
and he expressed his thanks to all those who had taken
part in the Conference and helped him in his task.
84. After the customary exchange of courtesies, he
declared the Conference closed.

The meeting rose at 1.25 a.m. on Saturday, 25 March 1972
COMMITTEE I

FIRST MEETING

Monday, 6 March 1972, at 12.50 p.m.

Acting Chairman: Mr. ASANTE (Ghana)
(President of the Conference)

Chairman: Mr. CHAPMAN (Canada)

Election of the Chairman

1. The Acting CHAIRMAN invited nominations for the office of Chairman.
2. Dr. BERTSCHINGER (Switzerland) nominated Mr. Chapman, the head of the Canadian delegation.
3. Mr. VAILLE (France) supported the nomination.

Mr. Chapman (Canada) was elected Chairman by acclamation and took the Chair.

The meeting rose at 12.55 p.m.

SECOND MEETING

Tuesday, 7 March 1972, at 4.45 p.m.

Chairman: Mr. CHAPMAN (Canada)

Election of the Vice-Chairman

1. Mr. ANAND (India) nominated Dr. Edmondson (Australia) for the office of Vice-Chairman.
2. Dr. POSAYANONDA (Thailand), Dr. OLGUÍN (Argentina), Dr. JOHNSON-ROMUALD (Togo), Dr. DANNER (Federal Republic of Germany) and Mr. BEEDLE (United Kingdom) supported the nomination.

Dr. Edmondson (Australia) was elected Vice-Chairman by acclamation.

Organization of work

3. The CHAIRMAN observed that the Conference, at its 2nd plenary meeting, had assigned to Committee I the task of considering amendments to article 9 paragraph 4, and articles 12, 14, 19, 20, 21bis, 22, 24, 27 and 35 of the Single Convention on Narcotic Drugs, 1961. He asked whether the Committee wished to discuss the proposed amendments in that order.

4. Mr. GROSS (United States of America) thought it would be better to begin with article 12, and then turn to article 9, paragraph 4, and other articles which should have been considered by Committee II but had finally been referred to Committee I on the recommendation of the General Committee.

5. Dr. EL HAKIM (Egypt) thought that, before considering article 9, paragraph 4, it would be better to wait and see what conclusions were reached in Committee II with regard to the other paragraphs of article 9.

6. Dr. JOHNSON-ROMUALD (Togo) agreed. However, he did not think the Committee should begin with article 12, since paragraph 5 of that article presented difficulties which could not be tackled without some preparation.

7. Mr. KIRCA (Turkey) supported the United States representative's proposal. Once the Committee had taken a decision on article 12, it would know whether, from the legal standpoint, paragraph 4 of article 9 was really necessary, or whether its deletion would deprive the Convention of some of its force.

8. Mr. ANAND (India) thought it would be better, before considering the articles one by one, to have a clear idea of the new role which the Committee was intending to give to INCB. In other words, would the functions of the Board be of a supra-national character or not?

9. Mr. NIKOLIČ (Yugoslavia) said that the general debate at the 2nd and 3rd plenary meetings of the Conference had already given some idea of the views of participants on that point, and there was therefore no need to revert to it. Also, it had recognized that almost all the amendments to be considered were interdependent. It would thus be better to deal with the articles in numerical order, rather than waste time trying to devise an ideal arrangement.

10. Dr. BABAION (Union of Soviet Socialist Republics) agreed with the representative of India that it would be more rational to deal first with a general question of principle which was crucial to most of the amendments to the various articles. Such a procedure would greatly facilitate the consideration of the amendments, and would in fact be in keeping with the spirit of the rules of procedure of the Conference (E/CONF.63/3), as adopted by the Conference at its 1st plenary meeting, article 46 of which stated that the amendments furthest removed from the original proposal should be considered first.
11. With regard to the order in which the proposed amendments should be considered, it was wrong to say that some of them had been added to the Committee's programme of work, since the amendments which the Committee had been requested to discuss had been referred to it as a single whole, and had been chosen precisely because of their interdependence.

12. Mr. WINKLER (Austria) did not see how the Committee could begin with article 12, which dealt with confirmation of the Board in pursuance of article 19. It was essential to establish first what kind of estimates were to be furnished.

13. Dr. MARTENS (Sweden) disagreed with the representatives of India and the USSR. In his view, it was the Committee's decisions on the amendments which would or would not change the role of the Board. It would therefore be better to deal forthwith with the amendments.

14. Mr. BEEDLE (United Kingdom) thought that articles 12, 19 and 21bis were more closely interdependent than the others, and should be considered in reverse numerical order, since article 21bis had a bearing on article 19, which in turn had a bearing on article 12. Articles 20 and 35 also constituted a group, while articles 22, 24 and 27 could be considered separately. That left only article 14, which, in his view, the Committee should consider first. The order for consideration of the proposed amendments would therefore be as follows: article 14, articles 21bis, 19 and 12, article 9, paragraph 4, articles 20 and 35 and articles 22, 24 and 27.

15. Mr. de ARAUJO MESQUITA (Brazil) said it would be better to begin with article 12, since it was difficult to discuss the question of the powers to be given the Board without first reaching a decision on its composition—a question which was to be considered by Committee II.

16. Mr. GROSS (United States of America), Mr. NI-KOLIC (Yugoslavia), Dr. BABAIAN (Union of Soviet Socialist Republics) and Mr. ANAND (India) said that, in a spirit of compromise, they would support the United Kingdom representative's proposal.

17. Mr. SAMSOM (Netherlands), Mr. de BOISSÉSON (France), Dr. AZARAKHCH (Iran), Mr. KIRCA (Turkey) and Dr. JOHNSON-ROMUALD (Togo) also supported the United Kingdom representative's proposal.

18. The CHAIRMAN said that if there were no objections, he would take it that the Committee approved the United Kingdom representative's proposal that the amendments should be considered in the following order: articles 14, 21bis, 19, 12, article 9, paragraph 4, articles 20, 35, 22, 24 and 27, on the understanding that the Committee could later change the order if it so desired.

It was so decided.

19. Mr. ANAND (India) said he thought it would have been better to consider article 19 before article 21bis, since paragraph 1 of article 21bis contained a reference to article 19, paragraph 1 (f). He also asked which articles would be considered on the following day.

20. The CHAIRMAN said that he would not reopen the discussion on the order in which the articles were to be considered, since the Committee had just taken a decision on the matter. At the following meeting, the Committee would be considering articles 14, 21bis and 19.

21. Mr. GHAUS (Afghanistan) said he would have preferred the Committee to consider article 14 at a later stage, since it raised questions of sovereignty which should be the subject of more detailed informal discussions during the session.

22. He asked whether amendments other than those contained in document E/CONF.63/5 and addenda thereto could be submitted. If so, Afghanistan would submit an amendment to the preamble on the following day.

23. The CHAIRMAN recalled that delegations could submit new amendments up to 4 p.m. on Monday, 13 March.

24. Mr. WATTLES (Legal Adviser to the Conference) explained that changes to the preamble to the 1961 Convention should be proposed in the form of amendments. Proposals regarding the preamble to the draft amending protocol would, however, have the character of original proposals, and not amendments.

25. Mr. ANAND (India), referring to rule 34 of the rules of procedure of the Conference, asked what the time limit was for the submission of amendments to the articles to be discussed by Committee I on the following day (8 March)—namely, articles 14, 21bis and 19. Rule 34 of the rules of procedure required that proposals and amendments should be circulated to all delegations not later than the day preceding the meeting at which they were to be discussed.

26. Mr. WATTLES (Legal Adviser to the Conference) pointed out that the amendments to be considered on the following day had already been reproduced in document E/CONF.63/5, dated 29 February 1972, so the application of the rules of procedure would not raise any difficulties in that regard. Moreover, the order for the consideration of the various amendments had already been decided upon and due notice of the amendments to be discussed at each meeting would be given in the daily agenda.

27. Mr. KIRCA (Turkey) said that a clear distinction should be made between the amendments referred to in article 47 of the 1961 Convention and the amendments and proposals referred to in the rules of procedure of the Conference. Amendments within the meaning of article 47 of the Convention, which would constitute the basic working document of the Conference, had to be submitted before a given deadline, which had already been fixed at 4 p.m. on Monday, 13 March. Once all those amendments had been presented, the Conference's working document would be complete. After that, amendments and proposals within the meaning of rule 34 of the rules of procedure could be presented during the discussion. The Chairman's prerogative, which was mentioned in that rule, applied precisely to such amendments. Normally, amendments and proposals within the meaning of rule 34 of the rules of procedure would be communicated to the Executive Secretary of the Conference, who would circulate them to all delegations, but, in principle, they could not be considered unless all
Committee I—Third meeting

delegations had received them the day before they were due to be discussed.

28. In short, there was a time-limit for the submission of amendments within the meaning of article 47 of the Convention—namely, 4 p.m. on Monday, 13 March. That time-limit could not be changed. However, amendments of the kind referred to in rule 34 could be submitted later.

29. Mr. WATTLES (Legal Adviser to the Conference) observed that the Secretary-General had already circulated four amendments in accordance with article 47, paragraph 1, of the 1961 Convention. Those amendments (E/CONF.63/2) had originally been submitted by France, Peru, Sweden and the United States to the Commission on Narcotic Drugs at its twenty-fourth session. However, the French, Swedish and United States amendments had already been modified in document E/CONF.63/5, and Peru was also intending to redraft its amendment. Consequently, none of the amendments would be precisely in the form specified in article 47. The Conference had been convened to consider “all amendments proposed to the Single Convention on Narcotic Drugs, 1961”; such was the wording of resolution 1577 (L), in which the Economic and Social Council had decided to convene a plenipotentiary conference to amend the 1961 Convention. It was therefore difficult to draw a distinction between amendments within the meaning of article 47 of the Convention and amendments within the meaning of the rules of procedure; all amendments were subject to the rules of procedure.

30. Dr. JOHNSON-ROMUALD (Togo) remarked that the comments of the Legal Adviser to the Conference raised one serious difficulty: delegations would no longer be able to propose amendments after 4 p.m. on Monday, 13 March. It would therefore be better to make a distinction between two types of amendment, as the Turkish representative had proposed. Otherwise, the discussions would be purposeless.

31. Mr. WATTLES (Legal Adviser to the Conference) recalled that the President of the Conference had already stated that modifications of amendments could be presented after 13 March; however, entirely new amendments would have to be presented by that date. Amendments which were not entirely new could be submitted at any time during the Conference.

32. Mr. KIRCA (Turkey) asked which body would be competent to decide whether an amendment was new or not. For instance, would it be impossible after 4 p.m. on 13 March to submit a sub-amendment to proposals relating to article 14 if the sub-amendment changed the structure of the article? Delegations were entitled to know the contents of the basic document which would contain the amendments submitted up to 13 March, so that they might be able to request that some parts of those amendments should be modified or deleted. For instance, if after 13 March a delegation wished to request that article 14 of the Convention be retained in its present form, would it be barred from doing so on the grounds that that would constitute a new proposal? If it was not possible to submit sub-amendments after 4 p.m. on 13 March, why had the Economic and Social Council convened the Conference? The amendments submitted up to 4 p.m. on 13 March should merely represent the point of departure for the work of the Conference; it would not be possible to do any serious work unless such an approach was adopted.

33. Dr. BABAIAN (Union of Soviet Socialist Republics) recalled that the matter had already been considered by the General Committee. As the Turkish representative had said, a distinction should be drawn between two types of amendment: first, new amendments to the Convention, to be submitted by a certain time-limit which had already been fixed, and secondly, amendments to those amendments, for which no time-limit had been set.

34. Mr. HOOR TEMPSI LIVI (Italy), referring to the last sentence of rule 34 of the rules of procedure, asked whether minor changes, affecting only a few words in the text of document E/CONF.63/5, constituted amendments or could be regarded as part of the “discussion” within the meaning of that rule, which provided that the Chairman could permit the discussion of amendments or proposals even if they had not been circulated or had only been circulated the same day.

35. Mr. WATTLES (Legal Adviser to the Conference) said that the answer to that question was given in rule 46 of the rules of procedure of the Conference. A proposal to add to, delete or revise a part of the text was an amendment; on the other hand, an informal proposal which did not call for a vote was regarded as part of the “discussion”.

36. Mr. NIKOLIĆ (Yugoslavia) said that the Turkish representative’s interpretation was clearly correct. The first step was to submit amendments reflecting certain broad concepts, within the meaning of article 47 of the 1961 Convention; later, such amendments could be modified. That was the obvious interpretation, and the apparently divergent views expressed had obviously arisen from a misunderstanding.

The meeting rose at 6.30 p.m.

THIRD MEETING

Wednesday, 8 March 1972, at 9.45 a.m.
Chairman: Mr. CHAPMAN (Canada)

Consideration of all amendments proposed to the Single Convention on Narcotic Drugs, 1961 (item 11 of the Conference agenda) (E/CONF.63/5 and addenda)

1. The CHAIRMAN invited participants to consider the proposed amendments to articles 14 and 19 of the 1961 Convention and the proposed new article 21bis (E/CONF.63/5 and addenda). In accordance with a suggestion made by the representative of Yugoslavia, he asked the sponsors of the proposals to explain the reasons

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1 See also Official Records of the Economic and Social Council Fifty-second Session, Supplement No. 2 (E/5082), annex VII.
for their amendments and to indicate, starting with article 14, to what extent those amendments would modify or supplement the Convention.

**ARTICLE 14 (Measures by the Board to ensure the execution of provisions of the Convention)** (E/CONF.63/5)

2. Mr. GROSS (United States of America), speaking on behalf of the sponsors, said that his country was initially responsible for a large proportion of the amendments. The new version of article 14, paragraph 1(a) (E/CONF.63/5) differed considerably from the text originally proposed by the United States; it was the outcome of a number of compromises. Thus, whereas the United States had proposed that the Board might obtain information from individuals, article 14, paragraph 1(a), in its new version gave the possible sources as Governments, United Nations organs, specialized agencies or other organizations approved by the Commission on the recommendation of the Board. The sponsors had sought to enable the Board to use all kinds of information, but they had set limits. They had also wished to allow the Board greater flexibility by enabling it not merely to request an explanation from a Government, but also—since they felt that a request for an explanation might seem offensive in certain circumstances—to engage in consultations. Lastly, they had laid stress on the need to treat a request for information and the consultations as confidential.

3. In sub-paragraph (c) of paragraph 1, the sponsors had sought to enable the Board to obtain information by sending a representative to the country concerned. Originally, the United States had proposed that the Board should be able to undertake investigations, but it had come to realize that the term was too strong. Sending a representative would promote co-operation between the Board and the State concerned and visits would be undertaken only with the consent of that State, due account being taken of its constitutional, legal and administrative system.

4. In sub-paragraph (d) of paragraph 1, the sponsors had again sought to give the Board greater flexibility by allowing it to call the attention of Governments, the Economic and Social Council and the Commission on Narcotic Drugs, but also of the General Assembly, to a matter. However, the Board would so act only if it considered that there was prima facie evidence that the situation was grave.

5. Lastly, the Board at present mentioned, in its reports to the Council, all the difficulties it encountered with Governments. The sponsors wished to enable the Board to be less specific and merely to mention, for example—except in a situation entailing a threat to the aims of the Convention—that consultations were being held.

6. The purpose of the proposed amendment to article 14, therefore, was to ensure that the Board obtained more information, to allow it a greater measure of flexibility and, at the same time, to safeguard the confidential nature of the information.

7. Dr. MARTENS (Sweden), speaking as a sponsor of the proposals, said that article 14 of the 1961 Convention, in its existing form, was too restrictive with regard to the information which might be sent to the Board. The Government of a country might in some cases be unaware of certain events occurring in its own territory. If the Board was to be able to fulfil its consultative role, it must have all the relevant information, provided the latter came from authoritative sources. That was the reason why the sponsors had mentioned the specialized agencies and other organizations approved by the Commission on Narcotic Drugs on the recommendation of the Board.

8. The sponsors had also sought to make communication between the Board and the Governments concerned closer and more personal by providing for the sending of representatives to the countries concerned.

9. Dr. OLGUIN (Argentina), speaking as a sponsor of the proposals, said that everything possible should be done to achieve the aims of the 1961 Convention. That was the object of the amendment under consideration. It enabled countries which were experiencing difficulties to receive international assistance through the United Nations control machinery. By means of the information gathered, a better knowledge of the situation could be obtained, and visits to the country concerned would help to overcome such difficulties.

10. The amendment to article 14 should progressively ensure effective control. Its wording was entirely compatible with the technical and financial assistance for which provision was made in the new article 14bis.

11. Mr. de ARAUJO MESQUITA (Brazil) proposed that in paragraph 1(a) the words “approved by the Commission on the recommendation of the Board” should be replaced by the words “in consultative status with the Economic and Social Council”, because the Council, with its very large membership, was better able than the Commission to decide what organizations might be approved. Article 71 of the Charter of the United Nations referred to both international and national non-governmental organizations. It should be clear that the organizations mentioned were non-governmental, since provision was already made for the submission of information by Governments.

12. Dr. BABAIAN (Union of Soviet Socialist Republics) said that, unlike the sponsors, he did not think that the extent of drug abuse justified an expansion of the Board’s powers. Similar proposals had been made when the Single Convention on Narcotic Drugs had been drawn up in 1961, but they had not been adopted. The proposed new version of article 14 was equally unacceptable.

13. It was proposed that the Board should receive information from several sources other than Governments. Clearly, however, Governments were in the best position to know the situation in their territories. Information from non-governmental sources might be tendentious, and it would be a very serious matter if the Board took important action on the strength of such information.

14. It was regrettable that the proposed amendment enabled the Board to carry out its activities in any country, regardless of whether it was or was not a party to the Convention. The nature of such consultations as might be held was not specified. He could not see, either, why the information from a United Nations organ or a
specialized agency could not be communicated to the Governments concerned.  

15. The sending of representatives would be an interference in the domestic affairs of States and an impairment of their sovereignty. He could not accept the notion that the Board should be vested with powers greater than those of the Council and that it should be converted into a supra-national body. The Board was responsible to the Council, not to the General Assembly. There were no grounds for changing that division of functions. The present article 14 enabled the Board to refer to the Council, but there was nothing to justify permitting it to have communication with the General Assembly.

16. Dr. WIENAWSKI (Poland) said that the explanations given by the United States representative merely strengthened the doubts that he had felt at the twenty-fourth session of the Commission on Narcotic Drugs. In his opinion, only Government could furnish information, for, if a legally-constituted body in the territory of a State failed to communicate to the authorities of that country facts of which it had knowledge, it would be aiding and abetting an offence. The reference to “other organizations approved by the Commission on the recommendation of the Board” should therefore be deleted.

17. A comparison of article 19 of the Convention on Psychotropic Substances and article 14, paragraph 1 (c) of the 1961 Convention showed that the situation was not so different as to justify different procedures. The Polish delegation did not consider that the provisions proposed for article 14, paragraph 1 (c) and (d) had any value whatever.

18. Mr. KIRCA (Turkey) observed that whereas article 14 in its present form referred to “information submitted by Governments to the Board under the provisions of this Convention”, in the proposed amendment the wording was “information submitted by Governments to the Board”. The purpose of the change was to enable all interested Governments to furnish information, and not to restrict such information to that submitted under the provisions of the Convention in force. In practice, any State might consider itself interested and might furnish information, even if that related to facts occurring in the territory of another State. That was inadmissible. It was important that Commission I should bear that aspect of the matter well in mind. Within the Commission on Narcotic Drugs, every member State, as well as every State represented by an observer, was already entitled freely to submit comments on the information furnished a Government. The Board and the Council were informed of that information through the Commission’s report and the records of its meetings. In his view, it was in the Commission, not the Board, that such matters should be discussed. The proposed wording for article 14, paragraph 1 (a) would raise difficulties with regard to the interpretation of article 14, paragraph 5. It might be asked, for example, whether every State which had furnished information about another State would have to be invited to attend meetings of the Board. It was undesirable that the Board should become a place for adversary hearings, in which some States appeared as accused and other States as accusers. In its present form, article 14 of the 1961 Convention enabled every State to furnish information concerning itself to the Commission or the Council, and that procedure seemed quite satisfactory.

19. Another question was which organizations the “other organizations approved by the Commission on the recommendation of the Board”, mentioned in paragraph 1 (a), would be. If, as the Brazilian representative had proposed, they would be those in consultative status with the Economic and Social Council—which would certainly be a step forward—the only competent organization would be ICPO/INTERPOL, whose standing was not basically different from that of the specialized agencies, since its members were official police organizations. The amendment had been intended to give the Board a new basis for acting, even if there were no breach of the provisions of the Convention; it would be sufficient if there was a danger of a country or territory becoming an area important for illicit cultivation, production or traffic. Since no country was wholly secure from that danger, it would be preferable to speak of a “grave danger”. The last part of paragraph 1 (a) was closely linked with the possibility that other organizations would have of furnishing the Board with information; the two proposals should therefore be considered together, and, if it was decided to accept information from ICPO/INTERPOL and other organizations, the amendment would be unnecessary.

20. The proposed amendment to sub-paragraph (c) was an improvement on the earlier text, and his delegation could accept it, with a few drafting changes, since it provided adequate safeguards for the State in question. On the other hand, it did not seem at all wise to give the Board the possibility of addressing the General Assembly directly, when it was responsible to the Economic and Social Council, which could bring before the General Assembly any matter within its own and the Assembly’s competence. The very fact of the Board having direct communication with the General Assembly entailed a political decision and it was essential that the Board should preserve its reputation for impartiality, if its prestige and moral authority were not to be impaired. Moreover, it was superfluous to ask the Board to submit recommendations, since, under the proposed provisions of article 14, paragraph 1 (d), the Board would have already reported its views on any remedial measures which the Government concerned had been called upon to take, and it was precisely because the State concerned had not complied with its recommendations that the Board could call the attention of the Commission on Narcotic Drugs to the matter. Lastly, his delegation would like to see the final provision in sub-paragraph (d) deleted, because it believed that the Board’s powers should remain strictly discretionary and that it should not be obliged to act in any specific case. With the membership of eminent and highly experienced specialists, the Board was well able to judge whether a situation had or had not been satisfactorily resolved. Over-hasty condemnation or action often provoked reactions in public opinion which made it even harder to overcome the difficulties. In general, the best way to reach a compromise on the amendments, which were of considerable interest, would seem to be to set up a working party.
21. The CHAIRMAN took note of the suggestion of the representative of Turkey concerning the setting-up of a working party.

22. Mr. SAMSOM (Netherlands) said that his delegation approved to a certain extent the amendments which had been submitted. However, certain doubts prevented it from supporting them fully. First, the idea of accepting information furnished by private organizations seemed to it somewhat dangerous. Having regard to the obligations arising under the Convention, the parties had to ensure that the existing instruments could operate on a continuous basis and the acceptance also of information provided by private organizations might introduce an element of discontinuity. Such co-operation did not offer the same guarantees of effectiveness and discretion as were provided by Governments or specialized agencies, and that might create some very awkward situations for the Governments concerned and for the Board. Furthermore, it might create a precedent to authorize the Board to draw the attention of the General Assembly to certain matters without first passing through the Economic and Social Council. That possibility should therefore be considered more thoroughly. With regard to the obligation for the Board, under the last part of sub-paragraph (d), to act within one year, his delegation, although not formally opposed to that amendment, felt the same reluctance to approve it as did the Turkish delegation. It nevertheless considered it possible to reach a consensus on that article, and it supported the proposal of the Turkish delegation to set up a working party for that purpose.

23. Mr. GROSS (United States of America) said that there was no question that new developments had constantly been taking place in the narcotic drug situation and that the Board should have access to all available information in order to be aware of any new situations and even to anticipate them. The proposed amendments to article 14 would, for the first time, give the Board the possibility of enquiring into illicit cultivation and production of and traffic in narcotic drugs. It was only logical that the Board should have the same information available to it as to the Commission. The sovereignty of States was respected, since no information could be made available without the approval of the Government concerned and the information was kept confidential. The amendment to paragraph 1 (a) would make it possible to implement the provisions of Article 71 of the Charter of the United Nations by enabling the Economic and Social Council to consult non-governmental organizations concerned with matters within its competence. There was no question of transforming the Board into a court, but it was necessary for it to be able to act, with all the necessary information at its disposal, and words such as “consultations” had been added to ensure a continuing dialogue. Thus, contrary to what the representative of the Soviet Union had implied there was no question of “sanctions”. No recommendation could be made until such time as the Board had been able to consult with the Government concerned. That should satisfy all those who were concerned at the possibility of infringement of the sovereignty of States.

24. Some delegations had criticized the idea of the Board being allowed to refer matters directly to the General Assembly, but there was nothing to prevent it from reporting through the Economic and Social Council. Two possibilities were open, one of which was an obligation of a very restricted nature, namely, that the Board had to act if there was a very serious threat. It seemed normal for United Nations bodies to be informed of any threatening situation. It was hardly possible to rely only on the prestige and moral authority of the Board, and experience had shown that that moral authority was not sufficient. Several means of action, some of which would be mandatory, should therefore be made available to the Board.

25. Mrs. RODRIGUEZ MAYOR (Cuba) said that her delegation considered unacceptable the amendment under which information would be sought from bodies other than United Nations organs. In its opinion, the existing provisions were sufficient and that amendment ran counter to very important principles.

26. Mr. ANAND (India) observed that several delegations had already stressed how dangerous it would be for the Board to depend upon private organizations, because their sources might be unreliable and would, in any case, give only a partial view of the situation. In addition, he did not see why the information should be kept confidential. Before adopting such a text, consultations should be held and studies should be made. The second possibility added to the amendment to sub-paragraph (a) referred either to an offence covered by the 1961 Convention, in which case that amendment was redundant, or to a new offence, in which case that provision was out of place in the context. In any case, he did not see anything wrong with the present wording of article 14. If it was a question of sparing the feelings of the State concerned, there was no great difference between that wording and the wording of the 1961 Convention.

27. With regard to the proposed amendment to the last sentence of sub-paragraph (a) concerning the confidential nature of the information, his delegation considered it completely unnecessary, since the present wording of the Convention was satisfactory in that respect.

28. With regard to the new sub-paragraph (c) which it was proposed to include in paragraph 1, the new wording contained in document E/CONF.63/5, although more acceptable than the amendment originally proposed, was not satisfactory to his delegation. It constituted an infringement of the sovereignty of the States parties to the Convention. Two possibilities were in fact provided for: if the Government concerned did not agree to the request of the Board, the latter could still use other means of action provided for in the Convention, but the Government had no other recourse than an appeal procedure. If, however, the Government consented to a visit by a representative of the Board or by a working party set up by the Board, its integrity would be jeopardized. It was easy for an outside body to carry out an inquiry and to make all kinds of recommendations, because it was not responsible for applying them. Experts, however competent they might be, were not in a position to know whether such recommendations were applicable or not. Only the authorities of the country concerned had at their disposal all the information which...
enabled them to make such a decision. His delegation therefore felt that the Board could send its representatives only when the Government considered that it needed and called for the help of the Board. Otherwise, it was unreasonable that a solution should be imposed on it from outside.

29. With regard to the proposed sub-paragraph (d), he felt, like other representatives, that the Board could refer matters only to the Economic and Social Council, to which it was responsible, and not to the General Assembly. The words “the General Assembly of the United Nations” should therefore be deleted from the sub-paragraph. He did not think that the present sub-paragraph (c) should be altered. If a party to the Convention did not fulfill its obligations, it was natural for it to provide an explanation to the other States parties to the agreement, and that possibility had been provided for in paragraphs 1 (a), 2 and 3 of article 14. It would also be improper to allow the Board to exert unacceptable pressures and issue ultimatums, as the amendment proposed.

30. Mr. de ARAUJO MESQUITA (Brazil) associated himself with the Netherlands representative in supporting the proposal of the Brazilian delegation. He associated himself with the Netherlands representative in supporting the proposal of the Brazilian delegation. The word “consultations” proposed in sub-paragraph (c) was much more satisfactory than the expression “satisfactory explanations” used in the 1961 Convention. If the Government approached by the Board gave its consent, it would not be necessary for the representative or representatives sent by the Board to be approved in advance by the Government. Such a procedure would be unnecessarily complex, since the Board’s representatives were in any case required to work in collaboration with the representatives of the country concerned.

31. His delegation believed that those modifications would make paragraph 1 as a whole acceptable to a larger number of delegations.

32. Mr. CASTRO (Mexico) said that, when the Single Convention on Narcotic Drugs had been signed in 1961, his country had been opposed to the intervention of the Board in matters which were the exclusive responsibility of Governments. The drug problem had unquestionably assumed very serious proportions, but to give the Board excessive powers on those grounds would create a precedent, and Mexico attached great importance to the protection of its sovereignty.

33. The first amendment proposed to article 14, paragraph 1 (a) (“specialized agencies... the Board”), was evidence of a legitimate search for a more flexible system; however, it seemed to contradict the end of sub-paragraph (a) relating to the confidential nature of the information obtained. It might therefore be desirable to amend the end of the sub-paragraph, possibly in the following way: “... the information communicated to it... on the basis of which it is acting and on which such a request is based”.

34. His delegation reserved the right to speak again on other sub-paragraphs.

35. Mr. WINKLER (Austria) said that his delegation was satisfied in general with the amendments under consideration, but had some comments to make on them.

36. The text of sub-paragraph (a) of paragraph 1 was acceptable, provided that it was amended as proposed by the Brazilian delegation. The word “consultations” proposed in sub-paragraph (c) was much more satisfactory than the expression “satisfactory explanations” used in the 1961 Convention. If the Government approached by the Board gave its consent, it would not be necessary for the representative or representatives sent by the Board to be approved in advance by the Government. Such a procedure would be unnecessarily complex, since the Board’s representatives were in any case required to work in collaboration with the representatives of the country concerned.

37. Two problems appeared arise in relation to sub-paragraph (d): first, as the representative of Turkey had pointed out, the question whether the Board could refer matters direct to the General Assembly was a delicate matter which required careful consideration. Secondly, the last sentence of the sub-paragraph was extremely vague and did not satisfy his delegation. The notion of “prima facie evidence” was a feature of Anglo-Saxon law and did not exist in any other system of law. It would therefore be desirable to base the discussion on the French text of the amendment, which was worded differently and was more acceptable.

38. Dr. EDMONDSON (Australia) said that he approved the spirit in which the amendment under consideration had been drafted, since it was intended to enable the Board to obtain fuller information, which would undoubtedly help it to act more effectively. It was essential for it to do so, since the illicit drug traffic and drug abuse had increased considerably since the entry into force of the 1961 Convention, and detailed and accurate information was a prerequisite for success.

39. It was understandable that countries should fear possible infringements of their sovereignty, but the proposed amendment offered adequate guarantees; moreover, complete confidence could be placed in the members of the Board, whose high level of competence would undoubtedly be maintained in the future.

40. With regard to paragraph 1 (a), his delegation fully supported the amendment proposed by the Brazilian delegation. With regard to sub-paragraph (d), as several delegations had suggested, it was doubtful whether the Board could report to the General Assembly otherwise than through the Economic and Social Council. If the Brazilian proposals were adopted and it was decided that the Board should report to the Council, Australia would unreservedly accept the whole of paragraph 1, as thus amended.

The meeting rose at 12.45 p.m.
FOURTH MEETING

Wednesday, 8 March 1972, at 2.40 p.m.

Chairman: Mr. CHAPMAN (Canada)

Consideration of all amendments proposed to the Single Convention on Narcotic Drugs, 1961 (item 11 of the Conference agenda) (continued) (E/CONF.63/5 and addenda)

ARTICLE 14 (Measures by the Board to ensure the execution of provisions of the Convention) (continued) (E/CONF.63/5, E/CONF.63/C.1/L.2-7, E/CONF.63/C.1/L.10)

1. Dr. MARTENS (Sweden) was not in favour of the creation of a working group, since its conclusions would in any case have to be examined by the Committee, and that was liable to prolong rather than shorten the discussions. It would be better if the Committee heard a clear and brief statement of the views of each delegation and if specific proposals were put before it, doubtful points being voted upon when necessary.

2. His delegation supported the amendment to article 14, paragraph 1 (a) proposed by Brazil at the 3rd meeting and circulated under the symbol E/CONF.63/C.1/L.10.

3. Dr. OLGUIN (Argentina) referred to the fears expressed by many of the speakers who had preceded him that the amendments proposed to article 14 might endanger the national sovereignty of the parties. His country’s position on the question of national sovereignty was well known. But his delegation considered that there could be no question of a threat to the sovereignty of a country which, actuated by a sense of national responsibility, provided information that would help to solve a world-wide epidemiological problem. Nor was there reason to fear that international action would be taken in countries or territories where the problem assumed serious proportions. It was necessary to take into account the preventive effect of the proposed amendments and the fact that the remedial measures would be applied progressively. His delegation believed that the 1961 Convention was bound to be strengthened by the proposed amendments. Moreover, it was essential that INCB, whose integrity and technical competence were beyond question, should get information from all possible sources, and it would be a mistake to think of removing from those sources such bodies as ICP/INTERPOL, which had access to valuable information concerning the problem. He concluded by saying he did not think that there was any need to set up a working group and that it would be preferable to proceed with the discussion, with the participation of all delegations.

4. Mr. BEEDLE (United Kingdom), in reply to the arguments advanced against the proposed amendments by the representatives of the Soviet Union, Turkey, India, Brazil and the Netherlands at the 3rd meeting, said that, while the 1961 Convention did not contain any provision which clearly defined the Board’s functions or even the aims of the Convention itself, the Board’s reports had become increasingly important in the last few years because of the information they gave to the parties on the illicit traffic. However, the source of the information remained a mystery, which was unsatisfactory and anomalous in a world where co-ordination and dialogue were the order of the day, as was demonstrated by the creation of the United Nations Fund for Drug Abuse Control, the Plan for Concerted Short-term and Long-term Action against Drug Abuse, and so forth. Another argument was that the Commission on Narcotic Drugs, with which the Board co-operated in that connexion, only met every other year. Lastly, information had now become a veritable world industry, and it was inevitable that private bodies should be called upon to collaborate with Governments and international organizations in that field. The United Kingdom therefore unreservedly supported the additional sources of information envisaged for the Board in the amendment to paragraph 1 (a).

5. There was no reason to fear that the Board would abuse the enlarged powers conferred upon it by the proposed amendments to article 14. It had always acted in a diplomatic fashion, and the circumstances in which it would be called upon to intervene were clearly defined in the text. It would not do so unless it was assured in advance of achieving positive results.

6. As an argument against the Board’s right of direct recourse to the General Assembly, it had been said that the Board was a subsidiary body of the Economic and Social Council. That was not so. It was an independent body created by treaty. Article 15 of the 1961 Convention did state that the Board’s reports were to be submitted to the Council but did not say that it was a subsidiary organ of the Council. However, his delegation recognized the force of the argument advanced by the representative of Turkey at the 3rd meeting and was prepared to accept a modification to the amendment on that point. As for the Board’s prestige, it was quite clear that it would not be impaired if the Board confined itself to acting within a well-defined framework as specified in paragraph 1 (d).

7. His delegation, for the reasons already given by the Swedish representative, was not in favour of the creation of a working group.

8. Mrs. CAMPOMANES (Philippines) associated herself with the views expressed by the Netherlands representative at the 3rd meeting. She did not think that the Board should be empowered to act on the basis of information obtained from unofficial sources. In the interests of co-ordination, such information should be communicated to Governments, for subsequent transmission to the Board.

9. Mr. NIKOLIĆ (Yugoslavia) agreed with the excellent legal analysis, at once practical and logical, which the Turkish representative had made of the proposed amendments to article 14 at the 3rd meeting. It was difficult to conceive of the Board relying on unofficial sources, such as were used, for instance, by newspapers; even the most responsible newspapers often carried the most extraordinary reports. The Board was not cut off from the sources of information, as the United States representative had suggested at the 3rd meeting, since its annual reports were always very well documented.
10. He was in favour of the establishment of a working group, since it could act more rapidly than the Committee once all the delegations had made known their views.

11. Dr. EL HAKIM (Egypt) felt that full advantage had not been taken of the possibilities offered by article 14 in its present form, and that it was therefore pointless to modify it in the way proposed by the amendments, that is to say by increasing the Board’s responsibilities and authority. No country had yet refused or would refuse to receive representatives of the Board or the Division of Narcotic Drugs and provide them with information. His delegation was therefore in favour of maintaining article 14 as it stood, with the addition of the following two paragraphs (E/CONF.63/C.1/L.4):

7. The Board may establish arrangements for consultations with non-governmental organizations through the Council in accordance with Article 71 of the United Nations Charter.

8. The Board may establish working arrangements or may request information from regional organizations duly recognized by the United Nations organs.

12. Dr. URANOVICZ (Hungary) considered that an international conference which was on the point of adopting an international instrument should ensure that Governments had every opportunity of making their views known in writing and in detail. He was in favour of the creation of a working group similar to that set up at the 1971 United Nations Conference for the adoption of a Protocol on Psychotropic Substances.

13. While there was of course no reason to call in question the prestige, integrity and competence of the Board or its members, it should be borne in mind that the Board was also an international body which formed part of the United Nations, and hence had to deal with Governments in the exercise of its functions. It was therefore advisable to give close consideration to any text which defined the position and powers to be conferred upon any such body within the framework of the United Nations and in relation to its Member States. A working group would be the appropriate body to examine that question and to perceive any inadequacies in the text under consideration which might cause difficulties.

14. Mr. PATHMARAJAN (Ceylon) noted that some countries felt that the 1961 Convention had not yet passed the test of time and that it was too early to amend it, while others thought that it should be amended immediately if an end was to be put to one of the scourges of the modern world. If the instrument to be prepared by the Conference was to be effective, all countries should be able to sign it. It would therefore seem that a working group, which could be given a deadline, could study questions of substance and form more easily than the Committee.

15. The actual text of the proposed amendments to article 14 was inconsistent and inflexible. For instance, in paragraph 1, the “other organizations” mentioned at the beginning of sub-paragraph (a) as possible sources of information were not included among those sources at the end of the same sub-paragraph. Moreover, it was unsound to base the intervention of the Board on a hypothetical situation which might arise at any time in any country, without specifying what factors must be present to constitute such a situation. It would also be better not to make use of such terms as “request for... an explanation”, which implied that some fault had been committed and which would be resented by Governments as a threat to their prestige and their sovereignty. A less direct form of words that laid more stress on consultation and dialogue could be preferable. The same applied to the phrase “The Board can only resort to the means of action conferred upon it by this Convention” in subparagraph (c), which unnecessarily limited the Board’s scope for action and was thus too inflexible. The term “satisfactory explanations” in sub-paragraph (d), which created a quasi-judicial situation, was also too strong and too direct. It was obvious in fact that the wording of the amendments needed to be carefully reviewed and that it was highly desirable to set up a working group to consider the comments of delegations and all written amendments that might be submitted to it.

16. Lastly, he thought that the Board should not communicate with the General Assembly except through the medium of the Economic and Social Council.

17. Mr. HOLL (Federal Republic of Germany), referring to the observations made by certain delegations who were afraid that the new provisions of article 14 might present a threat to their national sovereignty, pointed out that any treaty or convention was bound to impose voluntary restrictions on the national sovereignty of its parties. That was certainly true of the 1961 Convention.

18. Although it was one of the sponsors of the amendments to article 14, his country had not supported all the provisions initially put forward. Thus, it had helped to do away with the provision concerning a compulsory embargo, questioning the need for it and pointing out that it was contrary to the internal legislation of the Common Market. It had tried to make a constructive as well as a critical contribution to the drafting of the amendments, and to prevent the Board from being given authoritarian powers and supra-national status. He thought that the present text, which was the result of a compromise, had all the necessary flexibility and did not contain any obligation which would be incompatible with respect for national sovereignty; moreover, the obligations in question were of equal concern to producers and consumers, since no country was exempt from the danger of narcotic drugs.

19. It was clear that the text could be still further improved by taking into account the observations of certain delegations. In particular, he supported the Brazilian proposal that the expression “other organizations” should be more precisely defined. Organizations which were not part of the United Nations system or the specialized agencies, like the Plan for Concerted Action of the Common Market countries, set up on the initiative of President Pompidou, could be taken into account. The Committee might also consider the suggestion that the word “serious” should be inserted before the word “danger” in sub-paragraph (a). With regard to sub-paragraph (d), he shared the opinion of the Netherlands representative that the Board, which was answerable to the Economic and Social Council, was not in a position to approach the General Assembly directly, but should go through the Council if it wished to call the attention
of the General Assembly to questions falling within its sphere of action.

20. In order to take into account criticism with regard to the last sentence of sub-paragraph (d), he proposed that the word ‘and’ be substituted for the word ‘or’ after the words ‘sub-paragraph (a) above’ in the English text (E/CONF.63/C.1/L.7). The Board would then only be obliged to act in serious cases.

21. Mr. de BOISSESON (France) thought that the proposed amendments to article 14 of the 1961 Convention were acceptable as a whole. His delegation was particularly concerned about the question of respect for national sovereignty; it did, however, recognize that all international conventions inevitably involved the acceptance of certain commitments, and that the obligations deriving from the proposed amendments were justified by the dramatic development of the drug problem over the past few years. The changes which had been made in the text of the amendments as originally proposed should allay the fears of certain States, and he was quite prepared to accept all the consequences arising out of the amendments, both for the producers and for the consumers or traffickers. Improvements could, however, be made to the text, and he agreed with the Brazilian representative’s suggestion (3rd meeting) with regard to the possibility of obtaining information from organizations in consultative status with the Economic and Social Council. He also agreed with the representative of the Federal Republic of Germany that the word “and” be substituted for the word “or” in the last sentence of sub-paragraph (d) of paragraph 1, in order to make that provision somewhat less compulsory.

22. He thought that some of the previous speakers were right in objecting to the Board’s being allowed to approach the General Assembly directly, whereas it was responsible to the Economic and Social Council. It was unusual for a body to communicate with a higher authority than the one to which it was responsible.

23. The representative of Egypt had proposed an amendment to deal with that problem. He himself would propose that in paragraph 1 (d) the text beginning after the words “sub-paragraph (c) above” be replaced by the following words: “... it may call the attention of all the bodies listed, including the General Assembly, to a situation existing in a particular country in serious circumstances, to call the attention of the General Assembly to the situation existing in a particular country.” In addition, the words “and the General Assembly” in the first sentence of paragraph 2 should be deleted. Under the terms of Article 71 of the Charter, the Economic and Social Council could make such arrangements as it saw fit for the implementation of recommendations submitted by its subsidiary bodies.

24. With regard to the possibility of setting up a working group to study the principal points under discussion, he felt that it would merely be a waste of time and would lead to a duplication of the work of the Committees.

25. Mr. HUYGHE (Belgium) said that his delegation was in favour of international co-operation in all fields, and would do all in its power to ensure the adoption of effective measures to control illicit drug traffic, to deal with the dangers of drug abuse and to remedy the disastrous consequences of addiction. His country had ratified all the previous conventions and had stated its intention of making a constructive contribution to the amendments; it shared the apprehensions of the international community over the marked increase in drug addiction. Three points should, however, be borne in mind: first, the measures taken by the Conference should not be an obstacle to the licit trade in narcotic drugs; second, they should not be too burdensome for licit producers and should ensure that medical and scientific requirements could be met; third, the amendments should be approved by as many countries as possible.

26. His delegation was prepared to accept as a whole the amendments proposed to article 14 in document E/CONF.63/5, but at the same time it felt that account should be taken of the criticisms expressed, in order to achieve a consensus of opinion. He agreed with the remarks made by the Brazilian representative, in connexion with paragraph 1 (a) on the subject of organizations authorized to submit information to the Board. In paragraph 1 (a), also, he thought that the expression “or that there is a danger” was lacking in precision. As it stood, the text implied that the danger was only a future one, whereas in fact it might already exist. He therefore proposed that the passage between the words “of this Convention” and the words “the Board shall have the right” be replaced by the following text: “that any country or territory has become an area important for illicit cultivation, production, manufacture, traffic or use, or if there is a danger of its becoming one...” (E/CONF.63/C.1/L.3). He also agreed with the remarks of the representative of Ceylon and thought it would be better to provide for the opening of consultations with the country concerned before it was asked for explanations. Thus, the text should either mention only consultations, or else the order of words should be reversed.

27. In sub-paragraph (d), the Board should not be required to call the attention of all the bodies listed, including the General Assembly, to a matter, and he therefore felt that the word “or” should be substituted for the second “and” in the expression “it may call the attention of the Parties, the Council and the Commission and the General Assembly...” at the end of the first sentence. His delegation agreed with other delegations that the Board should not refer to the General Assembly directly, but that it could recommend the Economic and Social Council, in serious circumstances, to call the attention of the General Assembly to the situation existing in a particular country.

28. With regard to the setting up of a working group, he felt that it would be useful, provided that delegations did not go over ground already covered in plenary meetings.

29. Mr. STAHL (Czechoslovakia) recalled that in ratifying the 1961 Convention, his country had entered reservations concerning paragraphs 1 and 2 of article 14. The amendments currently proposed to article 14 were designed to increase the Board’s powers in the matter of obtaining information and sending a representative or working party to the country or territory in question. He was of the opinion that such measures constituted
a threat to national sovereignty; any country which declined to receive the representatives of the Board would automatically lay itself open to suspicion. His country could not accept such a situation.

30. Mr. McKIM (Canada) pointed out that the object of the proposed amendments to article 14 was to make the fullest possible information available to the Board, which it would then be able to put to good use, given its membership as laid down in article 9 of the 1961 Convention. As to the sources of information, the observations of the Brazilian representative were worthy of consideration.

31. With regard to national sovereignty, his delegation recognized the importance of the question but wished to point out that, for their own protection, States should collaborate in enforcing an international instrument and accept the obligations it necessarily entailed.

32. In connexion with sub-paragraph (d) of paragraph 1, he recognized that it would be more appropriate for the Board, which was elected by the Economic and Social Council, to approach the Council first before referring matters to the General Assembly.

33. Mr. GHAUS (Afghanistan) said that, while he appreciated the efforts of the sponsors of the amendments, whose desire was to improve the original text of article 14, he was not satisfied with the wording of the proposed amendments. For instance, the proposal that the Board should be entitled to receive information not only from Governments and United Nations bodies but also from specialized agencies and other organizations approved by the Commission on the Board’s recommendation, might have serious consequences. It would be better to retain the initial text of article 14 and avoid taking a course which could lead to confusion and which, in any event, would scarcely help to improve co-operation between States and the Board. Then again, sub-paragraph (c) of paragraph 1 contained provisions which threatened the sovereignty and national interests of States; as the text stood, whenever the Board requested a country to agree to a visit by a representative of the Board or by a working group constituted by it, the State concerned could hardly refuse that request without automatically being regarded as suspect and compromising its international reputation. The door would then be open for all kinds of speculation. If a country approached by the Board was obliged, under the pressure of public opinion, to receive the representative of the Board or the working group constituted by it, there was clearly a flagrant case of interference in its internal affairs. He therefore wished to invite members of the Committee to take account of those considerations and work out a more satisfactory text.

34. Dr. JOHNSON-ROMUALD (Togo) said he was pleased to find that the sponsors of the amendments had abandoned the original provision on a compulsory embargo; that made the text more acceptable to his delegation. The observations of preceding speakers had, however, brought out gaps in the text now proposed, which was lacking in precision. For instance in the first sentence of paragraph 1 (a), the expression “other organizations approved by the Commission” might give rise to situations which would be unacceptable to Governments. Then again, the word “danger” in the second amendment of the first sentence of sub-paragraph (a) was extremely vague since, as the Turkish representative had pointed out, any country could become an area important for the illicit cultivation, production, manufacture, traffic or use of drugs. For example, there was nothing to prevent Togo, which was not at present a producer of opium, from becoming a centre of illicit traffic, bearing in mind the fact that the situation and the routes followed by traffickers were liable to rapid change. Under such conditions, the Board would have to intervene in all countries, and that would be senseless.

35. With regard to sub-paragraph (d), he shared the French representative’s view that the Board was not qualified to approach the General Assembly directly and should first call the attention of the Economic and Social Council to any matter.

36. With reference to the more general question of the Board’s powers, some speakers had put forward the argument that the Board’s technical competence guaranteed that it would not abuse any powers conferred upon it. However, it was permissible to wonder whether those powers would in practice be exercised properly once there were no longer any legal provisions to limit the Board’s field of action.

37. He was in favour of setting up a small working group to identify areas of agreement and thus facilitate the work of the Conference, and therefore formally proposed that the list of speakers should be closed and a vote taken on the question of setting up such a working group.

38. The CHAIRMAN thought it would be better to hear the views of the other speakers on the list before the Committee decided whether or not to set up a working group.

39. Mr. TIOURINE (Byelorussian Soviet Socialist Republic) said that the proposed amendments to article 14 were unacceptable to his delegation, since they permitted interference in the internal affairs of States and made INCB a supra-national body.

40. Mr. HVIDT (Denmark) supported the suggestion by the Brazilian representative at the 3rd meeting, whereby the words “approved by the Commission on the recommendation of the Board” in the first amendment proposed to the first sentence of paragraph 1 (a) should be replaced by the words “in consultative status with the Economic and Social Council” (E/CONF.63/C.1/L.10).

41. The fourth sentence of paragraph 1 (a) was superfluous and could be deleted. He supported the proposals of the representatives of France and the Federal Republic of Germany concerning paragraph 1 (d) and paragraph 2. He was sceptical whether the creation of a working group would speed up the work and he therefore considered that it would be more useful for the Committee to pursue its examination of article 14.

42. Mr. BEEDLE (United Kingdom) said he would not wish to insist on article 14 being considered by the Committee, but if a working group was set up it would be necessary to make sure that it could work under normal conditions and be provided, in particular, with interpretation services.
Mr. KIRCA (Turkey), referring to the beginning of paragraph 1(a), pointed out that the text of article 14 of the 1961 Convention stated that "If, on the basis of its examination of information submitted by Governments to the Board . . ., the Board shall have the right to ask for explanations", while the text of the proposed amendment spoke of "an explanation". In his view, information supplied by a Government concerning another State would not entitle the Board to ask the Government concerned for explanations or consultations.

The proposed working group would have to be a small one if a compromise was to be reached, and he suggested that only sub-amendments proposed in writing should be referred to it. The group would report to the Committee, which could then take an immediate vote.

Mr. PETROV (Bulgaria) said he found the amendment to paragraph 1(a) acceptable up to and including the words "or specialized agencies", but that the words "other organizations approved by the Commission" were too vague to be acceptable. The amendments to paragraph 1(c) and (d) were also unacceptable, because they involved a threat of interference by certain countries in the internal affairs of others.

Dr. BABAIAN (Union of Soviet Socialist Republics) remarked that, of all the delegations that had expressed themselves on the subject, some had based its arguments on a legal analysis of the texts in question, as had those which were opposed to the proposal.

The proposed amendment to article 14 was inadmissible, because it violated the principle of national sovereignty embodied in the United Nations Charter and gave the Board powers which were virtually greater than those of the Security Council. The countries sponsoring the amendment were the same as those which, during the drafting of the Convention on Psychotropic Substances, had opposed all proposals tending to extend the powers of the Board; it was strange that their delegations should now be recommending what they had rejected one year previously, especially since the two problems were very similar. Moreover, the Board's prestige and moral authority would suffer if it were to be given police status.

In any event, it was unacceptable that all powers should be concentrated in the hands of the Board when the Economic and Social Council and the Commission on Narcotic Drugs were also competent to deal with the drug problem.

Lastly, all sub-amendments to the proposed amendment, which should be submitted in writing, should be carefully examined; the creation of a working group might facilitate that task.

U HLA OO (Burma) said that the way in which information was communicated to the Board under the present provisions of article 14, paragraph 1, of the 1961 Convention was unambiguous and provided all the necessary guarantees. The introduction of private sources of information could give rise to doubts and uncertainty which might be unacceptable to Governments and incompatible with the prestige of the Board.

Mr. ANAND (India) associated himself with the views expressed by the representatives of the USSR and Turkey. He too considered that different principles could not be adopted with regard to the Board's role and powers, depending on whether narcotic drugs or psychotropic substances were involved.

He supported the Turkish representative's suggestion concerning the setting-up of a working group.

Mr. GROSS (United States of America) said that, while the problem of the psychotropic substances was just as important as that of narcotic drugs, the two Conventions must nevertheless be considered completely independently of each other. The Convention on Psychotropic Substances was very recent, and if it had have short-comings, that should not be used as a reason for objection to improving the 1961 Convention on Narcotic Drugs, with which the international community had had some ten years' experience.

The United States delegation accepted the proposals made by the representatives of Brazil, France and the Federal Republic of Germany.

As to the working group, his delegation did not see any need for it, but if one was to be set up, it should contain all 22 sponsors of the amendments, since none of them could speak or negotiate for the others. He too considered that the working group should be set up with the aim of reaching a compromise, and should not, therefore, include delegations which had declared themselves to be totally opposed to the amendments to article 14. Lastly, it was essential that the working group should have well-defined terms of reference, that it should examine specific amendments proposed and that it should then report to the Committee.

Dr. BABAIAN (Union of Soviet Socialist Republics) pointed out that the proposal of the United States representative was contrary to normal practice; a working group was always composed of delegations reflecting different positions, as it was set up precisely to find a compromise between different points of view.

Mr. NIKOLIĆ (Yugoslavia) proposed that the working group be composed of six to eight delegations (Brazil, India, Turkey, the USSR, the United Kingdom, the United States of America, for example, to which France or Belgium might be added). If the working group was too large, it would be unable to reach a compromise.

Dr. JOHNSON-ROMUALD (Togo) reminded the Committee that he had already requested that the list of speakers should be closed and that the Committee should proceed to vote on the setting-up of a working group.

Mr. ANAND (India) said he did not consider that a working group of the type envisaged by the representative of the United States of America would be representative; its work would thus be of no value.

He was not opposed to article 14 as a whole, but simply to the proposed paragraph 1(d). He might be able to accept paragraph 1(c) if it was adequately redrafted. Paragraph 1(a) might also be revised.

Mr. KIRCA (Turkey) said that, if the question was to be taken up again the following day, it would be pointless to continue the discussion, which had already gone on long enough. The Committee should instead proceed immediately to take a vote.

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Committee I—Fifth meeting

62. Mr. NIKOLIĆ (Yugoslavia) said he agreed with the representative of Turkey, but if that line of reasoning was to be pursued, there would be nothing against voting before the end of the current meeting, and he wished to make a formal proposal to that effect.

63. Dr. JOHNSON-ROMUALD (Togo) reminded the Committee again that he had already made a proposal to that effect.

64. Mr. BEEDLE (United Kingdom) said he agreed with the representative of Turkey that it would serve no useful purpose to prolong the discussion on the following day. However, before a vote was taken, the Chairman should explain what the functions of any working group set up would be.

65. The CHAIRMAN said that, in view of the different proposals that had just been made, he would suggest that the question of setting up a working group should be considered at the very beginning of the following meeting. That would facilitate matters from the practical point of view, and he would then have time to think over the possible composition of the group.

It was so decided.

66. The CHAIRMAN said that, as a result of that decision, the question of setting up a working group would be considered at the beginning of the following meeting. He would propose names for the working group and the Committee would take a decision on the matter; he would also indicate the tasks that the working group if it was set up, would have to undertake and a possible deadline for the completion of its work.

67. If the working group was set up, it would have to study the amendments to article 14, and the Committee, for its part, would deal with the amendments to articles 21bis, 19 and 12.

It was so agreed.

The meeting rose at 5.50 p.m.

FIFTH MEETING

Thursday, 9 March 1972, at 10 a.m.

Chairman: Mr. CHAPMAN (Canada)

Consideration of all amendments proposed to the Single Convention on Narcotic Drugs, 1961 (item 11 of the Conference agenda) (continued) (E/CONF.63/5 and addenda)

ARTICLE 14 (Measures by the Board to ensure the execution of provisions of the Convention) (continued) (E/CONF.63/5, E/CONF.63/C.1/L.2-7, E/CONF.63/C.1/L.10)

Establishment of a working group to consider the amendments to article 14

1. The CHAIRMAN reminded the Committee that at its 3rd meeting the Turkish representative had proposed that a working group be established to consider the amendments to article 14. The terms of reference of the group would be to examine the amended version of article 14 of the 1961 Convention contained in document E/CONF.63/5 and to draft a revised version, taking into account the sub-amendments that had been proposed and the discussions in the Committee (3rd and 4th meetings). The new text would then be submitted to the Committee.

2. If the Committee decided to set up the working group, he would appoint, in accordance with paragraph 2 of rule 20 of the rules of procedure of the Conference, 10 delegations to constitute it, bearing in mind the need to ensure equitable geographic representation and to enable the various points of view to be expressed. In accordance with rules 5 and 12 of the rules of procedure, the working group would then meet under the chairmanship of the Vice-Chairman of the Committee to elect its chairman.

3. Mr. PATHMARAJAH (Ceylon) said that article 14 could be examined by an informal working group to reconcile the opposing points of view. There was no need to create a formal body. His delegation would therefore abstain in any vote on the matter.

4. Dr. BABALAN (Union of Soviet Socialist Republics) said it should be specified that the proposed working group was not to examine article 14 itself but the amendments to it. If the group was set up, moreover, all its members should be provided with the written texts of the amendments.

5. Dr. JOHNSON-ROMUALD (Togo), supported by Mr. NIKOLIĆ (Yugoslavia), requested that the proposal to set up a working group should be put to the vote immediately.

It was so decided.

The proposal was adopted by 53 votes to none, with 10 abstentions.

6. The CHAIRMAN suggested that the working group should consist of the delegations of Brazil, France, the Federal Republic of Germany, India, Sweden, Thailand, Turkey, the Union of Soviet Socialist Republics and the United States of America.

It was so decided.

7. The CHAIRMAN suggested that the Committee should postpone its examination of the amendments to article 14 until the Working Group had submitted its report.

It was so decided.


8. Mr. GROSS (United States of America) wished, on behalf of the sponsors of the text of the new article 21bis proposed in document E/CONF.63/5, to make some observations on that article, which it was proposed to add to the Single Convention on Narcotic Drugs, 1961.

9. The proposed text was based on the following assumptions: first, the production of opium for licit purposes had to be protected, but production for illicit...
use had to be discouraged. Second, it was not possible to forecast opium production with precision, estimates being no more than a guide, whereas action could only be taken on the basis of proven facts. It was possible, however, to get facts. Moreover, States should try to maintain their production at a level close to the estimated figures, but no penalty should be applied when the surplus was unforeseeable and had been used for legitimate purposes. In some instances a country’s illicit production could not be controlled until certain pre-conditions of an economic or social nature were met; in such instances, it would not be appropriate to reduce licit production as a consequence of such illicit production. However, when there was illicit production in an area where more effective controls could be applied, or when the steps taken by the Government to prevent the diversion of licit opium inadequate, the Board should have the power to reduce the amount of opium produced in the State concerned until it had developed more effective controls. Those new powers granted to the Board would of course be accompanied by safeguards for States.

10. Paragraph 1 stipulated that the quantity of opium produced should not exceed the estimate; obviously, the poppy crop, like any other, was subject to unforeseeable variations, which in no way called in question States’ good faith. Consequently, no penalties were provided so long as excess production was used for the licit requirements of the population. Moreover, paragraph 3 of article 19 of the 1961 Convention, concerning estimates of drug requirements, permitted States to produce supplementary estimates during the course of the year with a view to bringing the actual production figure as closely into line as possible with the estimate.

11. Paragraph 3 of article 21bis provided for the only case in which countries were not to be responsible for establishing their own final estimates, the responsibility devolving upon the Board: namely, when the Board had found, on the basis of firm evidence, that some of the opium produced had been diverted to the illicit traffic. His delegation wished to stress that it had shown a great spirit of compromise in agreeing to limit the Board’s powers to that single case.

12. It should be noted that, where the Board was permitted to put into operation the mechanism provided for in article 21bis, it also had discretion not to do so, after taking into account “all relevant circumstances”, enumerated in paragraph 6 of the article. It might consider, for example, that to do so would have no impact on the illicit traffic or on the State’s ability to act more effectively against illicit production.

13. Conversely, if the Board had reason to believe that a reduction in production would prevent diversion into illicit channels or encourage a State to take more effective control measures, then it would be expected to use the mechanism. Even in such cases, however, the Board would act with moderation; under the terms of paragraph 4, it would first endeavour to enter into consultations with the State concerned; then again, in accordance with paragraph 5, that State could refer the matter to a judicial body enjoying great prestige, to which the State would have full opportunity to present its views. Thus the Board would only request the State concerned to revise its production plans if the allegations were confirmed beyond doubt.

14. Even if the mechanism of article 21bis was fully utilized, an additional safeguard was provided for both producing and consuming States. Paragraph 3 provided that any revision of estimates would relate to the first year in which the deduction was technically feasible, bearing in mind seasonal factors and the existing contractual commitments of the country in question. During that period, the State could take the necessary control measures and thus remove the need to apply the Board’s decisions.

15. In conclusion, the proposed amendment would in no way affect countries, such as India, which satisfactorily controlled their opium production. Moreover, the mechanism would not be applied automatically, but only when the quantities diverted reached an unacceptable level or if a country was manifestly capable of taking more effective control measures than it was taking. The proposal was therefore a moderate one which would give the international community a new and important means of protecting itself against illicit opium traffic.

16. Mr. KIRCA (Turkey) said that the proposed article 21bis would be a useful instrument for controlling the abuse of opium derivatives. However, both the procedure envisaged in paragraphs 1-4 and the proposal in paragraph 5 to set up an appeals committee called for comment.

17. It was not clear from the first paragraphs of the article that the Board, after finding that there had been excess production and before deciding on a deduction, should necessarily give the Government concerned a hearing. In particular, the phrase “ninety days after notifying the Government concerned” in paragraph 3 was ambiguous, since it did not specify whether it was the Board’s finding or its decision to require a reduction which had to be notified. Personally, he believed that the following procedure should be followed: the finding should be notified to the Government within a given period of, say, one month; the Government could then offer explanations and, if a decision to deduct was taken, consultations should be held between the Board and the Government but should not exceed a duration of 90 days. Article 21bis should be reworded to that effect.

18. Paragraph 5 provided for the creation of an appeals committee appointed by the Secretary-General after consultation with the Director-General of WHO and the President of the International Court of Justice. It would be more in keeping with international practice if the members of the committee were nominated by a judicial authority; the task might best be entrusted to the President of the Court, acting in consultation with the Secretary-General of the United Nations and the Director-General of WHO.

19. Dr. BABAIAN (Union of Soviet Socialist Republics) said that the measures advocated in article 21bis were not new, since they were already contained in the 1953 Protocol for limiting and regulating the cultivation of the poppy plant, the production of, international and wholesale trade in, and use of opium and during the drafting of the 1961 Convention had been the subject of a proposal.
which had been rejected. The sponsors of article 21bis claimed that the provision constituted a guarantee of non-interference in the domestic affairs of States and that it would enable errors in estimates to be corrected. In his view, its effect was, on the contrary, to infringe the sovereignty of the State. Moreover, the provision contained an element of mistrust towards States, since it envisaged cases of over-production of opium, in particular wilful over-production; international treaties normally assumed the parties to be in good faith.

20. As to the setting up of an appeals committee, that would necessarily involve additional expense and would be contrary to the recommended policy of economy. Moreover, there were legal obstacles to the creation of such a committee. It was inconceivable that a committee of experts, a subject of special international law, should presume to engage in litigation with sovereign States, which were subjects of general international law. It was also impossible for the jurisdiction of the appeals committee to be recognized as compulsory or for its decisions to be binding on sovereign States. Moreover, article 21bis made it possible for the Board to interfere not only in the domestic affairs of States parties to the Convention, but also in those of any other State, since it would apply to the production of opium “by any country or territory”, as was specified in paragraph 1. As well known, as a result of the discriminatory wording of article 40 of the 1961 Convention, a number of States were unable to become parties to that Convention.

21. The new article would thus be contrary to international law; in addition, it might hinder the licit production of opium for medical and scientific purposes. The corresponding provision of the 1953 Protocol (article 12, paragraph 3(b)) had not given rise to any significant application which might justify the addition of article 21bis to the 1961 Convention.

22. U HLA OO (Burma) said that his delegation could not accept article 21bis because of the reference it contained to paragraph 1(f) of article 19. The aims pursued by the sponsors were laudable, and Burma was fully aware of the seriousness of the problem of drug addiction, which had been havoc on its territory for nearly a century. The situation of Burma was without parallel, because production of opium there was legal, by tradition rather than by virtue of any law. It was not possible for it to furnish the Board with annual information on the cultivation of the poppy in one particular region. That region had been visited in 1964 by a United Nations control commission, and Burma itself had carried out an investigation with a view to improving the situation. Under those conditions, Burma could not accept obligations such as those deriving from article 21bis and 19, knowing that it would be impossible to fulfil them.

23. Mr. NIKOLIĆ (Yugoslavia) said he was not opposed in principle to article 21bis, but he thought that its drafting should be improved. The text under consideration was, however, an indisputable advance over the initial article proposed by the United States of America to the Commission on Narcotic Drugs at its twenty-fourth session. It showed a more realistic attitude, but it would be possible to go further in that direction. For example, paragraph 1 said that the quantity of opium produced by any country or territory in any one year “shall not” exceed the estimate. That imperative form of words was not felicitous, since it was impossible to know in advance the size of the harvest. It implied the destruction of excess production during cultivation or immediately after the harvest. Similarly, the expression “deduct all or a portion of an excess” in paragraph 3 was not satisfactory because, in practice, it would be impossible to make draconian deductions which might result in inadequate production the following year if the climatic conditions were unfavourable. Lastly, the phrase “has been diverted into illicit traffic” in the same paragraph should be reworded and made more precise, since, if that clause were to be applied restrictively, the Board would be able to take the measures provided for in article 21bis even if the quantity of opium diverted was negligible.

24. As to the appeals committee, he shared the views of the USSR representative. In particular, he considered that paragraph 5 of the article under consideration put too much stress on the possibility of disputes between States and the Board.

25. Mr. OKAWA (Japan) reminded the Committee that his delegation, although aware of the need to stop the illicit traffic of opium, considered it vital that the licit supply should not be put in jeopardy.

26. The present wording of article 21bis represented an improvement on the initial proposal of the United States of America. His delegation, however, feared that the Board would come up against practical difficulties in calculating, on the basis of the information that would be supplied to it, the quantities of opium diverted. It was particularly difficult to identify the country of origin when illicit diversion of opium was found in a transit country or a consuming country. Those difficulties were aggravated when the opium was not raw but processed. In those conditions, it was to be feared that, depending on the way in which that proposal was implemented by the Board, the production and supply of opium for medical and scientific purposes might be unduly hindered.

27. Mr. HOOR TEMPIS LIVI (Italy) said that his delegation, although it was sponsor of the proposed article, doubted the advisability of creating an appeals committee like the one envisaged. Its attitude was not dictated by any political or other motive, but by purely legal considerations. It could hardly be expected that, in order to settle their disputes with the Board, States would be willing to submit to the authority of a committee constituted by the Secretary-General, who represented the administration of the United Nations, and consequently would be on the side of the Board. States were generally hesitant to give an international organ the power to pass judgment and preferred to have recourse to conciliation or arbitration procedures. The proposed committee would have an administrative structure, while exercising judicial functions. The creation of such a body, which would not be totally independent of either one

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party or the other, might create an unfortunate precedent. As to the body provided for in article 12, paragraph 3 (b), of the 1953 Protocol, it was not constituted by the Secretary-General, but by the President of the International Court of Justice; moreover, by virtue of article 44 of the 1961 Convention concerning the termination of previous international treaties, the provisions of the 1953 Protocol were terminated between the parties to the Convention.

28. The Italian delegation had submitted a sub-amendment under which the proposed appeals committee would be replaced by an arbitration committee to be appointed by the President of the Court, which would apply the procedure laid down in article 21bis (E/CONF.63/C.1/L.9).

29. Mr. ANAND (India) said that he appreciated the intentions of the sponsors of article 21bis, which had just been explained by the United States representative. Unfortunately, experience had shown more than once that provisions inspired by the best principles were often difficult to apply and gave rather disappointing results. In analysing the proposed amendment, he would, therefore, keep to the technical and practical aspects. Thus, when it came to applying the provisions of paragraph 1, the estimate of the quantity of opium produced could only be a matter of guess-work. On the other hand, it should not be forgotten that morphine and heroin were derived from opium and like opium came from the poppy. As the representative of Yugoslavia had mentioned, poppy cultivation produced higher or lower yields according to the year, and even if the Board took account of those variations, there was always a risk that it would remain suspicious of a country if the amounts declared did not correspond with the forecasts.

30. With regard to illicit production, referred to in paragraph 3, there again the amount produced would be a matter of guess-work. Governments had to provide the Board with statistics of licit production, but it was difficult to determine whether the heroin illicitly circulating in, for example, France or the United States of America came from the licit production of opium or not. In fact, it could be asked to whom the provisions of the article were addressed, since many countries had announced their intention of reducing or even giving up opium production. There remained only India and the Soviet Union, and the efficacy of their control systems was beyond question. What was needed was a system enabling the illicit production to be calculated and controlled. The Indian Government, for its part, would do all in its power to suppress illicit traffic.

31. With regard to paragraph 3, which gave the Board the power to reduce the quantity of opium to be produced in order to eliminate illicit production, the difficulties would be considerable in the event of a difference of views between the Board and the Government in question. In that connexion, he drew attention to a resolution adopted by ICPO/INTERPOL, encouraging the gradual replacement of opium by synthetic substances; he asked the Secretariat of the Conference to distribute the text of that resolution to participants.

32. It was due to provisions like those now being proposed that the 1953 Protocol had not even obtained 50 accessions after 18 years. No country would agree to be indicted before the Commission on Narcotic Drugs or any tribunal. The 1971 United Nations Conference for the adoption of a Protocol on Psychotropic Substances had recognized the sacred character of State sovereignty and the right of a State not to agree that a substance should be covered by the Convention on Psychotropic Substances, even if it was one of the most dangerous substances included in schedule I on the recommendation of WHO and INCB. Even if the procedure of the appeals committee were to be adopted, it was doubtful whether a Government would accept a judgement imposed from outside. No organ, no matter how distinguished it was, could succeed in imposing its judgement without the goodwill and the co-operation of the Government in question. It would be much better, therefore, to try to secure that goodwill and co-operation. Article 21bis was thus unacceptable in its present form.

33. Mr. HUYGHE (Belgium) said that, although his delegation was not among the sponsors of the amendments, it nevertheless supported all practical measures to combat illicit traffic, while at the same time adhering to the principle which it had followed at the time of the United Nations Conference for the adoption of a Protocol on Psychotropic Substances, namely, that it was essential to protect licit production in order to ensure adequate supplies for medical and scientific purposes. Instead of requesting annual estimates of licit opium production—which would cause great difficulties, as a number of countries, including India, Japan and Yugoslavia, had pointed out—it would be better to plan production over a longer period, in order to facilitate the work of the producing countries and the Board.

34. Dr. WIENIAWSKI (Poland) said that his delegation was prepared to support any reasonable measure aimed at combating illicit traffic, but it was not convinced that article 21bis could achieve the desired result. In the 1961 Convention, the question of licit production was regarded as entirely separate from the problem of illicit production, which must be controlled at the national level. No international agreement could yield truly effective results with regard to the suppression of illicit traffic. The obvious result of the provisions of paragraph 1 would be a shortage of opium needed for medical and scientific purposes. With regard to paragraph 3, his delegation had already observed, in connexion with the amendment to article 14, paragraph 1 (a), that it was scarcely practicable to estimate precisely the amount of illicit production because of its clandestine and uneven nature, and it did not see how the Board could take decisions based on mere guess-work. The sponsors might therefore be asked to furnish additional explanations concerning the text now under consideration, which should not be adopted hastily.

35. Dr. HOLZ (Venezuela) said that the proposed article 21bis was essentially acceptable to his delegation. He nevertheless wished to make some observations about it which would in part reflect those already made by other delegations.

36. First, it was not possible to estimate a year in advance the quantities of opium cultivated, which depended on extremely sensitive climatological variables.
Paragraph 1 should therefore be amended accordingly. Since it would be difficult for the Board to determine the quantity of opium produced illicitly, it would be preferable to delete outright the words “whether licitly of illicitly” from paragraph 3. It would also be advisable to avoid using, in the body of the article, any expression which might justify the concern expressed by certain countries with regard to possible encroachments on State sovereignty.

37. Mr. ESPINO GONZÁLEZ (Panama) associated himself with the observations made by the Venezuelan representative concerning paragraphs 1 and 3. In paragraph 2, at least in the Spanish text, a drafting amendment appeared to be necessary; as worded at present, it seemed to imply that any quantity seized was released to the licit market, which was not the case.

38. In paragraph 4, it would be preferable to say that the Board would consult with (and not “endeavour to consult with”) the Government concerned, since that was something it was under an obligation to do.

39. Reference was made in sub-paragraph (a) of paragraph 5 to an appeals committee to be set up by the Secretary-General. However, the Conference would first have to empower the Secretary-General to appoint the members of the committee. In the same sub-paragraph, it was unnecessary to stipulate that the members of the committee and their alternates should command general respect, since that was something that went without saying.

40. His delegation agreed that the terms of office of the members of the committee should be five years but not that any member should be eligible for re-appointment. A committee which remained in office for too long was in danger of losing its vigour and going to seed.

41. Mr. REOL TEJADA (Spain) said that his delegation supported article 21bis as a whole, but considered that it could be further improved.

42. As regards the establishment and functioning of the appeals committee, in particular, his delegation had some misgivings of an essentially juridical nature. Those misgivings seemed to be shared by the Italian representative, who had made some useful observations on that point which he fully supported. Extreme care should be exercised when establishing bodies which might acquire a supra-national character and impose control measures on States, since there was a danger, in that process, of creating causes of dispute which might be difficult to resolve. His delegation would wait until it received the text of the Italian amendment before taking a position on the question.

43. Dr. EDMONDSON (Australia) said that article 21bis was of particular importance for his country, which produced poppy straw and the opium poppy. His delegation was prepared to support article 21bis in its present form. When a final version was being prepared, however, account should be taken of the observations made by the Turkish and other delegations concerning the establishment of an appeals committee.

44. His delegation agreed with the Indian delegation that article 21bis should be applied under the same conditions to countries which cultivated the opium poppy for purposes other than opium production, and that any other procedure would be regarded as discriminatory vis-à-vis the opium-producing countries. He assured the Indian representative that if the saving clauses were maintained, his delegation would support the text of article 21bis as proposed.

45. Mrs. RODRIGUEZ MAYOR (Cuba) said that the arguments adduced in favour of the limitation and control of licit opium production were vague and inadequate. There was a danger that such limitation might impede the development of the producing countries and progress in medicine, which was making great strides at the present time in Cuba. There was no reason to adopt complex control measures such as the establishment of supranational bodies, which, moreover, might encroach on State sovereignty, when adequate means of establishing the necessary controls were already available in the 1961 Convention, in article 21 (Limitation of manufacture and importation) and article 24 (Limitation on production of opium for international trade). It was also difficult to understand why such radical measures should be taken with regard to opium wherea psychotropic substances, although more dangerous, had not appeared to warrant such measures. In the opinion of his delegation, the existing provisions should be sufficient, if those concerned were sincere in their desire to apply them.

The meeting rose at 12.45 p.m.

SIXTH MEETING
Thursday, 9 March 1972, at 2.20 p.m.
Chairman: Mr. CHAPMAN (Canada)

Consideration of all amendments proposed to the Single Convention on Narcotic Drugs, 1961 (item 11 of the Conference agenda) (continued) (E/CONF.63/5 and addenda)


1. Dr. JOHNSON-ROMUALD (Togo) expressed approval of the general idea contained in the draft text of article 21bis (E/CONF.63/5). Although Togo did not have a drug addiction problem, it believed that prevention was better than cure and had always supported action to improve narcotics control. He personally had participated in the work done on the proposed amendments by the Commission on Narcotics Drugs at its twenty-fourth session and he could see that the sponsors had made a great effort to improve the text of the 1961 Convention. For his part, he had had no objection to article 21bis in the form in which it had finally emerged from the Commission. However, certain comments that he had heard in Committee I had puzzled him. He doubted whether any results would be achieved if, at the current Conference, the majority reached agreement on a text which was unacceptable to several Governments. The
history of the 1953 Protocol showed what was likely to happen.

2. In his view, the text proposed for article 21bis created certain difficulties.

3. First, in order to comply with the article's provisions regarding estimates, it would be necessary, as a previous speaker had said, to have second sight. He himself was well aware of the difficulties, because he was responsible for producing annually a forecast of the amount of opium needed for medical purposes in Togo. As a result of Togo's intensive efforts to develop health services, which had led to the construction of several hospitals, it was now very difficult to make such forecasts. Indeed, additional estimates had to be made in the course of the year. Togo was a small country which did not produce opium, and he fully understood how much more complex the problems facing other countries would be. The Conference should go into such questions very carefully. It should be remembered that the Japanese delegation, for example, had stressed the difficulties encountered by Japan in obtaining the 70 tons of opium it needed annually; it had only been able to get 35 tons. It was important, therefore, to ensure that measures to limit opium production did not penalize the international community.

4. Secondly, the word "illicit", as used in paragraph 3, created a difficulty. INCB would have great difficulty in estimating the quantities diverted into illicit traffic. It would need magical powers in order to do so.

5. Thirdly, it should be borne in mind that all States were jealous of their sovereignty. International co-operation was frequently referred to on paper, but it had to be admitted that as far as political leaders and the general public were concerned, it was hardly accepted as a practical principle. It would be unfortunate if disputes arose between INCB and States, but, things being what they were, it was a possibility that could not be overlooked. The proposed text of article 21bis provided that it would be the responsibility of the State concerned to appeal against the decision of INCB. That would make it more difficult for a State that had a real case to appeal. The political repercussions of such a situation should be considered by the Conference.

6. On the other hand, he rejected the criticism that the idea contained in the proposed article 21bis was several years old. An old idea was not necessarily out of date.

7. He felt somewhat uneasy, also, about article 21bis, since he had the impression that it involved discrimination against opium producers—in view of the fact that comparable measures were not being taken against producers of synthetic drugs, such as methadone. Since it was known that drug addicts often switched from opium to synthetic drugs, it did not seem reasonable to act only against opium producers.

8. It would be recalled that at the United Nations Conference for the adoption of a Protocol on Psychotropic Substances, held at Vienna in 1971, some delegations, including his own, had had to fight to ensure that the parties would have the right to reject certain articles of the Convention that had been adopted. The arguments which had prevailed in 1971 were equally valid in 1972.

9. In conclusion, he supported the retention of article 21bis as proposed, but would like the drafting to be improved.

10. Mr. SAMSOM (Netherlands) said that his delegation had mixed feelings about the proposed article 21bis. It saw what the sponsors' aims were, but doubted whether they could be achieved. It was true that article 21bis could, in combination with paragraph 1 of article 19 (Estimates of drug requirements) help to strengthen international narcotics control. It was necessary, however, to eliminate the risk of discrimination created by those two provisions.

11. From a reading of the Report of the International Narcotics Control Board on its work in 1969 and the Report for 1970 and the Report for 1971, it seemed doubtful whether a reduction in the licit production of opium would lead to any decline in the illicit traffic, since the sources of the illicit traffic were outside the area in which the 1961 Convention could be applied. Consequently, the provisions of article 21bis were likely to impede the licit production of opium without producing the desired results. The representatives of Yugoslavia and India, who had a great deal of experience of the problem, had quoted (5th meeting) examples which illustrated that danger.

12. If article 21bis was to be effective, it was essential that the parties to the 1961 Convention and INCB should avoid becoming involved in any dispute that might have unfortunate legal consequences. No country would accept the appeals procedure provided for in the article if its good faith was questioned. Moreover, if the Convention was to be effective it was essential that other countries should ratify it. Consequently, his delegation felt that it was important to avoid adding provisions that would discourage countries from doing so. That was a fundamental consideration, which would determine the Netherlands' position on the article under consideration.

13. Dr. OLGUÍN (Argentina), pointing out that Argentina was a sponsor of the amendments submitted to the Conference, said that article 21bis on the limitation of production of opium took account of the various aspects of the problem. The measures proposed were an attempt to stop the anguish that drug abuse was causing at the present time. The article did not undermine the sovereignty of States. Argentina, for its part, was very jealous of its sovereignty and had already made its position quite clear in that connexion (5th meeting). Nevertheless, some strengthening of the international control machinery was necessary, and there was no need for it to hinder medical estimates of the licit uses of opium. Those estimates could always be corrected subsequently, if necessary.

14. The text of article 21bis was based on realistic considerations. It took account of the fact that, while it was difficult to control illicit traffic in opium and every effort must be made to secured, control, control must also
be effectively exercised over licit production, trade and use. In the last analysis, the problem of illicit use of opium had to be solved at the national level. Nevertheless, national efforts had to be accompanied by international measures, as part of a campaign involving the entire international community.

15. He was willing to recognize, however, that certain constructive criticisms had been levelled at the text of article 21bis and that discussion of the article was valuable. He had listened to those criticisms with interest and, in particular, attached importance to the suggestions made by the representative of Italy (5th meeting), who had brought out the legal aspects which should be taken into consideration.

16. Finally, he drew the Committee's attention to one of the conclusions contained in the Report of the International Narcotics Control Board on its work in 1971.* The Board called for the strengthening of measures concerning both the control of licit production and the elimination of illicit and uncontrolled production. That was a quite categorical opinion expressed by a highly competent body, and the Conference should take due note of it.

17. Dr. URANOVICZ (Hungary) said that his country, although it did not produce opium, could not accept article 21bis. There were already provisions for limiting opium production in the 1953 Protocol. With regard to the current proposals, it should be remembered that similar suggestions had been rejected by the Conference which had adopted the 1961 Convention. His country did not consider that the way the situation had developed since then was sufficient reason for it to modify its negative position with regard to the ideas reflected in article 21bis.

18. The article appeared to be seeking to penalize licit production, trade and consumption of opium. Recent trends did not justify such a procedure, although opium abuse was becoming more serious in certain parts of the world, with all the international consequences that it entailed. His country did not have an addiction problem, but a new situation had arisen during the past year: illicit trade was seeking new routes, and it appeared that Hungary was situated on one of them. His Government was determined to take action to prevent Hungary from becoming a transit country, and it was ready to cooperate with other countries affected by opium abuse.

19. The idea on which article 21bis was based was, however, mistaken; it was not by penalizing licit production, trade and consumption of opium that illicit production, trade and consumption could be halted. Even if licit production, trade and consumption were to cease, the problem of illicit production, trade and consumption would remain. Illicit trade was based on the abuse of opium. It was abuse which created the market, and abuse was itself the result of economic and social conditions. What was necessary was to do away with the conditions. The United States, for example, where addiction had even spread to the army and the schools, needed to attack the problem at its roots.

20. He had the impression that the penalization procedure envisaged in article 21bis was not mainly directed towards reducing opium abuse. The text appeared to be attacking licit production, trade and consumption for another purpose and to promote other interests.

21. His country recognized, however, that any country which had to face the increasing problem of the abuse of opium and its derivatives should have the co-operation of other countries. Hungary would take part in any effective co-operative effort aimed at putting an end to illicit production, trade and consumption of opium. It did not agree with those who felt that international co-operation was in itself a threat to national sovereignty. Such an attitude was unacceptable. International co-operation was a joint effort on the part of countries to solve their common problems while preserving their own rights. The principles of such co-operation had been defined in the Charter of the United Nations. Under the Charter, international organizations had a certain authority over States, but the authority was clearly limited. Only the Security Council had exceptional powers, in matters of war and peace; but those powers too were precisely defined. The problems posed by drug abuse were not as crucial as those with which the Security Council was concerned, and his delegation therefore considered that the penalization procedure envisaged in article 21bis was unjustified.

22. Dr. BERTSCHINGER (Switzerland), referring to article 21bis, expressed the fear that the implementation of its provisions would prevent his country from acquiring the quantity of opium it needed for medical purposes. Even in 1971, it had been unable to obtain sufficient supplies, and the situation was getting worse.

23. It could be maintained that the provisions of article 21bis were a continuation of those of the 1953 Protocol. The situation had changed, however, since the adoption of that Protocol. In 1953, there was an overproduction of opium and part of it had been diverted towards illicit traffic. Nowadays, however, there was a shortage of opium, as had already been pointed out by the representatives of Japan (5th meeting) and the Netherlands. As for the illicit trade, its sources were also illicit.

24. INCB was probably going to have to call a conference on supplies of opium for medical purposes, as a result of the shortage of opium and its derivatives—he was thinking of morphine and particularly codeine, consumption of which, according to the Board, was going up by about 10 per cent a year. As early as 1955, the President of the Permanent Central Opium Board, in the Report to the Economic and Social Council on the work of the Board in 1955,* had stressed the difficulties of obtaining opium for licit purposes as a result of the 1953 Protocol. The situation had merely been confirmed since. He therefore hoped very much that the Conference would help to find a solution to the problem.

25. Mr. di MOTTOLA (Costa Rica), speaking as a sponsor of the amendments, said he would like to give

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* United Nations publication, Sales No. 1955.XL4 and Addendum.
his opinion on some of the sub-amendments which had been proposed. In paragraph 3, the words “licitly or illicitly” could well be deleted. In paragraph 4, the words “shall endeavour to consult” could be replaced by the words “should consult” or “shall consult”. As for the proposal by Italy (E/CONF.63/C.1/L.9) and Spain (5th meeting) concerning the appeals committee mentioned in paragraph 5, which would be called upon to settle any dispute arising between a Government and the Board, it was essential that the members of the committee should be appointed by the President of the International Court of Justice and not by the Secretary-General, who should not be both judge and party. Furthermore, the committee should be called an appeals committee and not a conciliation committee; it should give a decision and not simply express an opinion, which would be without effect. If necessary, the Government in question could always appeal against the decision.

26. The CHAIRMAN invited the Committee to consider article 21bis, paragraph by paragraph, beginning with paragraph 1.

Paragraph 1

27. Mr. NIKOLIĆ (Yugoslavia) said that it appeared from the general discussion the Committee had just held on article 21bis that, for the reasons put forward by the majority of producer and consumer countries, it was impossible to make exact estimates and that paragraph 1 would therefore lead in practice to unfortunate consequences. In order to save time, he proposed that the question whether or not paragraph 1 should be deleted should be put to the vote instead of reopening the discussion on the subject. If the decision was in the affirmative, paragraph 1 (f) of article 19 would also have to be deleted.

28. Dr. BABAIAN (Union of Soviet Socialist Republics) said that he was only taking part in the discussion for the sake of international solidarity, since neither the problem of illicit production or traffic nor that of addiction affected the Soviet Union, but that he was nevertheless amazed that States which claimed to be deeply concerned by the problems had not thought of extending the amendment to cover the production of cocaine, coca leaves and cannabis, in which the illicit traffic could be measured in tons. It was surprising that the Board had not been requested to control the illicit traffic in those substances, and it was curious that the Board did not publish information on the volume of seizures. Perhaps the reason was that experience with the implementation of the 1953 Protocol had not been satisfactory.

29. Furthermore, an international instrument should only refer to parties and not to “any country or territory” as in paragraph 1, since that implied interference in the affairs of States not parties to the Convention. Nor could a producer be required to conform to an estimate which was impossible to establish. For all those reasons, it would be better to delete paragraph 1.

30. Mr. DITERT (International Narcotics Control Board) pointed out, for the benefit of the representative of the Soviet Union, that the 1953 Protocol had come into force only a few months before the 1961 Convention, so that the Board, once the Convention had come into force, had applied the procedure envisaged in its article 14 and not the procedure set forth in chapter IV of the Protocol.

31. Mr. CARGO (United States of America) said that article 21bis offered the international community an excellent means of strengthening international measures to control traffic in dangerous drugs and thus to combat effectively an ever-increasing menace. Paragraph 1 was linked with paragraph 1 (f) of article 19, which made it compulsory to furnish, in the context of drug requirements, an estimate of the quantity of opium to be produced. Paragraph 1 of article 21bis made it a general principle that the quantity of opium produced by any country should correspond as closely as possible to the estimated quantity. The basic idea was that it was essential to ensure production of opium for licit purposes while removing the danger of use for illicit ends, and that estimates could be a way of doing so, if States would take the trouble to estimate production as accurately as possible and hold it to the required level. It was a question not of exact estimates but of acting in good faith, and if the other sponsors of the amendment saw no objection, the United States would be willing to re-word the paragraph so as to express that idea more clearly.

32. Mr. BEEDLE (United Kingdom) agreed that the amendment would not oblige the Board to act with mathematical precision without taking into account all the factors involved; it was simply a question of asking States, once their estimates had been made as accurately as possible, to stick to them in all good faith. It was clear that any estimate could only be approximate and that it was almost impossible for it to tally exactly with the results, but that was no reason for abandoning the principle of estimates entirely. He therefore agreed with the representative of the United States that the wording of paragraph 1 could be made more flexible by making it rather a declaration of intent. The wording could be as follows:

“The production of opium by any country or territory shall be organized and controlled in such a manner as to ensure that, as far as possible, the quantity produced in any one year does not exceed the estimate of opium to be produced as established under paragraph 1 (f) of article 19.”

33. Dr. URANOVIČ (Hungary) said that paragraph 1, in its present form, would oblige the Board to compel a country which had produced more than it had expected to reduce its production of licit opium, on the assumption that any surplus would inevitably be diverted to the illicit traffic. There was nothing to prove that that was the case, and so long as the Board could not demonstrate that illicit production was an important source for illicit traffic, there was no justification for adopting a provision of that kind.

34. Mr. NIKOLIC (Yugoslavia), replying to the comments made by the United Kingdom representative, thought that if the Board had to assume the responsibilities specified in paragraph 1, its prestige was bound to suffer. The discussions had shown that opium cultivation was particularly vulnerable to changes in the weather and that it was impossible to estimate accurately; the amount harvested might be more or less than forecast. The obliga-
tion for countries not to exceed their estimates was thus unrealistic; it was also dangerous both for the Board and for producers, manufacturers and sick persons, since the deduction of surpluses was liable to lead to a shortage in licit production for medical and scientific purposes.

35. He explained that in proposing that paragraph 1 should be put to the vote, his intention had not been to precipitate a decision but to sound out opinion on the paragraph in order to speed up the Committee's discussions.

36. Mr. HUYGHE (Belgium) observed that at the 5th meeting he too had stressed the difficulty of providing estimates, in view of the variations in the crop from one year to another. World opium requirements should perhaps be planned for more than a year at a time, due allowance being made for each country's climate and for unforeseeable factors.

37. In any case, he associated himself with the comments made by the United Kingdom representative on the need to change the text of paragraph 1.

38. Dr. DANNER (Federal Republic of Germany) said that the amounts of narcotic drugs recently seized (425 kg of heroin and 145 kg of morphine) should be a warning to the Committee. They showed the extent of the danger and the need for machinery to combat illicit activities. In his opinion, paragraph 1 was particularly important and should be kept, either as it stood or in an improved form.

39. Dr. BABAIAN (Union of Soviet Socialist Republics) thanked the representative of the Board for replying to his questions. The information which he had given showed that, as the Board had been unable to apply the provisions of the 1953 Protocol, which reappeared in article 21bis, there was no reason to request their inclusion in the 1961 Convention. He was therefore confirmed in his opinion that article 11bis would simply give rise to complications, particularly in view of the grave responsibilities to be laid upon the Board. It was certain that the machinery envisaged in paragraph 1 was making an important contribution to the work of the Commission on Narcotic Drugs, was liable to find itself hampered.

40. Mr. de BOISSESON (France) agreed that it was risky to make estimates of agricultural production, whether for opium or other crops, as had been eloquently illustrated by the details given at the 5th meeting by the representatives of Yugoslavia and India. However, despite the uncertainty, all farm enterprises had to make estimates in order to draw up their budgets. Similarly, it was essential for the Board to have such estimates, provided that they did not entail disastrous consequences for the countries concerned. The text proposed by the United Kingdom representative removed the arbitrary obligation on countries to limit their production so as to conform to estimates which might turn out wrong. The amendment no longer involved an obligation but a goal, an ideal to aim at, without entailing any penalty for the country concerned. With that modification, paragraph 1 could be maintained.

41. Mr. POVIJK (Ukrainian Soviet Socialist Republic) pointed out that the Conference had not met to lay down formulas but to seek, in a spirit of co-operation, a solution to the problem disturbing the international community. In that spirit, his delegation supported the proposal made by the representative of Yugoslavia.

42. Dr. AZARAKHCH (Iran), on the basis of his country's experience as an opium producer, acknowledged that estimates did not always coincide with output, but he felt that they were an important measure of control for the authorities. The deletion of paragraph 1 from the text under consideration would mean the deletion of the whole article, since the other paragraphs all stemmed from the first. It would be preferable to amend the wording by making the obligation on countries less binding. The text could say, for instance, that production should be close to the estimates established.

43. Mr. SAGOE (Ghana) said that all the members of the Committee agreed on the need to limit the amount of opium produced to what was needed for scientific and medical purposes. To have a limitation of that kind, which was the purpose of article 21bis, it would be necessary to keep paragraph 1. It was hardly possible to make estimates that always turned out right, but too much stress had been laid on over-production without any mention of the fact that the quantities produced were often lower than the forecasts. Paragraph 1 could be improved, in the manner suggested by the United Kingdom representative, but it should not be deleted.

44. Mr. SAMSOM (Netherlands) was in favour of maintaining paragraph 1. He suggested that the sponsors of the amendments should be asked to examine the United Kingdom proposal with a view to arriving at a consensus.

45. Mr. MALIK (India) said that his delegation had already indicated (5th meeting) the reasons for its opposition to article 21bis. With regard to paragraph 1, countries could scarcely be asked to furnish estimates that might turn out in practice to be inaccurate and then have it held against them when they did. He therefore supported the proposal made by the Yugoslav representative.

46. Mr. di MOTTOLA (Costa Rica) was not in favour of a separate vote by the Committee on paragraph 1, because that paragraph was the basis for article 21bis as a whole. If it were deleted, the whole of the machinery envisaged in the article would be eliminated, and such machinery was essential in order to discourage countries from producing higher quantities of opium than were needed for medical and scientific purposes. The text of paragraph 1 could, however, be made less rigid; it might simply be indicated that countries should do all they could to keep production within the specified limits. He would like to have the United Kingdom amendment in written form.

47. Dr. EL HAKIM (Egypt) said that he fully appreciated the arguments advanced by the representatives of Yugoslavia and the Soviet Union with regard to the difficulty of making reliable estimates. The experience of the producing countries should be taken into account, if the arrangements provided for in paragraph 1 were to be made to work. He also hoped that the text of the United Kingdom amendment would be circulated.

48. The CHAIRMAN said that the secretariat would make the necessary arrangements for circulating the
amendment proposed by the United Kingdom representative.

49. Dr. HOLZ (Venezuela) said that his delegation was in favour of keeping paragraph 1 of article 21bis, on the grounds that estimates were useful for purposes of drug control. However, it was concerned by the possibility of a shortage of opium to meet licit requirements, after a poor harvest for instance; a shortage could be just as serious as a surplus. It therefore proposed that paragraph 1 should be redrafted as follows:

"The quantity of opium produced by any country or territory in any one year shall not exceed the estimate, established under article 19, paragraph 1, sub-paragraph (f), of the annual average quantity of opium produced by the said country or territory in the last five years."

50. Mr. IGNATIEFF (Canada) and Dr. MÄRTENS (Sweden) supported the text proposed by the United Kingdom representative.

51. Mr. CARGO (United States of America) thought that it would be possible to accept the text proposed by the United Kingdom representative, and asked for the meeting to be suspended so that the United Kingdom representative and the sponsors could hold consultations with a view to arriving at a joint text.

52. Mr. NIKOLIČ (Yugoslavia) and Dr. BABAIAN (Union of Soviet Socialist Republics) supported that proposal.

The motion for suspension of the meeting was adopted by 53 votes to none.

The meeting was suspended at 4.50 p.m. and resumed at 5.10 p.m.

53. Mr. BEEDLE (United Kingdom) said that, after consultation, the co-sponsors and himself had agreed on the following text:

"The production of opium by any country or territory shall be organized and controlled in such manner as to ensure that, in any one year, the production of opium shall not exceed the estimate of the annual average quantity of opium to be produced as established under paragraph 1(f) of article 19."

54. Mr. NIKOLIČ (Yugoslavia) said that the new text was not a true compromise, the only real difference from the original text being the expression "as far as possible".

55. Dr. BABAIAN (Union of Soviet Socialist Republics) also expressed disappointment. His objections had related less to the estimates than to the legal aspect; it was inadmissible that anything should be imposed on States which were not parties to the Convention and could not become parties because of discrimination against them. The paragraph should therefore apply to "Parties" and not to "any country or territory". The present text represented an absolutely unacceptable interference in the internal affairs of States.

56. Mr. SAMSON (Netherlands) supported the new text. The paragraph should be read together with paragraph 4 of article 9, which stated that the Board should endeavour to see that requirements for medical and scientific purposes were satisfied. Thus, if a country had an unavoidable production surplus one year, the surplus could be stockpiled against years of shortage, under the arrangements to be made between the Board and the producing country.

57. Mr. HOOR TEMPIS LIVI (Italy), referring to the statements made by the USSR and Yugoslav representatives, said that the revised text of paragraph 1 contained another new element. Each country was invited to "organize and control" its production in such a way as to bring it as closely into line with the estimates as possible.

58. He did not see why the words "any country or territory" should cause any difficulty, as they were already in the text of the 1961 Convention.

59. Mr. NIKOLIČ (Yugoslavia) said that it was impossible to organize production to meet fixed targets, because opium cultivation was extremely vulnerable to weather conditions. The idea of organizing and controlling production was therefore entirely academic.

60. The CHAIRMAN put to the vote the proposal by the representative of Yugoslavia to delete paragraph 1 of article 21bis.

The proposal to delete paragraph 1 was rejected by 34 votes to 11, with 13 abstentions.

61. The CHAIRMAN put to the vote the new text of paragraph 1 prepared jointly by the United Kingdom representative and the co-sponsors, which the United Kingdom representative had read out.

The new text of paragraph 1 of article 21bis was approved by 38 votes to 11, with 8 abstentions.

The meeting rose at 5.40 p.m.

SEVENTH MEETING

Friday, 10 March 1972, at 9.45 a.m.

Chairman: Mr. CHAPMAN (Canada)

Consideration of all amendments proposed to the Single Convention on Narcotic Drugs, 1961 (item 11 of the Conference agenda) (continued) (E/CONF.63/5 and addenda)


Paragraph 2

1. Mr. ESPINO GONZÁLEZ (Panama) said that he had submitted a draft amendment which had not yet been circulated and which would replace the word "any", after the words "there shall be deducted", by something less categorical, namely, "a part of the".

2. Mr. CARGO (United States of America) said that he quite understood the considerations which had led the Panamanian delegation to submit its draft amendment, but it seemed to him that the word "any", in the English
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Paragraph 3

12. Mr. CARGO (United States of America) proposed replacing paragraph 3 by a new, simplified text which would achieve the purposes in view, while eliminating certain difficulties. That text would be the following:

“If the Board finds, on the basis of information at its disposal in accordance with the provisions of the Convention, that a Party which has submitted an estimate under article 19, paragraph 1 (b), has not limited opium produced in its territory to legitimate purposes in accordance with the relevant estimates, and that a significant amount of opium produced in the territory of such a Party, whether licitly or illicitly, has been introduced into illicit traffic, it may, 90 days after notifying the Government concerned, as envisaged in paragraph 4 below, deduct all or a portion of such an amount from the quantity to be produced and from the total of the estimate as defined in paragraph 2 (b) of article 19 for the next year in which such a deduction can be technically accomplished, taking into account the season of the year and contractual commitments to export opium”.

13. The CHAIRMAN suggested that the secretariat should be asked to circulate the new text to delegations so that they could have time to study it, and that further consideration of paragraph 3 should be postponed.

It was so decided.

Paragraph 4

14. The CHAIRMAN noted that paragraph 4 contained a reference to paragraph 3, concerning which the Committee had not yet made a decision. Similarly, paragraph 5 referred to paragraph 4, and that might hamper the Committee's consideration of that paragraph.

15. Mr. NIKOLIC (Yugoslavia), supported by Dr. BABAIAIN (Union of Soviet Socialist Republics), suggested postponing the consideration of the whole of article 21bis until the following meeting, and requesting the secretariat to circulate the text of the whole of article 21bis, incorporating all the proposed amendments.

16. Mr. CARGO (United States of America) did not think it necessary to have the entire article reproduced, since only paragraph 3 had undergone significant changes.

17. Dr. BABAIAIN (Union of Soviet Socialist Republics) felt it would be preferable for the secretariat to reproduce only paragraphs 1 to 5 (a) in a new document, since the end of article 21bis was not affected by the new change.

18. Mr. BEEDLE (United Kingdom) pointed out that in changing paragraph 3 the sponsors would have to bear in mind paragraph 6 of the article. Therefore, the word "excess" in paragraph 6 might not be suitable in the new context. Again, since the reference to paragraph 4 contained in paragraph 5 (a) did not change matters, it did not seem necessary to reproduce paragraph 5. The Committee could immediately proceed to consider paragraph 5 in its entirety, taking into account the proposal submitted by Italy and reproduced in document E/CONF.63/C.1/L.9.
19. Dr. BABAIAN (Union of Soviet Socialist Republics) felt that, since the sponsors wanted to submit a new text for article 21bis to the Committee, they might, in their work, take account of the proposals submitted by Turkey (E/CONF.63/C.1/L.12) and Italy (E/CONF.63/C.1/L.9). Further work would thus be greatly facilitated.

20. Mr. BEEDLE (United Kingdom) proposed the postponement of further discussion on article 21bis, in order to enable the sponsors of the draft amendments to prepare a new text which would take into account the observations made during the discussions.

21. Dr. URANOVICZ (Hungary) and Mr. CARGO (United States of America) supported the United Kingdom representative's proposal.

22. Mr. CASTRO (Mexico) drew the attention of the delegations that would be re-drafting the text to the fact that articles 19 (Estimates of drug requirements) and 12 (Administration of the estimate system) were closely related to certain problems dealt with in article 21bis.

23. The CHAIRMAN suggested that the Committee should wait until article 21bis was re-drafted before resuming discussion on any part of the article.

It was so agreed.

ARTICLE 19 (Estimates of drug requirements) (E/CONF.63/5, E/CONF.63/C.1/L.1)

24. Mr. CARGO (United States of America) reminded the Committee that the proposed amendments to article 19 were intended to include in the estimates of drug requirements the opium poppy, which was not referred to in article 19 of the 1961 Convention.

25. Dr. BABAIAN (Union of Soviet Socialist Republics) requested representatives of the Board, which under the 1953 Protocol received reports from Governments containing, inter alia, data on the area of opium cultivation, to explain to the Committee the methods used in examining those data and in drawing useful conclusions therefrom.

26. Mr. DITTERT (International Narcotics Control Board) said that the estimates, supplied one year in advance, of the area to be cultivated for the opium poppy, which was not referred to in article 19 of the 1961 Convention, were very useful to the Board because they enabled the Board to draw the attention of the Governments concerned to the fact that the production planned was insufficient or excessive, as the case might be.

27. Mr. NIKOLIĆ (Yugoslavia) wondered whether the Board could really insist on a State's reducing licit production, where it found such production to be in excess of requirements.

28. Dr. BABAIAN (Union of Soviet Socialist Republics) said that he shared the doubts of the representative of Yugoslavia. Moreover, he was convinced that information relating solely to the area to be cultivated for the opium poppy was not of much use as basic data, since final output would depend equally on a number of factors which varied from one country to another, and even within a single country, such as climatic conditions, methods of cultivation (use or non-use of fertilizers, for example), harvesting methods (manual or mechanized), species grown, etc. If the Board was to be able to assess the situation with any degree of accuracy, it should also have knowledge of those factors. In relying only on figures for the area under cultivation, it would inevitably reach erroneous conclusions, which might lead to controversy and disputes.

29. Dr. OLGUİN (Argentina) considered that anything which would have the effect of adding to the information supplied by parties to the Convention represented an additional guarantee—not only for those parties but also for other countries. It was useful to have as clear a picture of the general situation as possible, so as to be able to take appropriate measures of co-ordination between countries belonging to the same region and having similar characteristics from the point of view of poppy cultivation. He was therefore in favour of requesting information on the area to be cultivated for the opium poppy as proposed in paragraph 1 (e) of article 19. He believed, however, that such information should include the geographical location of the proposed cultivation. That would enable the Board to exercise regional and international supervision. Furthermore, it would make possible tighter control over any movement of an illicit crop from one country to a neighbouring country. With that in mind, he submitted a formal proposal that that provision be included in paragraph 1 (e) of article 19.

30. Mr. di MOTTOLA (Costa Rica) thought that the article should be considered paragraph by paragraph, so as to avoid reverting to the discussion of general problems already dealt with during the discussion of other provisions. Article 19 deserved to be studied in detail; it was an important article, because it was designed to enable the Board to get countries that signed the Convention to comply with its provisions.

31. Dr. AZARAKHCH (Iran) agreed that it was useful, for the purpose of estimating opium production, to have statistics on the areas to be cultivated for the poppy. Iran, which for three years had been allocating a portion of its production for the filling of opium prescriptions for its own addicts, had to know in advance how many hectares would be planted with the opium poppy, so as to be able to rely on a crop that would meet its domestic needs. Equally, the Board had to know what the world licit requirements and output of opium would be, and, for that purpose, data concerning the area to be planted with the poppy were particularly useful.

32. Mr. NIKOLIĆ (Yugoslavia) said that he had no objection to countries providing data on the area to be cultivated for the poppy, but like the representative of the Soviet Union, he was not sure whether such information would really be useful, since many other factors affected output. In view of those considerations, it might be better to insert the word “approximate” before the word “quantity” in sub-paragraph (f) of paragraph 1; that would make the provision more realistic.

33. Dr. WIENIAWSKI (Poland) said that his delegation could not accept paragraph 1 (e) and recalled that a similar provision had been proposed unsuccessfully at the United Nations Conference for the adoption of a Single Convention on Narcotic Drugs in 1961. In his country, the opium poppy was cultivated for the pro-
duction of morphine and codeine but not opium. In order to be able to provide the estimates envisaged, Poland would have to issue licences to cultivators and keep them under supervision. Where no opium was produced, there was no justification for such measures. For a country like Poland, no other provisions were needed than those contained in article 25 (Control of poppy straw) of the 1961 Convention.

34. U HLAO OO (Burma) said he could not accept sub-paragraphs (e) and (f) of paragraph 1. As was stated in paragraph 21 of the Report of the International Narcotics Control Board on its work in 1971, Burma was one of the States which for two years had not provided complete data. That was due to the fact that it was very difficult for his country to control cultivation of the opium poppy in a certain part of its territory. Consequently, Burma was not in favour of the new sub-paragraphs proposed, inasmuch as it would be unable to comply with the obligations they would entail.

35. Dr. BERTSCHINGER (Switzerland) associated himself with the remarks made by the Polish representative. In Switzerland, the opium poppy was cultivated exclusively for the production of oil from the seeds, and no measure of control would therefore be justified. Hence, it might be advisable to use the wording of paragraph 1 of article 23 (National opium agencies) of the Convention and to refer in the proposed sub-paragraph (e) to “cultivation of the opium poppy for the production of opium”.

36. It might also be specified in paragraph 1 (e) of article 19 that estimates should be based on the average yield for the preceding five years, as in article 8, paragraph 3, of the 1953 Protocol.1

37. Mr. MALIK (India) took it that the sponsors of the proposed sub-paragraph (e) intended the provision to apply to the cultivation of the opium poppy, whatever its ultimate use might be. He agreed, and pointed out that, as defined by paragraph 1 (q) of article 1 (Definitions) of the 1961 Convention, the term “opium poppy” means the plant of the species Papaver somniferum L”, which could be grown for its seeds only or for the production of morphine either directly or from the poppy straw. The proposed provision would therefore be discriminatory if it were to apply to the cultivation of the opium poppy solely for the production of opium.

38. He had serious reservations, however, regarding the usefulness of the estimates envisaged, which might well be very inaccurate. Where the cultivation of the opium poppy was not very profitable, cultivators were apt to abandon it and that led to a reduction in the area sown. As to the yield, that depended not only on weather conditions but also on such factors as the composition of the soil and the water supply.

39. The estimates proposed in paragraph 1 (e) and (f) would cause great difficulty for the States required to furnish them and might subsequently lead to disputes between those States and the Board.

40. His delegation had even greater reservations with regard to the sub-paragraph (b) which it was proposed to add to paragraph 2. That provision would affect the opium production of subsequent years. The slightest error in the estimates or the calculations could have unfortunate consequences not only for the producing countries but also for the consuming countries, which depended on them for their supplies. Although provision was made for adjustments, it was to be feared that countries which failed to obtain supplies by licit means might resort to practices that were not very proper.

41. It was therefore desirable that the estimates referred to in the proposed amendments to paragraphs 1 and 2 of article 19 should be solely in the nature of guidance for the Board and should not serve to commit States as to their future production of opium.

42. Lastly, he asked the sponsors to say why they wished to replace the word “State” by the word “Government” in the English text of paragraph 3.

43. Mr. SAMSOM (Netherlands) agreed with the comments made by the representatives of Switzerland and India.

44. Dr. HOLZ (Venezuela) accepted paragraph 1 (e) in principle, but reserved the right to make further comments when article 19 was examined paragraph by paragraph. While it was true that the estimates to be furnished under sub-paragraphs (e) and (f) of paragraph 1 would be very useful for the Board, it would often be difficult to forecast accurately the quantity of opium to be produced. His delegation therefore supported the Yugoslav proposal to insert the word “approximate” in subparagraph (f).

45. Dr. EDMONDSON (Australia) approved the proposed amendments. Several representatives had asked whether the new provisions would apply to all opium poppy cultivation irrespective of ultimate use. Although his country was unlikely to have difficulty with furnishing estimates, he thought that that question should be cleared up without delay.

46. He pointed out that the growing season was not the same in the two hemispheres, and there might be a time-lag between the annual estimates furnished by different countries.

47. Dr. BABAIAN (Union of Soviet Socialist Republics) associated himself with the delegations which believed that paragraph 1 (e) should not apply to countries where the opium poppy was cultivated for purposes other than the production of opium. While a number of delegations had stated that it was desirable for the Board to have as many data as possible at its disposal, it should not be exposed to being tempted some day to draw erroneous conclusions from those data and to level unfounded accusations at certain States.

48. He too asked for clarification of the proposed amendment to the English text of paragraph 3.

49. Mr. de BOISSÈSON (France) considered that the Board should be given the fullest possible information, even if some of the estimates contained an element of uncertainty.

50. In his country, the opium poppy was not cultivated for the production of opium. Oil had sometimes been

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extracted from it in the past, but nowadays only small quantities of morphine base were extracted. Although the plant used for the different purposes was not of the same variety, the term “opium poppy” within the meaning of the 1961 Convention applied to every kind of opium poppy and France was prepared to provide estimates of poppy-growing, regardless of the plant’s ultimate use.

51. Mr. di MOTTOLA (Costa Rica), replying to a question by the USSR representative and speaking as a co-sponsor of the amendments, said the proposal to replace the word “State” by the word “Government” was intended to make the text more accurate, since it was, after all, the Government which represented a State in its international dealings.

52. The CHAIRMAN declared the general discussion on article 19 closed and invited members of the Committee to examine the article paragraph by paragraph.

Paragraph 1

53. The CHAIRMAN said that the Committee had before it an Argentine proposal to add the words “and its geographical location” at the end of sub-paragraph (e) of paragraph 1.

54. Dr. OLGUlN (Argentina), replying to a question by Mr. NIKOLIĆ (Yugoslavia), explained that States would be asked to indicate—using their own terminology (province, department, country, etc.)—the exact localities in which the areas to be cultivated for the opium poppy were situated.

55. Mr. de BOISSESON (France) said he had no objection to the amendment, though he did not consider it essential. The exact localities in which the areas to be cultivated for the opium poppy were situated.

56. Mr. de BOISSESON (France) said he had no objection to the amendment, though he did not consider it essential. The exact localities in which the areas to be cultivated for the opium poppy were situated.

57. Mr. DITTERT (International Narcotics Control Board) said States could give information on the region in which the poppy growing area was situated, in line with what was laid down in the 1953 Protocol, but there seemed little point in going so far as identifying the village or commune.

58. Dr. BABAİAN (Union of Soviet Socialist Republics) said his delegation was agreeable to furnishing the Board with estimates “on forms supplied by it”. It would be useful to hear the INCB representative’s views on the matter.

59. Mr. NIKOLIĆ (Yugoslavia) said that, while his delegation could accept the amendment in sub-paragraph (e), it feared that the provisions of sub-paragraph (f) would encourage countries to over-estimate the quantity to be produced per hectare, so as to be sure of not surpassing it at harvest time and thus avoid having to worry about the matter. It would therefore be better to delete sub-paragraph (f); otherwise, it would be necessary to refer to “approximate quantity”, although the USSR representative’s observations on that score were very much to the point.

60. Dr. OLGUlN (Argentina), replying to the observations of the USSR representative, said it was precisely to ensure that the data furnished under article 19 would serve a useful purpose that the amendments and sub-amendments had been presented. The sponsors of the amendments had absolutely no intention of proliferating bureaucratic obligations; they wished to create mechanisms from which usable estimates and positive results could be obtained, and data relating to areas cultivated and quantities produced were elements useful to the international procedure it was proposed to introduce. Complementary mechanisms were needed if the illicit traffic was to be combated, and all the data sought served a purpose, particularly when transmitted to a competent body such as the Board. The precise location of crops could be important in combating illicit traffic, particularly in the case of border regions.

61. Mr. SAMSOM (Netherlands) said a distinction should be made between the cultivation of poppies for seed or oil and cultivation for opium. His delegation therefore thought that sub-paragraph (e) should be amended to make it clear that only figures concerning poppy cultivation for opium production would be required. As to sub-paragraph (f), the Board could easily keep statistics on the subject.

62. Mr. MALIK (India) said his Government saw no difficulty in furnishing statistics; it was, however, concerned about the use to be made of them. All countries supplied rough estimates, and it was hard to agree that the Board should be able to use them in order to reproach a country which, in spite of all its efforts, did not succeed in preventing a proportion of its licit production from being diverted to the illicit traffic. Such provisions might lead to serious difficulties between producing countries and the Board. His delegation therefore thought that sub-paragraph (f) should be deleted.

63. Mr. CARGO (United States of America) remarked that the comments of the Argentine representative concerning the usefulness and constructive value of the provisions of sub-paragraph (e) were also valid for sub-paragraph (f).
64. The CHAIRMAN invited the members of the Committee to vote on the proposed sub-amendments to sub-paragraphs (e) and (f) of paragraph 1 of article 19.

65. Mr. MALIK (India) said his delegation would not press for a vote on its sub-amendment to delete sub-paragraph (f), if the Committee adopted the sub-amendment presented by Yugoslavia and Venezuela, to insert the word “approximate” before the word “quantity” in sub-paragraph (f).

66. The CHAIRMAN put to the vote the sub-amendment of Yugoslavia and Venezuela to insert the word “approximate” before the word “quantity” in sub-paragraph (f).

The sub-amendment was adopted by 11 votes to 1, with 46 abstentions.

67. The CHAIRMAN said he would put to the vote the sub-amendment proposed by Argentina to add at the end of sub-paragraph (e) of paragraph 1 the words “and its geographical location”.

68. Dr. BERTSCHINGER (Switzerland), speaking on a point of order, recalled that his delegation had proposed the addition of the words “for the production of opium” after the words “cultivated for the opium poppy” in sub-paragraph (e); that would reproduce the wording in article 23, paragraph 1, of the 1961 Convention.

69. Dr. BABAIAN (Union of Soviet Socialist Republics) pointed out that, in that case, the paragraph would not apply the cultivation of the opium poppy for purposes other than the production of opium.

70. The CHAIRMAN invited the Swiss representative to submit his proposal in writing, and added that at its next meeting the Committee could deal with paragraph 1 (e) of article 19 by voting separately, at the request of the United States representative, on the sub-amendments proposed by Argentina and Switzerland.

The meeting rose at 12.50 p.m.

EIGHTH MEETING

Friday, 10 March 1972, at 2.55 p.m.

Chairman: Mr. CHAPMAN (Canada)

Consideration of all amendments proposed to the Single Convention on Narcotic Drugs, 1961 (item 11 of the Conference agenda) (continued) (E/CONF.63/5 and addenda)


Paragraph 1 (continued)

1. The CHAIRMAN invited the Committee to continue its consideration of the amendments to article 19, paragraph 1. He announced that the text of the Swiss sub-amendment, which consisted in inserting the words “with a view to the production of opium and morphine” after the words “for the opium poppy” in sub-paragraph (e), would shortly be orientated to participants.1

2. Mr. NIKOLIC (Yugoslavia) said that his delegation could accept Switzerland’s original sub-amendment which merely added the words “with a view to the production of opium”, but the mention of morphine production complicated the question unnecessarily. In Yugoslavia, for instance, only Macedonia was entitled to produce opium from the opium poppy, and the poppy straw produced in the other regions was exported. How could Yugoslavia ascertain in practice what percentage of the poppy straw it exported was converted directly into morphine?

3. Dr. BERTSCHINGER (Switzerland) said he did not think that his delegation’s amendment created any complications. It was the responsibility of the importing country to notify to the Board any imports of poppy straw intended for extraction of alkaloids.

4. Dr. BABAIAN (Union of Soviet Socialist Republics) said that he, too, thought that the sub-amendment proposed by Switzerland would be a source of complications.

5. Mr. CARGO (United States of America), supported by Dr. OLGUIIN (Argentina), said that he opposed the sub-amendment proposed by Switzerland and considered that the Board should be informed as to the areas devoted to opium poppy cultivation, whatever the use for which the crop was intended might be.

6. Dr. BERTSCHINGER (Switzerland) agreed to the deletion of the words “and morphine” from the sub-amendment he had submitted. He pointed out that the words “the production of opium” appeared in articles 23 (National opium agencies) and 25 (Control of poppy straw) of the 1961 Convention, and that if they were not included in article 19, articles 23 and 25 would have to be amended.

7. Dr. WIENIAWSKI (Poland) said that there was large-scale cultivation of the opium poppy in his country, which had given rise to no clandestine production of alkaloids. He feared that, if precise statistics on opium poppy cultivation were required, the whole question would receive a certain amount of publicity and that might lead to abuse, which had not hitherto existed in Poland.

8. Replying to a question from Dr. BABAIAN (Union of Soviet Socialist Republics), Mr. DITTERT (International Narcotics Control Board) explained that, in the 1953 Protocol, the estimates required related only to the area to be cultivated for the opium poppy for purposes of opium production, and that the Board also received estimates of opium production, because the two were directly connected. It was obvious that if estimates had to be furnished of the area devoted to opium poppy cultivation for purposes other than opium production, the Board should request specific estimates for each of...
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those purposes. It would encounter difficulties if it lacked comparable data.

9. The CHAIRMAN put to the vote the sub-amendment proposed by Switzerland calling for the insertion of the words “with a view to the production of opium” after the words “for the opium poppy” in paragraph 1, sub-paragraph (e).

The Swiss sub-amendment was rejected by 29 votes to 7, with 23 abstentions.

10. The CHAIRMAN put to the vote the Argentine sub-amendment (E/CONF.63/C.1/L.17) to insert the words “and its geographical location” in paragraph 1, sub-paragraph (e).

The Argentine sub-amendment was adopted by 18 votes to 17, with 27 abstentions.

Paragraph 1, sub-paragraph (e), as amended, was approved by 25 votes to 13, with 22 abstentions.

11. Mr. CARGO (United States of America) pointed out that, at the 7th meeting, the Committee had taken a decision on the sub-amendments to sub-paragraph (f) but had failed to take any action on sub-paragraph (f), as amended. He wished to know whether that omission could be rectified before a vote was taken on paragraph 1 as a whole, as amended.

12. Dr. HOLZ (Venezuela) said that his delegation had proposed the addition of two new sub-paragraphs (g) and (h) in article 19, paragraph 1 (E/CONF.63/C.1/L.1). It hoped that the Commission would consider that sub-amendment before taking a decision on paragraph 1 as a whole.

13. Mr. NIKOLIĆ (Yugoslavia) considered that the United States representative should have asked for a vote at the 7th meeting, following the adoption of the amendment to sub-paragraph (f). He would like the Legal Adviser to the Conference to give an opinion on the subject.

14. Mr. WATTLES (Legal Adviser to the Conference) said that, following the adoption of an amendment, a vote should be taken on the amended text as a whole. That was the usual practice, which should be followed even if no request had been made to that effect by a delegation.

15. Mr. NIKOLIĆ (Yugoslavia) said that he still did not think the Committee could revert to an article that had already been examined.

16. Dr. BABAIA (Union of Soviet Socialist Republics) said that the Committee could solve the problem by voting on sub-paragraphs (e) and (f) together, in other words, on the amended part of article 19, paragraph 1.

17. After an exchange of views in which Mr. BEEDLE (United Kingdom), Mr. NAIK (Pakistan), Dr. URANOVICZ (Hungary) and Mr. WATTLES (Legal Adviser to the Conference) took part, the CHAIRMAN proposed that the Committee should vote on sub-paragraphs (e) and (f) as a whole.

It was so decided.

Article 19, paragraph 1, sub-paragraphs (e) and (f), as amended, were approved by 35 votes to 11, with 14 abstentions.

18. The CHAIRMAN then drew the Committee's attention to the amendment submitted by Venezuela (E/CONF.63/C.1/L.1). That amendment called for the addition of two new sub-paragraphs (g) and (h) to article 19, paragraph 1.

19. Dr. DANNER (Federal Republic of Germany) said that, in his view, there was no need to require the furnishing of the information referred to in the Venezuelan amendment. The information referred to in sub-paragraph (g) was contained in the Board’s annual report, while the information referred to in sub-paragraph (h) was already provided for in sub-paragraphs (a) to (d) of article 19, paragraph 1.

20. Dr. HOLZ (Venezuela) said that his delegation had already indicated in its general statement (10th plenary meeting) that control measures should not be confined to opium but should apply to synthetic narcotic drugs as well. Article 19 in its present form was incomplete, and might even have the opposite effect to that sought. It merely provided for the strengthening of controls over the opium poppy without envisaging similar measures for synthetic narcotic drugs, which were sometimes more dangerous than opium. Large quantities of synthetic narcotic drugs manufactured on an industrial scale had already been diverted to the illicit traffic. Pharmaceutical establishments which manufactured them should therefore be placed under control; that ought not to be more difficult than to control the production of opium.

21. The Venezuelan proposal was therefore complementary to the joint proposals, the sponsors of which were interested in the area under cultivation for opium production; in the case of synthetic narcotic drugs, the production area was the number of plants manufacturing them. Sub-paragraph (h) served the same purpose as sub-paragraph (f) by referring to the level of production.

22. He pointed out to the representative of the Federal Republic of Germany that, if his delegation’s amendment was adopted, Governments would have to furnish estimates relating to the pharmaceutical industry, and that added a new element.

23. Dr. URANOVICZ (Hungary) asked whether the Venezuelan amendment was in order. He was not sure that it was compatible with the Conference’s terms of reference.

24. At the invitation of the Chairman, Mr. WATTLES (Legal Adviser to the Conference) replied that the Economic and Social Council, in its resolution 1577 (L), had requested that all proposed amendments should be considered. It could be inferred from the debate which had taken place in the Council that that meant the amendments proposed before and during the session of the Council, the amendments proposed in the Commission on Narcotic Drugs and the amendments proposed at the Conference during its session. In the present case, there were therefore no other rules to follow than the rules of procedure of the Conference.

25. Mr. CARGO (United States of America) said that his delegation could accept the Venezuelan amendment. The United States was prepared to furnish the information called for in the amendment, and believed that it would be
a useful supplement to the information already being received by the Board.

26. Mr. HUYGHE (Belgium) said that some delegations wished to hold a brief consultation concerning the amendment proposed by the Venezuelan delegation; he therefore requested a brief suspension of the meeting.

The proposal of the Belgian representative was adopted by 34 votes to none, with 17 abstentions.

The meeting was suspended at 4.15 p.m. and resumed at 4.30 p.m.

27. Mr. HUYGHE (Belgium) said that his delegation, despite its understanding and appreciation of the Venezuelan amendment, felt obliged to point out that article 19 related to estimates of drug requirements, whereas the number of establishments referred to in the sub-paragraph (g) proposed by Venezuela was not an estimate but constituted factual data. Sub-paragraph (g) was therefore out of place in the article. Sub-paragraph (h) was redundant, since the figures it called for were already furnished to the Board each year.

28. Mr. WATTLES (Legal Adviser to the Conference) drew the Committee's attention to an error in the French text of sub-paragraph (h) of the Venezuelan amendment, in which the word "atteints" should be replaced by the words "qui seront atteints".

29. Mr. VAILLE (France) said that his Government had always favoured strict equality between the producing and manufacturing countries. However, the amendment under consideration did not take into account the definition of production given in sub-paragraph (t) of article 1 of the 1961 Convention; "quantities manufactured" was probably the expression which would be used in paragraph 1 of article 19. The purpose of the Venezuelan amendment was to eliminate the discrimination which would result from the original amendment, but it should be borne in mind that, if drug addiction was to be curbed and suppressed, the Board, which was already overburdened, should not be saddled with unnecessary work. Admittedly, it seemed logical and fair to extend supervision to the manufacture of narcotic drugs, but the information called for in sub-paragraph (h) was already furnished to the Secretary-General under other provisions of the Convention. Moreover, the information furnished should be of international use and should not run counter to the desired objective. The Board had always sought to induce countries to lower their estimates, and then to adhere to the estimated figures. It was possible to do that in the case of over-all estimates, but not if a particular manufacturer found, in the course of the year, that he needed to manufacture more than the quantity for which he had obtained authorization. In short, his delegation was in favour of strengthening international control; it was opposed to any discrimination between manufacturers and producers, but it was also opposed to unnecessary paper work.

30. Mr. NIKOLIĆ (Yugoslavia) said that he failed to see why those delegations which saw no undue difficulty in estimating agricultural production, which was nevertheless subject to the vagaries of climate, should oppose the practice of estimating quantities manufactured, which were easier to measure, on the pretext that they wished to avoid excessive administrative formalities. The text of the Venezuelan amendment could undoubtedly be improved, but the idea underlying it should be retained.

31. Mr. BEEDLE (United Kingdom) acknowledged that the same standards should apply to both producers and manufacturers. He did not, however, see any parallel between sub-paragraphs (e) and (f), which had already been approved, and the proposed sub-paragraphs (g) and (h). He failed to see what industrial unit corresponded to one hectare and, although agricultural production could be measured in hectares, one hectare could not be compared with another. If the text was amended in such a way that it truly complemented sub-paragraphs (e) and (f), his delegation would give it serious consideration but, as it was now worded, the text was merely the expression of a desire for equal treatment.

32. Dr. BABAİAN (Union of Soviet Socialist Republics) said that he was surprised by the illogical attitude of those delegations which claimed to support an idea while at the same time they rejected it. If they were now challenging the usefulness of certain information, after having advocated the furnishing of the greatest possible amount of information and statistical data to the Board, it was because that information affected them closely. The data called for in sub-paragraphs (g) and (h) were easy to furnish, and they were more precise and more reliable than the figures for production per hectare. To refuse to acknowledge that fact would be to act in bad faith.

33. Mr. HUYGHE (Belgium) pointed out that he had not said that his Government was unwilling to furnish to the Board any information which was pertinent to the performance of the Board's task. He had merely said that the information called for in sub-paragraph (g) would be factual and not an estimate, and would therefore be out of place among the information which would be furnished pursuant to article 19. He had also observed that the information called for in sub-paragraph (h) was already being furnished in accordance with other provisions. The idea which the Venezuelan amendment sought to express should be couched in some other form. He repeated that Belgium was, for its part, prepared to furnish any information requested of it.

34. Mr. ESPINO GONZALEZ (Panama) supported the Venezuelan amendment. He said that the addition of that wording would be of great benefit to the countries of Latin America, where there were not only industrial establishments but also laboratories which manufactured pharmaceutical products for local consumption. It would be desirable to extend the provisions of the amendment to the branches of industrial establishments, in view of their increasing number, which was due, in part, to the establishment of the Latin American common market. He would also like to know whether derived synthetic products were subject to control.

35. Mr. ROBICHEZ PENNA (Brazil) supported the Venezuelan amendment. He said that the addition of that wording would be of great benefit to the countries of Latin America, where there were not only industrial establishments but also laboratories which manufactured pharmaceutical products for local consumption. It would be desirable to extend the provisions of the amendment to the branches of industrial establishments, in view of their increasing number, which was due, in part, to the establishment of the Latin American common market. He would also like to know whether derived synthetic products were subject to control.
36. Mr. PATHMARAJAH (Ceylon) said that the Venezuelan amendment would usefully round out article 19 and could help to give the Board all possible means of combating illicit production and traffic, which was the objective of the Conference. He hoped that the sponsors of the proposal for the amendment of article 19 would take the same view as the United States representative, who had said that he was in a position to support the Venezuelan amendment.

37. Mr. SAGOE (Ghana) said that his country, although neither a producer nor a manufacturer, had wished to join the sponsors of the joint proposals for the amendment of the 1961 Convention because it had felt that was a means of contributing to efforts to combat illicit traffic in the hope of putting an end to drug abuse. Having argued in favour of estimates of production, his delegation could not fail to support an amendment aimed at imposing the same obligations on manufacturers, especially since it was easier to estimate quantities manufactured than production and since the United States representative had himself stated that his country would have no difficulty in complying with that formality. In the interests of efforts to combat drug addiction, his delegation therefore supported the Venezuelan amendment.

38. Mr. BEEDLE (United Kingdom) said that he did not fully understand the purpose of the proposed sub-paragraphs (g) and (h). Article 19 related to estimates of drug requirements, but what was called for in the proposed sub-paragraphs was more in the nature of statistics. Moreover, an industrial establishment could not be equated with a machine, and since, in accordance with article 19, paragraph 5, the estimates should not be exceeded, the effect of sub-paragraphs (g) and (h) would be to oblige countries to submit supplementary estimates more frequently in order to take account of imponderables. To deduct from the quantities to be manufactured during the following year any surplus recorded at the end of a given year (see article 21, paragraph 3) would be to impose on national authorities, which were endeavouring to make production tally with the estimates, a true form of discipline, which was sufficient for control purposes. Information on the number of industrial establishments authorized to manufacture synthetic drugs and on their production figures was already being furnished pursuant to other provisions of the Convention. It could, therefore, well be asked what further use that information would be to the Board, what the Board could learn from it, and what measures it would take if it noticed any discrepancy in the information.

39. Mr. DITTERT (International Narcotics Control Board) pointed out that Governments were already furnishing to the Secretary-General, in accordance with article 19, paragraph 5, information on the establishments authorized to manufacture narcotic drugs, but they did so on a de facto basis and the information thus furnished did not constitute estimates. With regard to the sub-paragraph (h) it was proposed to add to article 19, paragraph 1, it would be for the Conference to decide what additional information would be furnished to the Board as a result of the amendments which it would make to the Convention; in its turn, the Board would have to ensure that the Governments applied the new provision properly. As to statistics of manufacture, the 1961 Convention made provision only for notification to the Board of the total quantity of drugs manufactured.

40. Dr. BERTSCHINGER (Switzerland) observed, that at the 1961 United Nations Conference for the adoption of a Single Convention on Narcotic Drugs, the Technical Committee entrusted with the drafting of the article of the Convention dealing with definitions had been unable to provide a definition of the term “synthetic drugs”, so that the term remained undefined. It was therefore necessary to eliminate the concept of a “synthetic” drug from sub-paragraph (g), or else to include in the Convention a definition of the term in question, a thing which seemed impossible.

41. Mr. WATTLES (Legal Adviser to the Conference) proposed that the French text should be brought into line with the original Spanish by replacing in sub-paragraph (g) the words “qui fabriquent des stupéfiants synthétiques” by the words “qui synthétisent des stupéfiants”.

42. Mr. CASTRO (Mexico) supported the Venezuelan amendment and said that it provided a new weapon for the suppression of illicit traffic.

43. Dr. OLGUIN (Argentina) expressed the hope that the Conference would succeed in formulating an effective instrument. Since many cases of addiction were caused by synthetic drugs, it was desirable to take preventive measures, as proposed in the Venezuelan amendment. That amendment did not duplicate any other article of the Convention and his delegation would therefore support it.

44. Dr. BABAIAN (Union of Soviet Socialist Republics) said that the remarks of the United Kingdom representative had demonstrated convincingly that the additional information called for in the amendment was unnecessary, since the information provided for in the 1961 Convention was sufficient. Such additional data would only serve to increase the already heavy workload of the Board.

45. Mr. McKIM (Canada) said that his country was not directly concerned in the matter, since it did not produce any synthetic narcotic drugs and therefore did not furnish that kind of data to the Board; nevertheless, he believed that the new sub-paragraphs (g) and (h) proposed in the Venezuelan amendment would make useful information available to the Board. He therefore supported the Venezuelan amendment.

46. Mr. BEEDLE (United Kingdom) thanked the representative of the Board for the information he had provided but said that he still had some doubts as to the desirability of the Venezuelan amendment. The obligations resulting for the parties from article 29 (Manufacture) of the Convention were clear; in particular, they had to require manufacturers of narcotic drugs to obtain periodical permits specifying the kinds and amounts of drugs which they would be entitled to manufacture. In addition, article 23 provided for the establishment of national agencies which had to draw up annual produc-
tion plans for opium; there was therefore nothing to prevent them from furnishing all the necessary information.

47. The question was, however, what the Board would do with the information expressly called for in the Venezuelan amendment. Perhaps the Venezuelan representative could indicate how the Board might make use of the additional statistical data furnished to it.

48. Dr. HOLZ (Venezuela) said that the Board would use the data relating to synthetic narcotic drugs in the same manner in which it used the data furnished by the countries which produced opium and other natural narcotic drugs.

49. Mr. PILAVACHI (Greece) said that he supported the Venezuelan amendment, because it would ensure a more stringent control of narcotic drugs.

50. Mr. MIETTINEN (Finland) supported that view.

51. Mr. NIKOLIĆ (Yugoslavia) said that he failed to understand the objections of the United Kingdom representative. It would be necessary in any case to specify the manner in which the Board would use the additional information to be furnished to it.

52. Mr. SAMSOM (Netherlands) pointed out that the Board already possessed production figures for the establishment which synthesized narcotic drugs, since that information was covered by the obligations annually fulfilled by each party. The important question was that of the use to which that information would be put by the Board. According to the Venezuelan representative, paragraph 3 of article 21bis, by virtue of which the Board, if it found, on the basis of information furnished to it, that the quantity of opium produced in any one year exceeded the specified quantity, would be able to deduct that excess from the quantities to be produced in the future, was applicable to all the substances covered by the 1961 Convention. He wondered whether such an extension of that system would not raise serious practical problems.

53. Furthermore, he felt that sub-paragraph (g) was not in its place in article 19, which dealt with estimates and not with actual figures.

54. Mrs. CAMPOMANES (Philippines) said that sub-paragraphs (g) and (h) would introduce a useful element of precision by calling for the actual figures of production instead of estimates as called for in sub-paragraphs (e) and (f). Since synthetic products could be just as dangerous as natural products and since a stricter control over them was essential, she supported the Venezuelan amendment.

55. The CHAIRMAN invited the Committee to vote on the Venezuelan amendment to add two sub-paragraphs, (g) and (h), to paragraph 1 of article 19 (E/CONF.63/C.1/L.1).

56. In reply to a question by Mr. NIKOLIĆ (Yugoslavia), Mr. WATTLES (Legal Adviser to the Conference) said that the vote was being taken on the French text amended as follows:

"(g) Le nombre d’établissements industriels qui synthétisent des stupéfiant;

(h) Les chiffres de production atteints par chacun des établissements indiqués à l’alinéa précédent."

57. Dr. AZARAKHCH (Iran) pointed out that it was necessary to alter the term “production” which was not consistent with the definition in the 1961 Convention, since the passage concerned synthetic drugs.

58. Mr. WATTLES (Legal Adviser to the Conference) said that that question would be referred to the Drafting Committee.

At the request of the representative of Ceylon, the vote was taken by roll-call.

Portugal, having been drawn by lot by the Chairman, was called upon to vote first.

In favour: Portugal, Saudi Arabia, South Africa, Spain, Afghanistan, Argentina, Algeria, Brazil, Burma, Burundi, Ceylon, Costa Rica, Dahomey, Finland, Ghana, Greece, Guatemala, India, Indonesia, Iran, Ivory Coast, Kenya, Khmer Republic, Mexico, Niger, Nigeria, Panama, Peru, Philippines, Turkey, United States of America, Venezuela, Yugoslavia.


Abstaining: Sweden, Australia, Austria, Belgium, Canada, Cuba, Denmark, Italy, Japan, Korea, Kuwait, Netherlands, New Zealand, Norway, Tunisia, United Kingdom of Great Britain and Northern Ireland.

Sub-paragraphs (g) and (h) of paragraph 1 of article 19 (E/CONF.63/C.1/L.1) were approved by 33 votes to 13, with 16 abstentions.

59. Dr. URANOVICZ (Hungary), speaking in explanation of vote, said that Hungary had always had doubts concerning the usefulness of estimates, both of the areas under poppy cultivation and of actual production. The furnishing of such estimates was of no value for the suppression of the illicit trade in, traffic in, and consumption of, narcotic drugs.

60. Mr. DANNER (Federal Republic of Germany), speaking in explanation of vote, said that virtually all the information called for in the Venezuelan amendment was already being provided in the annual reports made by Governments to the Board.

61. Dr. BABAIEAN (Union of Soviet Socialist Republics) and Dr. WIENIAWSKI (Poland) explained that they had voted against the Venezuelan amendment because the furnishing of the additional data for which it called was unnecessary, since the Board already possessed sufficient information; such data would unnecessarily complicate its work.

62. Mr. BEEDLE (United Kingdom) explained that his delegation had abstained in the vote because it considered that the Venezuelan amendment was neither justified nor practicable.

The meeting rose at 6.15 p.m.
NINTH MEETING

Monday, 13 March 1972, at 9.55 a.m.

Chairman: Mr. CHAPMAN (Canada)

Consideration of all amendments proposed to the Single Convention on Narcotic Drugs, 1961 (item 11 of the Conference agenda) (continued) (E/CONF.63/5 and addenda)


Paragraph 2

Sub-paragraph (a)

1. Dr. BABAIAN (Union of Soviet Socialist Republics) said that his delegation did not think that it was any more desirable to adopt the amendment to paragraph 2 (a) than those to paragraph 1, with which it was closely linked.

2. Mr. ANAND (India) shared the opinion of the USSR representative on that point. In any case, the Committee could hardly take a decision on paragraph 2 (a) before considering the parallel provisions in paragraph 2 (b). If an exception was to be made for opium in paragraph 2 (a), a similar exception should be made for morphine and it should be mentioned in paragraph 1 (f), since morphine was also extracted from the opium poppy.

3. The CHAIRMAN said that the discussion on paragraph 1 could not be reopened unless the Committee decided to re-examine article 19. He suggested that the Committee should take up paragraph 2 (b).

It was so decided.

Sub-paragraph (b)

4. The CHAIRMAN thought that the Committee should consider, together with paragraph 2 (b), the amendment submitted by the 24 sponsors of the proposals in document E/CONF.63/5 and addenda (E/CONF.63/C.1/L.16), which proposed adding a sentence at the end of the sub-paragraph.

5. Mr. ANAND (India), referring to paragraph 3 of article 21 to, said that he did not see how the provisions could be applied. If a country where opium cultivation was a State monopoly declared that its opium production for a given year was 100 tons, that meant that the competent authority had received that quantity, and any diversions that might have taken place would be attributable to the cultivators. There was always the possibility of some clandestine traffic, however stringent the control exercised, but the Government could not be held responsible for it. Under paragraph 3 of article 21bis, if the Board found that diversions had taken place, it would deduct the amount diverted from the quantity to be produced at the next harvest. In principle, that penalty should be imposed on the cultivators, but in fact it was the consuming countries which would suffer if the producing countries were unable to meet their demands for opium for medical and scientific purposes. To give such powers to the Board would not affect licit production, which the producing country would have to calculate with a view to satisfying demand. The estimates of the quantity to be produced were virtually useless; only the actual production figures had any significance. His delegation therefore considered it advisable to delete paragraph 2 (b), together with the words "except opium" in paragraph 2 (a), and to return to the text of the 1961 Convention, which was concerned with production rather than estimates, and in which opium was considered as a narcotic drug that came automatically within the purview of paragraph 1. If the Committee decided to maintain the amendments, it would also have to apply the provisions to morphine, because paragraph 2 (b) of article 19 derived from paragraph 1 (e) and (f), concerning the area to be cultivated for the opium poppy and the quantity of opium to be produced, and thus covered morphine production as well.

6. Mr. CARGO (United States of America) said that the provisions proposed in paragraph 2 (b) derived from those of paragraph 1 (f), which the Committee had approved at its 8th meeting. It was perfectly correct to link the words "except opium" to the amendment now before the Committee, i.e., paragraph 2 (b), which was simply the logical development, technically speaking, of paragraph 2 (a), the provisions of which, once completed, would be equally applicable to morphine and other narcotic drugs. The first two lines of paragraph 2 (b) were a little obscure, and the Drafting Committee might improve them on the basis of the French text, which was clearer. While it was true that paragraph 2 (b) referred to paragraph 3 of article 21bis, it would not be appropriate at the present stage to go into the advantages and disadvantages of that paragraph, which specified the criteria to be applied when measures had to be taken in certain well-defined situations. The provisions laid down in paragraph 2 (b) derived from paragraph 1 (f) and the parallel provision in paragraph 2 (a).

7. The CHAIRMAN agreed that the moment had not yet come to examine paragraph 3 of article 21bis, and asked representatives to confine themselves to article 19.

8. Dr. WIENIAWSKI (Poland) agreed with the Indian representative, and said that his delegation could accept neither the amendments to paragraph 2 (b) nor, accordingly, the insertion in paragraph 2 (a) of the words "except opium". The amendment proposed in document E/CONF.63/C.1/L.16 would simply complicate the whole control structure without improving it in any way, and it would be preferable to stick to the provisions of articles 20 (Statistical returns to be furnished to the Board) and 24 (Limitation on production of opium for international trade) of the 1961 Convention.

9. Mr. NIKOLIĆ (Yugoslavia) believed that the sponsors of the amendments had made two big mistakes. First, they had performed a purely mathematical exercise without taking the actual situation into account, since it was useless to adopt the amendments if the opium-producing countries could not ratify them because they were too difficult to apply. Secondly, two entirely different
ideas had been confused, i.e. licit use and illicit traffic. It was possible to have a convention regulating all licit operations from production to consumption, so as to reduce the illicit traffic as much as possible, but it would serve no good purpose to adopt yet another instrument if it was not going to have any real effect.

10. Dr. BABAIAN (Union of Soviet Socialist Republics) thought that the adoption of the amendments would be a grave threat not only to production but also to consumption. If a producing country had to reduce its production, it would no longer be able to satisfy the demand for opium, with serious consequences for medicine and scientific research. The proposal was based on false premises, and for the reasons already given by the representatives of India, Poland and Yugoslavia, his delegation was unable to accept paragraph 2(b) and hence paragraph 2(a) of article 19. If those provisions were maintained, they should be made applicable to morphine as well.

11. Mr. SAMSOM (Netherlands) agreed with the United States representative that the amendment to paragraph 2 of article 19 was simply the logical consequence of paragraph 3 of article 21bis. Article 19 as amended would therefore be meaningless unless the Committee decided to keep the substance of paragraph 3 of article 21bis.

12. Referring to the example given by the representative of India, he wondered whether a reduction in the estimate imposed for a given year as a result of the release to the licit market of a quantity of opium which had been seized would hold good for the following year, because, if so, by the end of a few years there would have been a considerable decline in the country's licit production; that was a point which should be carefully considered. His delegation therefore reserved its opinion on paragraph 2(b) of article 19 until the Committee had taken a decision on paragraph 3 of article 21bis.

13. Mr. ANAND (India) wished to point out that the estimates referred to in paragraph 2(b) were not precise figures but merely approximations. If the Board imposed a reduction on a country, and the poppy harvest in the following year was poor, production would be reduced to a very low level. It would not only be the producers who would suffer as a result but also the consumers, who would find themselves faced with a shortage. Moreover, both in that sub-paragraph and in paragraph 3 of article 21bis, estimates—which were merely rough figures—seemed to have been confused with the real production figures for a given year. In the opinion of his delegation, confusion of that kind was dangerous for everyone.

14. Dr. URANOVICZ (Hungary) thought that the text proposed in document E/CONF.63/C.1/L.16 was new in form only, as the idea of penalties which underlay the original amendment had been maintained. The Indian representative had stressed the adverse effects of penalties on licit production and consumption. His delegation now wished to point out the effects of those same penalties on illicit production.

15. The aim of the amendment was to induce Governments to take more effective measures of control in their territories, but if the Board decided to reduce production estimates because of the existence of an illicit market, what would Governments have to do? They would have to reduce the area under cultivation by official order. There was every reason to believe that growers, in the hope of keeping their earnings at the same level, would prefer to take greater risks and to divert their crop to the illicit traffic rather than sell it to the Government. It was highly likely, therefore, not only that the proposed provisions would have an adverse effect on licit production but, what was worse, that the enforcement of penalties would encourage the development of illicit production, thereby having the very opposite effect to that sought. His delegation was consequently unable to approve the new wording of the amendment under consideration.

16. Mr. di MOTTOLA (Costa Rica) thought that there were two separate questions before the Committee. The first, which was dealt with in article 19, concerned the actual definition of what was meant by estimates. The interpretation proposed by the sponsors was realistic, in that it covered two possibilities: the estimates could relate, on the one hand, to the level of production required to meet licit consumption needs and, on the other, to the quantity actually to be produced.

17. The second question was the subject of article 21bis and concerned the extent to which countries would be required to limit their production to the estimates established. For the time being, the Committee should concern itself with the definition of estimates, i.e. with article 19, and disregard the subsequent application that would be made of the definition, i.e. in article 21bis.

18. Mr. CARGO (United States of America) explained that the sponsors' intention was to make the provisions of the 1961 Convention more flexible, bearing in mind that opium was an agricultural product and consequently subject to the influence of unforeseeable factors. For instance, paragraph 2 of article 21 (Limitation of manufacture and importation) was too rigid to be applied to the production of opium, since it provided for an automatic reduction equivalent to the quantities seized and placed on the licit market; the aim of the text in document E/CONF.63/C.1/L.16, on the other hand, was that estimates should be modified "appropriately". Similarly, paragraph 1 of article 21bis, as approved by the Committee at its 6th meeting, provided that "as far as possible" the quantity produced should not exceed the estimate; thus it, too, made for greater flexibility.

19. Dr. OLQUIN (Argentina) agreed with the United States representative that the proposed amendments would allow greater flexibility in applying the 1961 Convention. Since the criticisms made by the various delegations were highly subjective, whereas the proposal contained in document E/CONF.63/C.1/L.16 seemed to serve the aims of the Convention objectively, his delegation would support those amendments.

20. Dr. BABAIAN (Union of Soviet Socialist Republics) said that after examining the proposed amendment (E/CONF.63/C.1/L.16) and all the amendments as a whole, he considered that their aim was not really to improve the means of control provided for in the 1961 Convention, but to bring pressure to bear on countries in order
to make them reduce their licit production of opium, for purely private purposes. The amendment in question therefore seemed unacceptable.

21. The CHAIRMAN suggested that the Committee should take a decision on the paragraph 2 (b) of article 19 contained in the text of the original joint proposals (E/CONF.63/5), with the addition of the text contained in document E/CONF.63/C.1/L.16.

It was so decided.

Paragraph 2 (b) of article 19 (E/CONF.63/5), the addition of the sentence proposed in document E/CONF.63/C.1/L.16, was approved by 34 votes to 12, with 19 abstentions.

Sub-paragraph (a) (concluded)

The amendment to paragraph 2(a) of article 19 (E/CONF.63/5) was adopted by 37 votes to 12, with 15 abstentions.

22. Dr. HOLZ (Venezuela) pointed out that the question of synthetic products was not covered in paragraph 2 (a) and (b) of article 19. In order to ensure uniform treatment of natural and synthetic drugs, his delegation had communicated to the secretariat the text of a new sub-paragraph (c) (E/CONF.63/C.1/L.22) and was proposing that it be added at the end of paragraph 2 of article 19. The Committee might wish to consider the text of that amendment once it had been distributed in all the working languages.

23. Dr. BABAIAIN (Union of Soviet Socialist Republics) said that the Venezuelan proposal seemed logical, since it was in conformity with positions already adopted by the majority.

24. The CHAIRMAN suggested that the Committee should consider paragraph 3, pending the circulation of the Venezuelan proposal.

Paragraph 3

25. Mr. NIKOLIĆ (Yugoslavia) asked why the proposed amendment to paragraph 3, in document E/CONF.63/5, did not apply to the French text.

26. Mr. WATTLES (Legal Adviser to the Conference) considered that the amendment should apply to the French text, in which, accordingly, the term "tout Etat" should be replaced by the words "tout gouvernement".

27. Mr. NIKOLIĆ (Yugoslavia) said that it was the State and not the Government which was to assume the obligations specified in article 19.

28. Mr. CARGO (United States of America) said he would not insist on his proposal if it was going to arouse controversy.

29. Dr. BABAIAIN (Union of Soviet Socialist Republics) said that if paragraph 3 stated that any Government could furnish estimates, it would give the impression that Governments had legal obligations towards the Board whether or not the States they represented were parties to the 1961 Convention.

30. Mr. WATTLES (Legal Adviser to the Conference) explained that the proposed amendment was intended to increase the possibility, for which provision was made in the 1961 Convention, of securing supplementary estimates. That was the idea behind replacing the word "State" by the word "Government"; the concept of Government was broader than that of State and could, for instance, indicate one of the sub-divisions into which a State might split its territories within the meaning of paragraph 1 of article 43 (Territories for the purposes of articles 19, 20, 21 and 31).

31. Dr. BABAIAIN (Union of Soviet Socialist Republics) said he still failed to comprehend the underlying assumption that a State not party to the 1961 Convention should furnish estimates.

32. Mr. WATTLES (Legal Adviser to the Conference) replied that under the terms of article 12 (Administration of the estimate system) of the 1961 Convention, countries and territories to which the Convention did not apply were invited to furnish estimates; the Board itself would establish them if a State failed to do so. The system introduced in 1961 thus provided for the possibility of establishing estimates for territories not bound by the Convention, and the proposed amendment did not change it in any way. The substitution of the concept of Government for that of State would merely serve to include regimes which, although they exercised authority over a territory, were not recognized as States by the international community.

33. Mr. di MOTTOLO (Costa Rica) said that the amendment was based on the fact that States retained their obligations regardless of the Governments which represented them, and also that the Government could get estimates more rapidly than the State as such, by giving direct instructions to the ministries. None the less, his delegation was prepared to withdraw the amendment to replace the word "State" by "Government", if only to avoid prolonging the discussion.

34. The CHAIRMAN said that, if the co-sponsors of the amendments submitted in document E/CONF.63/5 were agreeable, the amendment proposed to paragraph 3 of article 19 would be considered withdrawn.

It was so agreed.

35. The CHAIRMAN suggested that, before continuing its consideration of article 19, the Committee should wait until the text of the Venezuelan amendment to add a sub-paragraph (c) to paragraph 2 of article 19 had been circulated in all the working languages.

It was so agreed.


Paragraph 2 (continued*)

36. Mr. CARGO (United States of America) pointed out that, in the re-draft of article 21bis (E/CONF.63/C.1/L.19) submitted by the sponsors of the joint proposals (E/CONF.63/5), taking into account paragraph 1 ap-

* Resumed from the 7th meeting.
proved by the Committee at its 6th meeting and the proposals of Italy (E/CONF.63/C.1/L.9) and Turkey (E/CONF.63/C.1/L.12), the new text of paragraph 2 embodied the suggestion put forward by Turkey in its proposed amendment, and the versions proposed for paragraph 4 reproduced some of the solutions proposed during the general debate in the Committee (5th meeting) concerning the appeals procedure.

37. Under paragraph 2, the Board could, when a large quantity of licitly or illicitly produced opium had been placed on the illicit market, decide to deduct that quantity from the estimates for the following year, after carefully weighing the facts on the basis of criteria defined in both paragraphs 2 and 5. In the re-draft, the Board's decision was no longer directly linked with excess production but rather with the quantity—whether produced licitly or illicitly—diverted to illicit traffic. The paragraph in question, which could be invoked only in exceptional circumstances, would enable the Board to take supplementary measures in addition to those envisaged in article 14 (Measures by the Board to ensure the execution of provisions of the Convention).

38. Mr. ULUCEVIK (Turkey) preferred the text proposed in document E/CONF.63/C.1/L.19. His delegation was happy to find its own amendment (E/CONF.63/C.1/L.12) embodied in the new paragraph 2 of article 21bis, and therefore withdrew it. As now worded, paragraph 2 would enable Governments and the Board to settle their differences without recourse to the procedure set out in that article.

39. Dr. BABAIAN (Union of Soviet Socialist Republics) found paragraph 2 to be somewhat lacking in consistency, since it referred in turn to the "Party" and the "Government". It might also be concluded from paragraph 2, which stated that a quantity of opium produced licitly or illicitly might be introduced into the illicit traffic, that a quantity produced illicitly could be diverted to the licit market. Such ambiguities could have serious legal repercussions.

40. Dr. MONTERO (Peru) asked how it could be decided whether an amount was "significant".

41. Mr. CARGO (United States of America) replied that the word "Party" referred to article 19, paragraph 1, where it had already been used; by "Government" was meant that of the party thus defined. As to the expression "significant amount", the Board would have no difficulty in establishing what it understood by that, even if the idea was to some extent subjective. Obviously, it would be pointless to invoke the procedure envisaged if the amount in question was minimal.

42. Mr. NIKOLIĆ (Yugoslavia) pointed out that when production exceeded an amount estimated in good faith, neither the production nor the producers could be held to be illicit; the offenders were those who diverted the surplus to illicit traffic.

43. Dr. BABAIAN (Union of Soviet Socialist Republics) concluded from what the United States representative had said that he had no objection to the replacement of the word "Government" by the word "Party" in the article under consideration.

44. With further reference to the idea expressed by the Yugoslav representative, he pointed out that, as drafted, paragraph 2 seemed to indicate that a State might have differences of opinion with the Board with regard to licit activities—in the present instance the licit production of opium—and the Board might then invoke against it the procedure envisaged in that paragraph.

45. Mr. CARGO (United States of America) remarked that it was extremely difficult to control illicit traffic, whether it originated from licit production or not. Excess licit production could, of course, result in the maintenance of larger stocks and a re-evaluation of requirements; the new text introduced in that respect provisions which were more flexible than those of the text previously proposed. But once a significant amount had been diverted of the illicit traffic, the problem was whether the sources of supply of that traffic could be reduced and whether or not the Government could be encouraged to take more effective steps in that direction.

46. Mr. NIKOLIĆ (Yugoslavia) said he was not entirely satisfied by the explanations given by the representative of the United States. It was certainly desirable that the Board should be able to approach a Government which had allowed significant quantities of its excess licit opium production to find its way into the illicit market. On the other hand, if licit production exactly corresponded to estimates but there was at the same time illicit production for the illicit market, it was questionable whether the Government concerned should be held responsible. In such a case, if the Board could constrain the Government to modify its economic policy the following year, the country's licit producers would be the ones to suffer. The provision under consideration should, therefore, be amended in a realistic way so as to avoid such a consequence. He appealed to the sponsors to make an attempt to understand the problems of producer countries. It was not in the major producing countries that the illicit traffic was greatest.

47. Dr. HOLZ (Venezuela) said he thought the fears of the Yugoslav representative might be allayed if the words "whether licitly or illicitly" in paragraph 2 were deleted.

48. Mr. CARGO (United States of America) said that the purpose of the proposed amendments to article 21bis was to improve the means available to the international community for controlling illicit opium production and traffic. If the words "whether licitly or illicitly" were deleted, the provision in question would apply only to a diversion of licitly produced opium to the illicit market. The expression "opium produced" should, in the general sense of the Convention, be understood as meaning opium licitly produced. What the sponsors wanted was to make it possible to penalize the illicit traffic in opium, whether the drug was licitly or illicitly produced. To that end, they wished to empower the Board to approach Governments and, where necessary, to take the appropriate steps.

49. Mr. SAMSOM (Netherlands) asked the representative of the United States whether the machinery envisaged by the sponsors would be equally applicable where the Government in question was directly responsible
for the illicit traffic and where illicit activities by its nationals were involved. In international law, Governments were not normally held responsible for acts by their nationals.

50. Mr. CASTRO (Mexico) said he supported the Venezuelan proposal, which would have the merit of obviating serious complications in the future. The sponsors wanted the Board to be able to intervene not only when excess licit production was diverted into illicit traffic but also when both production and traffic were illicit and outside Government control. He could not agree that a Government should be held responsible for the illicit production of opium on its territory.

51. Dr. SHIMOMURA (Japan) said that, at the 5th meeting, his delegation had asked the sponsors for further details of the way in which the quantities of opium introduced into the illicit traffic would be determined. It wanted to know whether the Board would be entitled to modify estimates if illicit traffic was discovered in a country of transit or consumption and how, in such a case, the Board would go about determining the country of origin.

52. U HLA OO (Burma) wished to repeat that his delegation was unable to accept article llbis, since its provisions would tend to limit opium production on the basis of estimates. For reasons which were well known to the Commission on Narcotic Drugs and the Board, Burma was not at the moment in a position to supply complete statistical data, but it was making serious efforts to remedy the situation.

53. Mr. di MOTTOLA (Costa Rica) said that his delegation was in favour of retaining the words "whether licitly or illicitly," as contained in document E/CONF.63/C.1/L.19, as revised to apply to both licit and illicit production.

55. The USSR delegation proposed that the word "Government" should be replaced by the word "Party" wherever it appeared in paragraph 2 of the redraft of article llbis. The USSR proposal was adopted without objection.

56. The chairman said that the Venezuelan delegation had proposed that the words "whether licitly or illicitly" in paragraph 2 of the redraft of article llbis should be deleted. The Venezuelan amendment was rejected by 38 votes to 2, with 28 abstentions.

57. Mr. NIKOLIC (Yugoslavia), explaining his vote, said he had abstained because the Venezuelan proposal would not have helped at all to solve the problem he had raised.

58. Dr. BABAIAN (Union of Soviet Socialist Republics), explaining his vote, said that he had abstained because, even amended as proposed by the Venezuelan delegation, article llbis would not be acceptable to his delegation. The provision would make it possible for the Board to influence the licit production of opium. The Venezuelan amendment was rejected by 38 votes to 2, with 28 abstentions.

59. The CHAIRMAN put to the vote the redraft of article llbis, paragraph 2, as contained in document E/CONF.63/C.1/L.19. Paragraph 2 of article llbis, as contained in document E/CONF.63/C.1/L.19, was approved by 33 votes to 11, with 19 abstentions.

The meeting rose at 1 p.m.
Committee I—Tenth meeting

TENTH MEETING

Monday, 13 March 1972, at 3.5 p.m.

Chairman: Mr. CHAPMAN (Canada)

Consideration of all amendments proposed to the Single Convention on Narcotic Drugs, 1961 (item 11 of the Conference agenda) (continued) (E/CONF.63/5 and addenda)


1. The CHAIRMAN invited the members of the Committee to consider article 21bis, paragraphs 3 and 4, as set forth in the re-draft of article 21bis (E/CONF.63/C.1/L.19) proposed by the sponsors of the joint proposals.

Paragraph 3

2. Dr. BABAIAN (Union of Soviet Socialist Republics) proposed that the text of paragraph 3 should be brought into line with the text which had been adopted for paragraph 2, i.e. that the words “Government concerned” should be replaced by the words “Party concerned”.

The Soviet proposal was adopted without objection.

3. Mr. SINGH (India) said that his delegation opposed the text of paragraph 3 for the same reasons as had led it to oppose paragraph 2.

4. Dr. BABAIAN (Union of Soviet Socialist Republics) said that his delegation’s position on paragraph 3, which was connected with paragraphs 1 and 2, was the same as on the latter paragraphs.

Paragraph 3, as contained in document E/CONF.63/C.1/L.19 and as amended, was approved by 30 votes to 12, with 10 abstentions.

Paragraph 4

5. Mr. ULUCEVIK (Turkey) said that he was in favour of the second alternative text for paragraph 4, which had originally been proposed by the Italian delegation (E/CONF.63/C.1/L.9). However, in order to emphasize the importance of settling any disputes that might arise between Governments and the Board by means of negotiations, he suggested that the following words should be inserted at the beginning of sub-paragraph (a): “Without prejudice to the consultations provided for in paragraph 3 above”. If stress was laid on those consultations, the possibility of the Board referring situations to the arbitration committee would be excluded, since it would have already taken action under paragraph 3. In addition, the words “and the Board” should be deleted from the same sub-paragraph. From the legal standpoint, the Board could not appeal against a decision which it had taken and only the Government concerned could find it necessary to refer a situation to a court.

6. Mr. di MOTTOLA (Costa Rica) pointed out that if the words “and the Board” were deleted and if only one of the parties referred a matter to a court, there could be no question of arbitration. He therefore, proposed that the words “Arbitration Committee” should be replaced by the words “Appeals Committee”.

7. Mr. CARGO (United States of America), speaking as a sponsor of the text forming first alternative (E/CONF.63/S), said that if the second alternative, originally proposed by the Italian delegation, was acceptable to most members of the Conference, his delegation could support it, together with the proposed amendments.

8. The CHAIRMAN asked whether the Costa Rican proposal was acceptable to the Turkish representative.

9. Mr. ULUCEVIK (Turkey) said that he had no objection to the proposal, since the words “Appeals Committee” were used in the third alternative, which had originally been proposed by Turkey.

10. Mr. WINKLER (Austria) asked whether the Turkish representative had withdrawn his amendment, which had been submitted as a third alternative in document E/CONF.63/C.1/L.19. If he had not done so, paragraph 4 (a) of that third alternative might be inserted before sub-paragraphs (b) and (c) of the first alternative.

11. The CHAIRMAN pointed out that the Committee was now considering only the second alternative, together with the amendments to that alternative proposed by the Turkish representative.

12. Dr. BABAIAN (Union of Soviet Socialist Republics) said that his delegation opposed the three alternatives for paragraph 4, since, in its view, they were inconsistent with international law. In those alternatives, Governments were placed on the same footing as an expert body, which would be given the right to institute proceedings against them in an appeals court, thereby placing sovereign States in the dock. The dangers inherent in drug addiction could not justify such a procedure, which was unacceptable in principle, even if an effort was made to make the conditions for its application less rigid. Such proposals were especially dangerous since, in the opinion of some delegations, in particular that of Venezuela, the control exercised by the Board should be extended to synthetic drugs. Thus, licit opium production would be limited in all its forms, even where it was a question of meeting medical and scientific requirements. Obviously, the excessive control exercised over sovereign States would be ineffective in practice. The Board could only lose prestige by assuming responsibilities which exceeded its competence and the agreement concluded would merely be a waste of time and money.

13. Dr. EL HAKIM (Egypt) said that an appeals procedure normally concerned two parties having equal rights; consequently, the term “Arbitration Committee” in the second alternative was preferable to the term “Appeals Committee”. With that exception, his delegation could support the Turkish amendment and the deletion of the words “and the Board”. He proposed that the words “one of whom at least should be a member of the Executive Board of WHO” should be inserted after the words “Arbitration Committee consisting of three members” in sub-paragraph (a) of the second alternative.

14. Mr. ANAND (India) said that the current debate was an exercise in futility. Whatever the import of the
alternative versions of paragraph 4, they all amounted to implementing a procedure whose illogical and unacceptable nature had been demonstrated by the representative of the USSR. Theconciliation measures provided for in paragraph 4 could only have the opposite effect to that desired. If the Appeals Committee found against the Board, the latter would suffer an irreparable loss of prestige; if, on the contrary, it found against a Government, there was no guarantee that the latter would comply with its decision, since production and exports were matters within the sovereign jurisdiction of States, and international control could not be achieved without the co-operation and goodwill of all States. Moreover, the economies of producing countries, including India and the Soviet Union, did not depend on opium production and exports, and in exporting opium for licit purposes those Governments sought, not to make profits, but rather to render a service to the international community, which should be grateful for it. Article 21bis as a whole confused illicit production with licit production, which was, by definition, the responsibility of Governments. For all those reasons, the members of the Committee should give careful consideration to all the implications of the article before approving it.

15. He did not see why provisions of the kind contained in the proposed article 21bis should be more necessary in the case of opium than in that of psychotropic substances, which were at least as dangerous; their possible value in the Single Convention on Narcotic Drugs could be considered when similar provisions were included in the Convention on Psychotropic Substances.

16. Lastly, since article 21bis was closely connected with article 14 (Measures by the Board to ensure the execution of provisions of the Convention), he proposed that further consideration of it and any decision relating to it should be deferred until the Committee had considered the new wording of article 14 to be submitted by the Working Group.

17. Mr. AGUAR MONTERDE (Spain) suggested that, in order to meet the objections raised by the representatives of Costa Rica and the USSR, the words “by mutual agreement” should be inserted after the words “and the Board may” in sub-paragraph (a) of the second alternative for paragraph 4.

18. Mr. di MOTTOLA (Costa Rica) said that in none of the three alternatives for article 21bis was there any question of a Government being placed in the position of a defendant before an international body. The article should be put back in its proper perspective; under the Convention, Governments freely accepted a number of commitments, in particular that of delegating certain powers to an international body which was responsible, *inter alia*, for verifying events which might have occurred and taking appropriate action; also, under the 1961 Convention, States wished to have guarantees concerning the manner in which the body they had set up exercised the powers they had delegated to it, and that was the objective of the proposed appeals procedure. His delegation therefore supported the second alternative for paragraph 4, subject to the incorporation of the amendments proposed by the Turkish delegation and his own delegation.

19. Mr. SAMSOM (Netherlands) said that one of the reasons why his country was not a party to the 1953 Protocol was precisely because it opposed the idea of an appeals committee. Even if the principle of an appeals procedure was admitted, there was a serious danger that the procedure provided for in paragraph 4 would have the effect of tempting States and the Board to rely on it as an alternative means of settling their disputes, a situation which must be avoided at all costs. His delegation would therefore vote against the proposal to establish an appeals committee, as set forth in any of the alternative texts.

20. Dr. JOHNSON-ROMUALD (Togo) said that the new wording of article 14 now being prepared by the Working Group cast entirely new light on article 21bis. He therefore proposed that the Committee should take no decision on article 21bis before it had considered the new text of article 14 and that it should consider the possibility of establishing a working group to deal with article 21bis.

21. The provisions of article 21bis further complicated the already very complex task of making estimates. Moreover, he did not see how the Board could validly determine in advance the quantity of opium produced by a particular country and placed on the illicit market. The difficulties experienced with the 1953 Protocol must be borne in mind; if the same provisions were reproduced and the same mistakes made, the amended text of the 1961 Convention could obviously not gain very wide acceptance.

22. Finally, a total unacceptable aspect of article 21bis was the special and discriminatory treatment laid down for the opium-producing countries; although heroin and opium today made up the bulk of the illicit drug traffic, there was no reason to believe that that would always be the case, since some other drug might take the place of opium in the future.

23. Mr. NIKOLIĆ (Yugoslavia) regretted that the Committee had not tried to compromise on the substantive issues involved. The positions of delegations were now known, two thirds being in favour of the joint proposals, the remaining one third being opposed to them. Obviously, if the producing countries did not ratify the 1961 Convention, it would have no practical value. It was important therefore that the delegations supporting the amendments and the estimates system and those opposed to them should seek a compromise on the substance of the matter, instead of concentrating on stylistic questions and alternative texts.

24. Mr. HUYGHE (Belgium), speaking on a point of order, said that, in view of the various arguments which had been advanced and, in particular, the proposal by the representative of Togo, he was in favour of adjourning the debate and of setting up a working group which might be able to submit a new proposal on article 21bis by working along the same lines as the working group which was already dealing with article 14. He advocated that procedure because, as he had already said, if the amendments were to be effective, they must be accepted by all delegations.

25. The CHAIRMAN noted that a motion had been made for adjournment of the debate and pointed out
that, in accordance with rule 30 of the rules of procedure of the Conference, two representatives could speak in favour of the motion and two against.

26. Mr. NIKOLIC (Yugoslavia) and Dr. JOHNSON-ROMUALD (Togo) said they supported the motion for adjournment of the debate.

27. Mr. CARGO (United States of America) said he opposed the motion. The Committee had already approved paragraph 1 of article 21bis at its 6th meeting and paragraph 2 at its 9th meeting, and it had just approved paragraph 3. Paragraph 4 concerning the appeals procedure was now under discussion, so that only one paragraph was now outstanding. In the circumstances, he thought that adjournment of the debate would merely delay the work of the Conference unnecessarily. He was, of course, aware that differences of opinion existed and would probably arise again on other points. However, a readiness to compromise had been shown before and during the Conference. The proposals now before the Conference, particularly the joint proposals (E/CONF.63/5), already represented a considerable compromise in comparison with the proposals originally submitted to the Commission on Narcotic Drugs at its twenty-fourth session, in particular by the United States. From the beginning of the Conference, that readiness to compromise had been clearly evident, for instance, with regard to article 14.

28. He did not in any way wish to minimize the difficulties created by the questions of principle which sometimes divided delegations. Some of them were against the enlargement of the Board's powers envisaged in article 21bis, which, together with article 14, were undoubtedly the most controversial articles. However, that did not justify a departure from the procedure which the Conference had hitherto followed. The differences of opinion between delegations on the article under consideration were not very deep-seated and it should be possible to arrive at a compromise.

29. Mr. di MOTTOLA (Costa Rica) said he also was opposed to adjourning the debate. The discussion on article 21bis had not been easy, but it was, nevertheless, necessary to proceed with it without delay. Agreement was possible and it was preferable that all delegations should contribute to its attainment.

The motion for the adjournment of the debate on article 21bis was adopted by 27 votes to 26, with 17 abstentions.

30. Mr. SAGOE (Ghana), speaking in explanation of vote, said that he had abstained because two delegations which had taken part in the work on article 14 had circulated a note during the afternoon stating that the results of work on that article would, when known, have a considerable influence on the discussion of article 21bis. In the circumstances, Ghana, which was one of the sponsors of the amendment under discussion, had felt it necessary to abstain from voting.

31. Mr. de BOISSÈSSON (France) pointed out that the work to be done on article 21bis would have to be confined to those parts of the text on which a vote had not yet been taken. Paragraphs 1, 2 and 3 could not be re-examined and the debate should be reopened only on the remainder of the article.

32. The CHAIRMAN confirmed that that would be the procedure followed.

33. Dr. BABAIAN (Union of Soviet Socialist Republics) said he would like to know whether a working group was to be set up to examine paragraph 4 of article 21bis.

34. The CHAIRMAN said that no decision on the examination of the rest of article 21bis could be taken until the results of the work on article 14 were available.

35. Dr. JOHNSON-ROMUALD (Togo) reminded the Committee that he had proposed that a working group should be set up for article 21bis. It was his understanding that his proposal had not been rejected, but would be taken up again after article 14 had been considered.

36. The CHAIRMAN said that that interpretation was correct.

ARTICLE 9 (Composition and functions of the Board) (E/CONF.63/5)

Paragraph 4

37. Mr. CARGO (United States of America) said he was in favour of paragraph 4 of article 9, which did not attribute any new function to the Board but was confined to a clear statement of its objectives and to a definition of its role in controlling licit production and combating the illicit traffic. Such explanations were necessary.

38. Mr. NIKOLIC (Yugoslavia) thought that the paragraph embodied two entirely separate ideas. In the first place, it stated that the Board would limit the cultivation, manufacture and use of drugs, and he had no objection to such a statement. But it contained a second idea, namely that the Board should prevent illicit cultivation, production, manufacture or trafficking. It was not clear how the Board could perform that function, which was rather the responsibility of each State signatory to the 1961 Convention.

39. Dr. EL HAKIM (Egypt) said that his delegation had come to the Conference with an open mind and with the intention of reaching agreement with other countries in drafting useful amendments. However, it had some misgivings about paragraph 4 of article 9. It did not see how the Board would be able to prevent illicit cultivation, production, manufacture and trafficking in narcotics. The sponsors should explain how such a provision could be enforced.

40. Dr. BABAIAN (Union of Soviet Socialist Republics) said he would also like to know how the Board could both limit cultivation for medical purposes and ensure that sufficient quantities were available for such purposes. Paragraph 4, as it stood, was, he feared, based on a sophism. The Board could not assume the role of cultivator, but obviously had to act through the medium of States. It was regrettable, therefore, that the paragraph made no mention of the parties, since the Board could do nothing without their consent. Under the Charter of the United Nations, every State had the right to dispose of its natural resources as it saw fit.
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41. Accordingly, he considered that paragraph 4 of article 9 was unacceptable and should be deleted. Article 14 would give the Board sufficient powers to guarantee control of the cultivation of, or trade in, narcotic drugs. Such powers had, in fact, already been provided for in the 1961 Convention. If, however, paragraph 4 of article 9 was retained, it should specifically state that the Board could not act except through the parties and with their consent.

42. Mr. CARGO (United States of America) said he noted that the representative of Yugoslavia had asked how the Board would be able to control illicit cultivation and production, whereas the representative of the USSR contended that the Board already had such powers under the 1961 Convention. The discrepancy between these two positions was clear evidence of the need to define the Board’s functions. He would like to inform the Yugoslav representative that the version of article 14 which would be submitted by the Chairman of the Working Group proposed various methods of controlling the illicit traffic. That article would be supported by article 21bis and also by article 35 (Action against the illicit traffic), sub-paragraphs (f) and (g) of which envisaged several methods of collaboration between the parties and the Board.

43. On the other hand, the Board’s functions in that respect had not been explicitly defined in the 1961 Convention, which did not include any article entitled “Functions” or “Powers” (of the Board).

44. Article 9, paragraph 4, stated that one of the Board’s functions would be to endeavour to prevent illicit cultivation. It was a question of giving it the capacity to do so, and he did not believe that any delegation could have any objections on that score.

45. Mr. ANAND (India) said he realized that INCB, too, should rightly play its part in limiting the cultivation, manufacture and use of drugs, but, like the representatives of Yugoslavia and the Soviet Union, he did not see how it would be possible for it to do so. The United States representatives thought that the Board might be able to maintain permanent contact with Governments to ensure that there was no illicit cultivation and, if the necessity arose, help Governments to eradicate it. There could be no objections to so useful a form of international co-operation, but it was quite clear that INCB could take no action without the assistance of the Governments concerned. He therefore proposed that the phrase “in cooperation with Governments” should be added at the end of the paragraph, after the words “trafficking in narcotics”. Similarly, INCB would only be able to limit the cultivation, manufacture and use of drugs to the amounts required for medical and scientific purposes in agreement with the countries concerned, in other words, not only with the manufacturers but also with the producers. He proposed, therefore, that the words “in agreement with the countries concerned” should be inserted between the word “shall” and the word “endeavour”.

46. He also proposed the deletion of the words “to an adequate amount”. It was not for INCB, but for the producing and consuming countries, to decide what amounts were adequate for the relevant purposes. It was also necessary to bear in mind that the Board’s judgment might be affected by external factors, such as the resolution recently adopted by ICPO/INTERPOL, in which 74 countries had expressed the hope that the licit cultivation of opium would be progressively abandoned because it was now possible to manufacture synthetic substitutes. Lastly, he proposed the deletion of the words “to ensure their availability for such purposes”, since they related to the operation of supply and demand, not to a function of INCB, which, in any case, it could not exercise in practice. The text of paragraph 4, as amended, would therefore read:

“The Board, in exercising its functions under this Convention, shall, in agreement with the countries concerned, endeavor to limit the cultivation, manufacture and use of drugs for medical and scientific purposes and to prevent illicit cultivation, production, manufacture or trafficking in narcotics, in co-operation with Governments.”

47. Dr. OLGÜİN (Argentina) said that article 9, paragraph 4, had a place in the 1961 Convention. It was a general text in which the parties recognized that they must vest INCB with certain powers which would contribute to the achievement of the purposes of the Convention, in other words, institute machinery to prevent the illicit cultivation, manufacture and use of drugs without causing any shortfall in the amounts required for medical and scientific purposes. There was no question of giving INCB special powers to act. The functions vested in it by the Convention—consultations, continuous contacts with Governments, etc.—were clearly specified in other provisions, which also described how they would contribute to the limitation of the illicit cultivation, manufacture and use of narcotic drugs while ensuring an adequate licit supply. There was no need to specify in article 9, paragraph 4, that INCB could act only in consultation with Governments, since there were provisions to that effect elsewhere. The Argentine delegation was, however, prepared to consider the advisability of the amendment of the text, if other delegations insisted on such an amendment.

48. Dr. JOHNSON-ROMUALD (Togo) said that he regarded article 9, paragraph 4, as a statement of intentions, the details of its application being set out in other provisions of the Convention. He was therefore prepared to vote for it, provided that the wording was improved.

49. Dr. BABAIA (Union of Soviet Socialist Republics) said that he was surprised by the assertion that paragraph 4 vested no new powers in INCB, since the purpose of the amendments before the Conference was precisely to enlarge the Board’s powers and convert it into a supra-national body. He would like to have some idea of the content of the United States amendment to add a new paragraph 5 to article 9.

50. The CHAIRMAN said that the amendment submitted by the United States was not currently under
Committee I—Eleventh meeting

Tuesday, 14 March 1972, at 9.55 a.m.

Chairman: Mr. CHAPMAN (Canada)

Consideration of all amendments proposed to the Single Convention on Narcotic Drugs, 1961 (item 11 of the Conference agenda) (continued) (E/CONF.63/5 and addenda)

1. The CHAIRMAN said that the documents relating to article 9, paragraph 4, had not yet been reproduced and suggested that the Committee should examine the text of article 14 as proposed by the Working Group (E/CONF.63/C.1/L.23). Unless there was any objection, he would consider his suggestion adopted.

It was so decided.


2. Mr. KIRCA (Turkey), Chairman of the Working Group, said that after laborious negotiations the Group had managed to reach agreement on a compromise text which it had approved by a large majority. Under its terms of reference, defined at the Committee's 5th meeting, the Group had had to base itself on the joint proposals (E/CONF.63/5) and to take account of the amendments by Brazil (E/CONF.63/C.1/L.2 and E/CONF.63/C.1/L.10), Egypt (E/CONF.63/C.1/L.4), France (E/CONF.63/C.1/L.5), Turkey (E/CONF.63/C.1/L.6) and Switzerland (E/CONF.63/C.1/L.11). In addition, the Group had taken fully into consideration the summary records of the Committee's discussions (3rd and 4th meetings) held prior to the establishment of the Group.

3. He proposed to analyse the text proposed for paragraph 1 of article 14, sub-paragraph by sub-paragraph.

4. Sub-paragraph (a) raised first the question of the sources of information available to the Board. According to sub-paragraph (a) of the 1961 Convention at present in force, only Governments and United Nations bodies could supply information. The Working Group had unanimously decided to include the specialized agencies and, provided they were approved by the Commission on Narcotic Drugs on the Board's recommendation, other intergovernmental organizations that were considered in international law as having legal personality. The Group had fully discussed the possibility of including organizations that did not have international legal personality. In that respect, the proposed text—which had finally been adopted by an overwhelming majority—was in the nature of a compromise. The Group had agreed that inter-

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51. Mr. OKAWA (Japan) said he was inclined to accept article 9, paragraph 4, as it stood, since it stated INCB's functions in general terms without conferring any special powers on it. Like the Indian representative, he had some doubts about INCB's means of action, but since Japan was solely a consumer of opium, he would prefer the phrases "to an adequate amount" and "to ensure their availability" to be retained. He was not in favour of inserting the words "in agreements with the countries concerned" after the word "shall", because they gave an unduly legal character to a text intended to be merely a statement of intentions. On the other hand, he could accept the addition of the words "in co-operation with Governments" at the end of the paragraph.

52. The word "narcotics" at the end of the paragraph should be replaced by the word "drugs".

53. Mr. NIKOJIĆ (Yugoslavia) said that the United States representatives had failed to reply to his question concerning the means INCB would adopt to ensure that an adequate amount of drugs would be available for medical and scientific purposes and to prevent the illicit cultivation, production, manufacture of, and trafficking in, narcotics. INCB had no practical powers. A general statement that the Board would try to limit the cultivation, manufacture and use of drugs was acceptable because it was self-evident, but the Yugoslav delegation could not express any opinion on the other two points, in the absence of fuller information.

54. Mr. CARGO (United States of America), referring to the amendments submitted orally by the Indian representative, said that it would be preferable to replace the phrase "in agreement with the countries concerned" by "subject to the provisions of this Convention". On the other hand, he saw no objection to the addition of the word "shall" at the end of the paragraph. He also endorsed the remarks made by the Japanese representative. He would therefore accept an amended text for paragraph 4 reading as follows:

"The Board, subject to the terms of this Convention, shall endeavour to limit the cultivation, manufacture and use of drugs to an adequate amount required for medical and scientific purposes, to ensure their availability for such purposes, and to prevent illicit cultivation, production, manufacture or trafficking in drugs, in co-operation with Governments."

55. Mr. HOOR TEMPIS LIVI (Italy) said he agreed with the Japanese and United States representatives.

The meeting rose at 6.5 p.m.

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* The United States amendment was subsequently circulated as document E/CONF.63/L.3.

* The text of this amendment was subsequently circulated as document E/CONF.69/C.1/L.25.

* Resumed from the 5th meeting.
national non-governmental organizations in consultative status with the Economic and Social Council under Article 71 of the Charter of the United Nations, or which enjoyed a similar status by special agreement with the Council, should be able to supply information to the Board, once again on condition that they were approved by the Commission on the Board's recommendation. Under Article 71 of the Charter, both national and international non-governmental organizations could acquire consultative status with the Council. The Group had unanimously decided to exclude national non-governmental organizations, even those having consultative status, as sources of information for the Board. The Soviet Union representative, moreover, had not followed the majority with regard to international non-governmental organizations and had expressed the view that neither category of non-governmental organizations should be authorized to supply information. After a very thorough exchange of views on the legal nature of INTERPOL, and after bearing the views of the Legal Adviser to the Conference, the Group had concluded that INTERPOL was not an intergovernmental organization, since it lacked international legal personality. Nor was it in consultative status with the Council, although it enjoyed a similar status by special agreement with it. In order to avoid any interpretation which might exclude INTERPOL as a source of information, the Group had expressly made mention in the paragraph of international non-governmental organizations "which enjoy a similar status by special agreement with the Council".

5. In the phrase beginning with the words "the Board has reason to believe", the Group had added the word "Party" which had been omitted. The Soviet representative had entered a reservation in that respect; the majority of the Group had taken the view that the Board could approach States which were not parties to the Convention but could not oblige them to supply information, whereas the Soviet representative held that the Board's competence did not extend to that category of States at all.

6. In the last part of the first sentence of sub-paragraph (a), the Group had introduced a new procedural mechanism advocated by the sponsors of the joint amendments, namely, the opening of consultations. The Board's competence had thus been broadened, in that it would now be able either to propose the opening of consultations or to request explanations.

7. In the second sentence of sub-paragraph (a), the Group had dealt with a question to which the article 14 at present in force offered no solution; according to the present text of the Convention and, moreover, the first sentence of the proposed sub-paragraph (a), the Board could initiate the above-mentioned procedure only if it had reason to believe that a party was not applying the provisions of the Convention. That implied, on the part of the State in question, a flagrant violation of the Convention, simple negligence or, alternatively, inability to apply the Convention. Only in such cases could the Board propose consultations or request explanations. It should be noted, on the other hand, that, in the last of the three cases enumerated, it was difficult to invoke the responsibility of the State in question. After discussing the matter, the Group had recognized that specific situations might arise which were contrary to the aims of the Convention even if they were not the result of any failure to apply its provisions. It was that possibility which was envisaged in the second sentence of sub-paragraph (a) as proposed by the Working Group. In such circumstances, the Board could merely propose the opening of consultations with the Government concerned, which would be free to accept or reject its proposal. In cases where the provisions of the Convention were not being applied, on the other hand, the Board could also request explanations and the Government concerned would be under an obligation to furnish them.

8. As to the confidential nature of the information, the Working Group had retained the last sentence of the sub-paragraph (a) at present in force but had added to it a phrase taking into account the introduction of the new procedure for opening consultations.

9. With reference to sub-paragraph (b), he pointed out that no amendment had been proposed to it. The text at present in force had been reproduced in document E/CONF.63/C.1/L.23 by mistake.

10. Sub-paragraph (c), as proposed by the sponsors of the joint amendments, related to the organization of visits to countries or territories. At the proposal of the United States representative, the Group had deemed it wiser to take the amendment proposed by Switzerland as its working basis and had made fairly considerable changes to sub-paragraph (c) as compared with the initial proposal. In principle, the Board could no longer request a Government to agree to a visit; it could propose to the Government concerned that it arrange for a study to be carried out in its territory by whatever means the Government deemed appropriate, but there was no obligation on the Government to accept that proposal. If it did so, it could at its own discretion request the Board to make available the expertise and services of one or more persons with the requisite competence to assist the Government's officials in the study in question. Those persons, nominated by the Board, would have to be approved by the Government. The last two sentences of sub-paragraph (c) called for no comment.

11. In the view of the Working Group, its proposed text of sub-paragraph (c) contained nothing which might jeopardize the sovereign rights of States, since the Government concerned was free to refuse to allow a study to be undertaken in its territory and it was only at its request that the Board would provide previously approved experts, whose role, moreover, was clearly defined. The modalities of the study and the time-limit within which it had to be completed were not determined unilaterally by the Board but were the result of consultations between the Board and the Government concerned.

12. Sub-paragraph (d) was designed to replace sub-paragraph (c) of paragraph 1 of the present article 14, under the terms of which the Board could call the attention of the parties, the Economic and Social Council and the Commission on Narcotic Drugs to a matter. According to the text at present in force, the Board could undertake such action only if the explanations offered by the Government concerned after being invited to furnish them were unsatisfactory, or if that Government had
neglected to adopt the corrective measures which the Board had invited it to take. The Working Group had taken the view that those two conditions should be retained as ground for the Board to act. It had also debated whether a Government's refusal to agree to a proposal by the Board concerning the carrying out of a study or the opening of consultations might constitute sufficient grounds for the Board to act. It had decided that it was not so, because, in either case, the Government's refusal was an act of sovereignty. Under the general principles of international law, such an act could not be regarded as one entitling the Board to take any measures.

13. The Board could call the attention of the parties, the Council and the Commission to a matter when it had sufficient grounds for doing so. If for any reason the aims of the Convention were being seriously jeopardized and if the question had not been settled in a satisfactory manner, the Board was actually obliged to take such action. That obligation arose, however, only if both those conditions were met. The Board also had to take such action if it found itself faced with a specific situation of the kind referred to in sub-paragraph (a) and considered that drawing the situation to the attention of the parties, the Council and the Commission was the best way of remedying it by means of concerted corrective action at international level.

14. Lastly, the Working Group had deliberated the possibility of allowing the Board to approach the General Assembly direct. Its conclusions were reflected in the last sentence of sub-paragraph (d). Under that provision, it was not for the Board to bring a matter to the attention of the General Assembly, as envisaged in the original amendment; instead, the Board would report to the Council, which would then decide whether or not to pass the matter on to the General Assembly. The Working Group had debated whether the reports which the Board was called to communicate to the Council under article 14, paragraph 3, were governed by article 15 of the Convention (Reports of the Board) and, consequently, whether they should be submitted to the Council by the Board direct or through the Commission. In the view of the Legal Adviser to the Conference, such reports did not come under article 15, but under paragraph 3 of article 14, and it was on the basis of that interpretation that the last sentence of sub-paragraph (d) had been drafted. However, the interpretation of the Convention was essentially the prerogative of the States parties to it. Unlike the Legal Adviser to the Conference, the Soviet representative had taken the view that article 15 applied to the Board's reports referred to in paragraph 3 of article 14. The text finally proposed by the Working Group had been adopted by 8 votes to 1 (that of the Soviet Union), India having abstained.

15. The CHAIRMAN thanked the Chairman of the Working Group for his lucid presentation of the amendments, which would greatly facilitate the consideration of the revised text of article 14.

16. Mr. WATTLES (Legal Adviser to the Conference) pointed out that an error had slipped into the French version of document E/CONF.63/C.1/L.23. In the third sentence of paragraph 1 (c), the words "le Conseil" should be replaced by the words "l'Organe".

17. The CHAIRMAN said that, unless there was any objection, he would take it that all the amendments to article 14 other than those contained in document E/CONF.63/C.1/L.23 were withdrawn, since the Working Group had taken them into consideration when drafting the new text of article 14. He added that sub-amendments could be submitted to the revised text.

It was so decided.

18. The CHAIRMAN invited the Committee to consider, paragraph by paragraph, the text proposed by the Working Group.

19. Dr. URANOVICZ (Hungary) thought that, whatever his delegation's position on the substantive aspects of the question, the statement by the Chairman of the Working Group on the activities of the Group was very important for the interpretation of the text. It would be useful for that statement to be reproduced in full in the summary record.

20. Mr. NIKOLIĆ (Yugoslavia) warmly congratulated the members of the Working Group and its Chairman in particular.

21. Dr. BABAİAN (Union of Soviet Socialist Republics) considered that the report of the Working Group's proceedings should be circulated as a working paper, since what was involved was not only a new variant of article 14, but also the interpretation of its text. Moreover, as all the sub-paragraphs of the proposed text were closely interconnected, the Committee should first consider the text as a whole; in order to discuss the first sub-paragraph, it would be necessary to refer to the others. A general discussion would also enable delegations to define their positions more clearly.

22. Although he was unable to approve the text as a whole, that did not detract in any way from the value of the Working Group's negotiations or from the merits of its Chairman, who, with his extensive knowledge of the subject, had been unremitting in his efforts to find a solution to what were difficult problems.

23. The CHAIRMAN invited the Legal Adviser to the Conference to give his views on the proposal by the USSR representative that the report of the proceedings of the Working Group should be circulated as a working paper.

24. Mr. WATTLES (Legal Adviser to the Conference) thought that it would be very difficult for the secretariat to obtain a statement on the financial implications of that proposal at short notice. He pointed out that the General Assembly, at its twenty-sixth session, had adopted resolution 2836 (XXVI) on the subject of the limitation of publications and documentation of the United Nations. However, if such a paper could not be issued, the summary record of the Committee's meeting could at least provide a full summary of the statement made by the Chairman of the Working Group.

25. Dr. BABAİAN (Union of Soviet Socialist Republics) expressed the hope that a text giving an account of the proceedings of the Working Group would in any event be submitted to the plenary Conference when article 14 was considered.

26. Mr. WATTLES (Legal Adviser to the Conference) said that the secretariat had not anticipated that the
Summary records of meetings of the committees

Committee would make detailed reports on the questions before it, since the discussions were reflected in the summary records. However, if members wished to have such reports, a statement would have to be submitted on the financial implications.

27. The CHAIRMAN said that the secretariat could ensure that the summary records gave a full picture of the discussions and were ready in time for the plenary meeting.

28. Dr. BABAIAN (Union of Soviet Socialist Republics) said that it would in any case be necessary to submit a report on the work of Committee I to the plenary; he did not see why the question of financial implications had to be raised when it was only for article 14 that a fuller text was requested.

29. The CHAIRMAN, after consulting the Chairman of the Working Group, said that a detailed report on article 14 would be included in the report to be submitted by Committee I to the plenary Conference.

30. With regard to the text proposed in the report of the Working Group, he asked if the Committee wished to begin with a general debate.

31. Dr. JOHNSON-ROMUALD (Togo) did not see why it was necessary to reopen the long general debate which the Committee had already had on article 14 before referring it to the Working Group.

32. Mr. ANAND (India) reminded the Committee that at its 10th meeting it had postponed the discussion on article 21bis pending a decision on the new text of article 14, which concerned situations that were referred to in article 21bis. A general debate on the revised text of article 14 might clarify the discussion of article 21bis. He therefore supported the suggestion made by the representative of the Soviet Union.

33. Mr. NIKOLI6 (Yugoslavia) thought that a general debate would complicate the Committee's work, as the Working Group had analysed the situation extremely well and article 14 would be the subject of a further general debate in the plenary.

34. Mr. SAGOE (Ghana) agreed with the Yugoslav representative.

35. Dr. BABAIAN (Union of Soviet Socialist Republics) withdrew his proposal.

36. Mr. ANAND (India) observed that the first general debate had been on the old text of article 14, to which many delegations had been opposed. They might have been led to change their views by the new text. He still believed that it would be preferable to begin the proceedings by a general debate, but was prepared to accept the majority opinion.

37. The CHAIRMAN said that, in the circumstances, if other delegations had no objection, the Committee would consider the new text of article 14 paragraph by paragraph.

It was so decided.

Paragraph 1

Sub-paragraph (a)

38. Mr. WINKLER (Austria) said that his delegation could accept paragraph 1(a).

39. Dr. BABAIAN (Union of Soviet Socialist Republics) said that, while the new text contained more satisfactory and acceptable formulas, he maintained the objections which he had expressed from the outset with regard to that sub-paragraph, which was designed to broaden the provisions of the 1961 Convention. His delegation had made it known that it regarded article 40 of the Convention, concerning the procedure for signature, ratification and accession, as discriminatory, in that it excluded States other than Members of the United Nations, non-member States parties to the Statute of the International Court of Justice or States members of the specialized agencies. Paragraph 1(a) of article 14 was designed to give the Board supra-national powers that would permit it to interfere in States' domestic affairs. It raised the question of sources of information, and his delegation had already pointed out that it could not approve of the Board's using information furnished by unofficial bodies; it was not known whether their documentation was adequate, they were liable for political reasons to give inaccurate information, and it was not even explicitly established that the accused State would have access to the information in the hands of those private bodies, of which there were hundreds. The idea of expanding the sources of information to include non-governmental organizations was tantamount to suspecting States of being unable to furnish the Board with full information, or what was worse still, of being unwilling to do so, and that was unacceptable. The Board would be led to take very serious steps on the basis of false assumptions, because it was difficult to see how it could estimate the danger referred to. In article 14, and more specifically in paragraph 1(a), the possibility of the Board's exercising pressure on a country was envisaged; the word "territory"—a colonialist expression which was altogether out of place—was also to be found in it. Lastly, it was necessary to know how the word "consultations" was to be interpreted. In short, it was obvious from a brief analysis that paragraph 1(a) contained a number of unacceptable provisions.

40. He concluded by making some comments on the Russian text of the report of the Working Group, notably, the omission of the word "or" in the first sentence of sub-paragraph (a) before the words "provided that they are approved by the Commission...". Moreover, in the second sentence, the adjective "illicit" should qualify each of the words "cultivation", "production", "manufacture", "traffic" and "consumption" in the Russian text if the sentence was not to be misinterpreted.

41. Mr. HOLL (Federal Republic of Germany), speaking as a member of the Working Group, wished to express his gratitude to the Chairman. He also noted with satisfaction that in its composition the Working Group represented all aspects and interests of the international community in that it had brought together representatives of every continent (except Australia) and of both consuming and producing countries, and had included both scientists and diplomats.

42. His delegation had paid special attention to certain points in paragraph 1(a), notably the possibility for the Board to draw upon wider sources of information, and the powers which could be invoked by it if the State
Concerned as regarded as being voluntary or involuntary at fault. In support of the idea of broadening the Board’s sources of information, the Turkish representative had referred in particular to the valuable information which could be supplied by ICPO/INTERPOL. When the responsibility of a State was involved, i.e., when it had failed to apply the provisions of the 1961 Convention, sub-paragraph (a) would empower the Board to request an explanation. There had been much talk of the threat offered by such a provision to national sovereignty, but the risk was negligible, since the rights accorded to the Board were clearly delimited and defined. If a country was objectively at fault, in other words, if it involuntarily became an important centre of traffic, the Board could propose to the Government the opening of consultations, taking every care not to offend it and to afford it every assistance. The provisions of sub-paragraph (a) thus offered all the necessary flexibility and guarantees for the protection of national sovereignty, and his delegation was prepared to support them.

43. Mr. de ARAUJO MESQUITA (Brazil) said that he too would like to make some general observations as a member of the Working Group.

44. His delegation had not been entirely satisfied with the text originally proposed. However, as a result of the efforts made, in particular by the Chairman of the Working Group, important concessions had been made both by the sponsors of the joint amendments and by the other delegations, and he could now unreservedly support paragraph 1(a) of article 14 as set forth in the report of the Working Group.

45. The sponsors had several times invited his delegation to join them but it had been obliged to decline their invitation, essentially because of the misgivings which it had had with regard to the amendments to article 14. The new text of that article proposed by the Working Group now enabled it to accept the invitation. Admittedly, it would have had to express certain reservations concerning the appeal and arbitration procedures provided for in article 21bis if those procedures were to be compulsory. However, it would appear from the wording of that article that they were to be voluntary and that no Government would be obliged to submit cases to the Appeals Committee. On that understanding, his delegation was pleased to join the sponsors of the amendments.

46. Mr. ESPINO GONZÁLEZ (Panama) congratulated the Working Group on the proposed new text, which represented a considerable step forward. However, some aspects of the amendments to the article under consideration still caused his delegation some difficulty. For example, the words “under Article 71 of the Charter of the United Nations” were not very explicit, especially since the substance of the Article itself was rather vague. Moreover, the representative of the Soviet Union had rightly pointed out, firstly, that under the terms of the amendment the Board would become a supra-national body and, secondly, that the word “territory” was perhaps not a very happy choice. In the amendments, the words “Party”, “country” and “territory” were used without any precise definition of what they denoted. Referring to Articles 73, 75 and 77 of the Charter, he pointed out that the concept of a “territory” was not very precise and that it might, in fact, be out of place in a convention in which anything that smacked of colonialism should be eschewed.

47. Mr. SAMSOM (Netherlands) congratulated the Working Group on the results which it had achieved, particularly with regard to the relations between Governments and the Board, and the situation of States which were not parties to the Convention. His delegation accordingly supported the new text of paragraph 1(a).

48. Dr. MÁRTENS (Sweden) did not agree with the representative of the Soviet Union that the new text would make it possible for the Board to exert unacceptable pressure on Governments. On the contrary, the members of the Working Group had felt that, in so far as the Board would have means of exerting pressure, they would be somewhat weaker than those provided for in the existing text of article 14, paragraph 2, of the 1961 Convention, which, unlike the new text, empowered the Board to impose a veritable embargo on countries. In fact, it was not so much the scope of the Board’s powers as its working methods which had been changed. Moreover, under the amendment, the Board would not be required to “ask for an explanation”; it could “propose the opening of consultations”, a much less authoritarian wording.

49. Lastly, the Soviet representative had expressed some misgivings with regard to the nature of such consultations. They would in fact amount to an exchange of information; thus, if a country was becoming an important centre of illicit traffic, and if the Board received from different sources information to which the authorities of that country did not have access, it could, with a view to helping the country to combat those illicit activities, decide to communicate to it the information which it possessed. Those provisions could not fail to be of benefit to the country concerned.

50. Mrs. FERNÁNDEZ (Philippines) said that her delegation had been somewhat concerned about the other sources of information which would be available to the Board; however, the text produced by the Working Group had dispelled its doubts and it now considered paragraph 1(a), as amended, to be perfectly acceptable.

51. Mr. ANAND (India) said that the text proposed in the report of the Working Group was preferable to the previous version in the joint proposals. However, he did not think it was desirable that non-governmental organizations, even those which were in consultative status with the Economic and Social Council, should be asked to communicate information to the Board. There was a danger that such organizations, having been established with a particular ideal in mind, might have narrow and perhaps one-sided views on the question of drugs, and the Board might find itself overwhelmed by a flood of information of varying degrees of relevance. The question had arisen, in the Working Group, whether ICPO/INTERPOL could furnish information to the Board, and the Legal Adviser to the Conference had said that that Organization could to a certain extent be regarded as equivalent to an intergovernmental organization. However, that might be, the list of sources from which the
Board could obtain information should not be allowed to grow too long.

52. He thought that there was a little too much talk about the rights of the Board. To say that the Board had the right to propose the opening of consultations to a Government which was not carrying out the provisions of the Convention was in fact tantamount to saying that it could oblige a Government to begin such consultations. It would seem that an attempt was being made to give the Board powers greater than those it had already, namely, the establishment of contacts, the exchange of information, and the like. Since the Board was dealing with sovereign States, it would seem preferable to say that it "may" propose the opening of consultations to Governments or request them to furnish explanations.

53. The insistence on the rights of the Board would be all the more incongruous in relation to a country which was becoming a centre of illicit traffic without any failure to fulfil its obligations. In fact, two quite distinct cases were involved, depending on whether countries fulfilled, or failed to fulfil, the obligations incumbent on them under the Convention; that should be made quite clear by the division of paragraph 1 (a) into two parts.

54. Mr. OZGUR (Cyprus), speaking on a point of order, said that, since it had been decided to consider article 14 paragraph by paragraph, delegations should refrain from making general statements.

55. Mr. CASTRO (Mexico) congratulated the Working Group on the text it had prepared. Nevertheless, he proposed that the text: "the consultations provided for in the Convention be notified to the Governments that have reported on the Convention" should be replaced by: "the information communicated contains elements which give grounds for supposing that the Governments concerned..."

56. The CHAIRMAN asked the representative of Mexico to submit his proposal in writing.

57. Dr. EDMONDSON (Australia) expressed full support for paragraph 1 (a) of article 14 and for the new text as a whole. He considered that the Board should have access to a wide range of information, which it should be able to evaluate itself within the limits of its statutory functions.

58. Dr. OLGUlN (Argentina) considered paragraph 1 (a) acceptable and felt that the procedure provided for should enable the information obtained to be put to good use. He wished to ask once again which were the non-governmental organization that enjoyed a similar status to that of the Board. In his view, to provide for in the revised version of article 14, it was important to clarify the definition of consultations.

59. Mr. PATHMARAJAH (Ceylon) referring to sub-paragraph (d), proposed that the word "right" at the end of the first sentence should be replaced by the word "option". He also thought that the word "to" after the word "consultations" in the same sentence should be replaced by the word "with". He supported the suggestion of the Indian representative that the words "it shall have the right" at the end of the first sentence should be replaced by less categorical wording.

60. Mrs. PRICE (United Kingdom) thought that it was inappropriate to speak of "the consultations" at the end of the penultimate sentence of paragraph 1 (a), since the consultations provided for in the event of a State not implementing the provisions of the Convention were not the same as those provided for in the event of a State having implemented the provisions but having become an important centre of illicit cultivation.

61. At the end of the last sentence, the word "Governments" should be replaced by the words "a Government" and the words "the consultations" by the words "any consultations".

62. Dr. BABAAN (Union of Soviet Socialist Republics) said that under the existing article 14, paragraph 5, of the 1961 Convention, any State was invited to attend a meeting of the Board at which a question directly interesting it was considered. If that provision was felt to be inadequate, more details should be given as to the nature of the new consultations that it was proposed to provide for in the revised version of article 14. In his view, to provide for in the revised version of article 14. In his view, to provide for measures over and above those laid down in the original text of the article would amount to interference in States' domestic affairs.

63. He wished to ask once again which were the non-governmental organization that enjoyed a similar status to that of the non-governmental organizations in consultative status with the Economic and Social Council. Under Article 71 of the Charter, the Council could make suitable arrangements for consultation with non-governmental organizations. Giving the Board authority to draw on new sources of information would mean losing the benefit of the Council's control. Yet the Board was composed of experts who were not responsible for any errors they might make. The representative of Mexico had been absolutely right when, with a view to offsetting the substantive nature of the Board's decisions, he had proposed replacing the words "the Board has reason to believe" by more specific wording.

64. With regard to the suggestion to replace the words "it shall have the right" at the end of the first sentence by the words "it shall have the option", such a change could not be decided by a drafting committee, since it was a legal question and one of substance.

65. The CHAIRMAN said that the secretariat would endeavour to reply to the question raised by the USSR representative concerning non-governmental organizations.

66. Dr. EL HAKIM (Egypt) said that the text of paragraph 1 (a) as a whole was acceptable and noted that it incorporated part of his delegation's amendment on the subject of the non-governmental organizations recognized by the Council. There were several resolutions under which non-governmental organizations recognized by the Council could supply information.

67. He supported the suggestion of the Indian representative that the words "it shall have the right" at the end of the first sentence should be replaced by less categorical wording.

68. Mr. NIKOLIĆ (Yugoslavia) shared the views expressed by the representative of India about non-governmental organizations as possible sources of useful
information. He too had reservations with regard to the words "a Party or a country or territory" in the second sentence of sub-paragraph (a).

71. U HLA OO (Burma) was afraid that, if intergovernmental organizations and non-governmental organizations were included among the possible sources of information, doubts might arise about the value of the information obtained, even if only because of the great mass of it that might be received. Instead of making the Board more effective, to have wider sources of information might slow down its work and at the same time damage its prestige. His delegation could not, therefore, accept paragraph 1 (a) or article 14 in the form proposed by the Working Group.

The meeting rose at 12.30 p.m.

TWELFTH MEETING

Tuesday, 14 March 1972, at 2.45 p.m.

Chairman: Mr. CHAPMAN (Canada)

Consideration of all amendments proposed to the Single Convention on Narcotic Drugs, 1961 (item 11 of the Conference agenda) (continued) (E/CONF.63/5 and addenda)

ARTICLE 14 (Measures by the Board to ensure the execution of provisions of the Convention (continued) (E/CONF.63/5, E/CONF.63/C.1/L.23)


Paragraph 1 (continued)

Sub-paragraph (a) (continued)

1. Mr. HUYGHE (Belgium) said he had spoken in favour of setting up the Working Group in a spirit of conciliation and in the hope that the Group would speed up the work of Committee I and of the plenary Conference by managing to reconcile different points of view. Unfortunately, that had not been the case, and he therefore urged all representatives to state their views as succinctly as possible so that the Conference could conclude its work satisfactorily in the time remaining.

2. The controversial phrases in paragraph 1 (a) of article 14 as proposed by the Working Group (E/CONF.63/C.1/L.23), such as "the Board has reason to believe", "any Party, country or territory" and "the Board has the right", etc., which the Committee had been discussing since the 11th meeting, had been adopted without difficulty in 1961 and were already contained in the text of article 14 of the 1961 Convention. It would therefore be better to discontinue the discussion of those points. Like the USSR representative (11th meeting), he would be interested to learn which were the organizations referred to in paragraph 1 (a).

3. Dr. BABAIAN (Union of Soviet Socialist Republics) said that if, as the Belgian representative had stated, the proposed amendment merely repeated the words of the 1961 Convention, it would have no point. In fact, those who supported the amendment were certainly advancing new ideas, and the least they could do was to reveal them and see how far they were acceptable. The Soviet Union could not accept the amendment blindly. It wanted to know how many of the 455 non-governmental organizations in consultative status with the Economic and Social Council would be entitled to deal with questions concerning drugs, how many other organizations would be considered as having a similar status, and which. His country believed that the only organizations competent to furnish INCB with information were the United Nations, the specialized agencies and intergovernmental organizations, but that non-governmental organizations should, as at present, submit their documentation to the Economic and Social Council.

4. Mr. LAMJAY (Mongolia) said that his country, which was not a party to the 1961 Convention because there was no drug abuse in Mongolia, could not accept the proposed sub-paragraph (a); the new text would give INCB excessively wide powers which would enable it to exercise pressure on States, whether parties to the Convention or not. Moreover, his country could not accept the use of non-governmental organizations as sources of information.

5. Mr. GHAUS (Afghanistan) agreed that INCB should be able to obtain information from Governments, United Nations organs and the specialized agencies, but had doubts as to the value and usefulness of any information which might be provided by the other organizations referred to in paragraph 1 (a). Experience showed that such organizations often dealt with drug matters somewhat superficially, without taking account of all the factors involved or of the difficulties faced by Governments.

6. Mr. ANAND (India) proposed that the words "that it shall become", in the second sentence of sub-paragraph (a), should be replaced by the words "that it may become".

7. Mr. KIRCA (Turkey), Chairman of the Working Group, wished to reply to several observations which called for clarification.

8. First, there was the question whether non-governmental organizations in consultative status with the Economic and Social Council could be regarded by INCB as official sources of information and, if so, which. Article 71 of the Charter of the United Nations drew a distinction between national and international non-governmental organizations. Only the international ones were referred to in the proposed text of paragraph 1 (a). Moreover, the fact that they had consultative status would not automatically qualify them to furnish information; they also needed to be approved by the Commission on Narcotic Drugs on the Board's recommendation. They would therefore have to be selected first by the Board and then by the Commission. Needless to say, only those whose contribution was likely to be really useful would be consulted; for instance, international unions dealing with problems of international transport, organizations concerned with the problems of alcoholism and
drug-addiction, medicine, chemistry and pharmacy, and certain bodies like the Customs Co-operation Council, regarding which opinions differed as to their classification as intergovernmental organizations. Moreover, the Commission on Narcotic Drugs, in its resolution 3 (XXIV) had already deemed it useful to enlist the help of some of those organizations, such as the Customs Co-operation Council and the International Road Transport Union, which it had invited to send representatives to the Ad hoc Committee on Illicit Traffic in the Near and Middle East. The choice was essentially a political one, since some societies trusted private rather than public bodies; for others, the converse might apply. It was such a choice that the Working Group was now proposing the Committee should make by offering it a compromise text. The Working Group had also had to find a way of not excluding from the proposed procedure ICPO/INTERPOL, which was no longer in official consultative status with the Council; that was why it had added the words "or which enjoy a similar status by special agreement with the Council". If it had not expressly mentioned ICPO/INTERPOL, it was because there might also be other similar organizations on the same footing.

9. Some delegations, including that of India, had queried the use of the expression "the Board has the right . . . .". That expression, however, was already used, in the same place, in the 1961 Convention and had not given rise to any reservation on the part of India in 1961. One of the guiding principles of the United Nations Conference for the adoption of a Protocol on Psychotropic Substances, held at Vienna in 1971, had been to depart as little as possible from the text of the 1961 Convention. Moreover, the time-limit for submitting amendments to the text of the Convention had expired and it was therefore no longer possible to change the wording in question. The Working Group would have no objection to saying "the Board may request", since an international body, which was not a sovereign entity like a State, could act only if it had the right to do so—and if that right was expressly set out in the rules of international law from which it derived its competence. There was no difference in law between the terms "to have the right to", "to be competent to", "to be qualified to" or "to be able to"; consequently, whichever wording was chosen, the Committee would in no way alter the legal content of the text submitted to it by the Working Group. It would therefore be better to preserve the text in the form in which it had for so long been applied and, indeed, in which it would continue to be applied by any parties which did not sign the revised 1961 Convention. The same terms should be kept to express the same ideas in all international instruments relating to the question of drugs. Everything that was new in the joint amendments had been underlined in document E/CONF.63/5.

10. The representative of the USSR had asked for clarifications as to the procedure for consultations between INCB and Governments. The proposed paragraph 1 (a) stated that INCB could propose the opening of consultations to a Government or request it to furnish explanations. Those two procedures differed in two ways: on the one hand, the Government was bound to give the explanations requested of it, whereas it could refuse to engage in consultations; and, on the other, the proposal for the opening of consultations was possible both in the case of the Convention not being applied and in the case of the existence of a situation in which the international liability of a State was in any event not involved, because the situation had arisen despite the fact that the State had applied the provisions of the Convention and was consequently blameless. The request for information was only possible in the case of the Convention not applying. So far as the Government was concerned, therefore, a proposal for the opening of consultations, and the consultations themselves, would be of a less obligatory nature than a request for explanations and the explanations themselves. The Working Group did not consider paragraph 5 of the present article 14 a sufficient basis for initiating the consultations procedure, since it was concerned basically with the examination by INCB of information supplied by a Government in response to a request of explanations.

11. The second sentence of sub-paragraph (a), beginning with the words "If without any failure in implementing the provisions of the Convention, a Party or a country or a territory has become . . . .", reflected the views of the majority of members of the Working Group, who considered that the Board could approach a Government, even if that Government was not a party to the 1961 Convention. However, the Convention was not bound by the provisions of the new article 14, because it was not a party to the Convention, had not ratified the amendments or had entered express reservations in that respect, it would, under the rules of international law, be entitled, in the exercise of its sovereignty, to return the Board’s communications or to refuse to answer them. In the law of treaties, only the parties to an international instrument were bound by its provisions.

12. As to the use of the word "territory", there were still non-metropolitan territories which had not yet gained their independence but whose prior consent was required for the ratification of treaties, either by the law of the metropolitan country of by custom. Such cases were envisaged in article 42 of the 1961 Convention (Territorial application) and the Working Group had taken the view that the word "territory" should be inserted in article 14 to ensure that certain non-metropolitan territories were not prevented from exercising their right of approval.

13. The Mexican representative had criticized (11th meeting) the expression "the Board has reason to believe"; there again, the wording was contained in the 1961 Convention and had not been modified in the initial text of the joint amendments. It might be preferable for the Mexican representative to submit a written amendment in that connection, though there seemed little point in changing an expression to which there had so far been no objection. The text did not say that the Board "believed" but that it "had reason to believe"; in other
words, it was basing its opinion on objective considerations. The expression had a clear and precise meaning in international law.

14. The representative of Ceylon had proposed the replacement of the word “right” at the end of the first sentence by the word “option”. Although that amendment might be acceptable in the first sentence of subparagraph (a), it did not fit in with the remainder of the text. Lastly, in the last sentence, the word “Government” should be used in the singular in the English version, as the United Kingdom (11th meeting) and Ceylonese representatives had requested.

15. Mr. NIKOLIĆ (Yugoslavia) thanked the Chairman of the Working Group for his explanations, but maintained his reservations concerning the words “a Party or a country”. Under article 40 of the 1961 Convention concerning the procedure for signature, ratification and accession, the Convention could be signed only by States which met very specific conditions. It would not be fair for the Convention to apply to States which could not accede to it. At the United Nations Conference for the adoption of a Protocol on Psychotropic Substances, his delegation had consistently maintained that a convention on psychotropic substances should be opened for signature by all States.

16. Mr. KIRCA (Turkey) proposed that the words “international non-governmental organizations” should be added after the words “Charter of the United Nations or” in the first sentence of sub-paragraph (a), in order to show clearly that the word “which” immediately following referred to those organizations and not to intergovernmental organizations.

17. Dr. BABALAN (Union of Soviet Socialist Republics), speaking in exercise of his right of reply, said that he was satisfied with the explanations given by the Chairman of the Working Group concerning the meaning of the word “consultations” in the text of article 14 proposed by the Working Group. He understood that it meant an exchange of views between the Board and Governments, and that in no case could it be considered as imposing any obligation whatsoever on Governments.

18. The CHAIRMAN was of the opinion that the oral amendments submitted by the representatives of India and Mexico would have to be circulated, so that the Committee could consider them. He asked the sponsors of those amendments whether they would be willing to withdraw them, in view of the observations made by the Chairman of the Working Group.

19. Mr. ANAND (India) wished to maintain his amendment, the text of which was, in his opinion, the best formula.

20. Mr. CASTRO (Mexico) also wished to maintain his amendment, which would enable the Board to exercise control more effectively.

21. The CHAIRMAN noted that the Committee could not decide upon the Indian and Mexican amendments until they had been circulated, and suggested that the Committee should not consider any amendment to article 14 which was submitted after the present meeting. The Indian and Mexican amendments would be circulated the following day.

In reply to a question by the representative of India, the Chairman said that the decision taken with regard to amendments to article 14 did not relate to drafting changes and consultations between States concerning the amendments.

The Chairman's proposal was adopted without objection.

ARTICLE 19 (Estimates of drug requirements) (continued*)
(E/CONF.63/5, E/CONF.63/C.1/L.22)

Paragraph 2 (continued*)

Sub-paragraph (c)

22. The CHAIRMAN invited the members of the Committee to consider the proposal submitted by Venezuela for paragraph 2 (c) of article 19 (E/CONF.63/C.1/L.22).

23. Mr. WATTLES (Legal Adviser to the Conference) drew attention to two minor drafting changes which were necessary in the French text of the Venezuelan amendment.

24. Dr. BERTI (Venezuela), introducing his delegation’s amendment, explained that it proposed adding a new sub-paragraph (c) to paragraph 2 in order to take into account sub-paragraphs (g) and (h) of paragraph 1, which had been approved by the Committee (8th meeting) to strengthen the system for the control of synthetic substances. His delegation felt that it was necessary to apply to synthetic substances the same provisions concerning estimates of quantities to be produced as applied to opium. Consequently, the text of the new sub-paragraph was exactly the same as that of sub-paragraph (b) of paragraph 2 already approved (9th meeting), except that the word “opium” was replaced by the words “synthetic drugs”, and that the words “sub-paragraph (f)” were replaced by the words “sub-paragraph (h)” in the penultimate line. His delegation, was, however prepared to consider any changes in style which might be suggested.

25. Mr. DE BOISSESON (France) also thought there should be some equality between countries which produced opium and those which produced synthetic drugs. However, the sub-paragraph (c) it was proposed to add to paragraph 2 and paragraph 1 (g) and (h) did not create such equality. Rather, they created a new inequality. Thus, paragraph 1 (g) and (h) required the parties to report to the Board the number of industrial establishments which manufactured synthetic drugs and the production figures of each one, but that requirement did not apply to opium-producing countries.

26. Synthetic drugs were clearly defined, but they were all manufactured drugs. In the 1961 Convention, manufactured drugs were subject to very strict control under article 21 (Limitation of manufacture and importation) and estimates were required to be made of them. But the control provided for in article 21 did not apply to opium, and that was another inequality.

27. In any case, even if paragraph 2 (c) of article 19 provided for equal treatment of opium and synthetic drugs, it would be impossible to judge the results of the control. The text of the Indian and Mexican amendments were subsequently circulated under the symbols E/CONF.63/C.1/L.27 and E/CONF.63/C.1/L.26 respectively.
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drugs, other drugs such as cannabis and coca leaf were still treated differently.

28. Since it was impossible in practice to ensure exactly the same treatment for all drugs and since the proposed sub-paragraph (c), while seeking to eliminate inequalities, in fact created new inequalities and discrepancies with other provisions of the Convention, his delegation, which at the Committee’s 8th meeting had made clear its position on paragraph 1 (g) and (h), thought it would be preferable to maintain the present system by which drugs other than opium were governed by paragraph 2 of article 19 and the very restrictive provisions of article 21.

29. Mr. CALENDA (Italy) fully shared the views of the representative of France.

30. Mr. OKAWA (Japan) did not think it was really necessary to treat synthetic drugs and opium in the same way, because the possibilities of using synthetic substances for illicit purposes were very limited. In any case, even if the possibilities were greater, the best way of controlling such substances was at the national level. The application of the measures provided for in paragraph 1 (g) and (h) and in the proposed paragraph 2 (c) would require complicated procedures which would not be justified by the expected results. His delegation would therefore abstain on paragraph 2 (c), as it had done on paragraph 1 (g) and (h).

31. Dr. JOHNSON-ROMUALD (Togo) thought it regrettable that there should be discrimination against opium-producing countries. Although it was true that opium and its derivatives played a major part in illicit international traffic, there was beginning to be a trend towards the use of substitutes and it was obvious that, as opium control became stricter, addicts and traffickers would turn to other more easily available and less expensive drugs. The work of the Conference would therefore be incomplete if it dealt only with opium, and in a few years a new conference would very probably have to revise the Convention again in order to remedy the omission.

32. The argument that the provisions proposed by Venezuela would involve too much work was not valid, and it had already been heard too often at the United Nations Conference for the adoption of a Protocol on Psychotropic Substances and at the present Conference. If the illicit traffic was to be curbed and international control measures adopted, it was only to be expected that there would be more work to be done. Did not the measures to limit the production of opium also mean more work for the opium-producing countries? If there were minor technical and practical difficulties, the representative of Venezuela would not doubt agree to change the wording of his amendment, but the principle behind it was certainly not to be rejected on the grounds that it would mean more work.

33. Mr. HUYGHE (Belgium) proposed that the Committee should adjourn the discussion and set up a working group in which all viewpoints would be represented, including those of producers, manufacturers and consumers, and in which representatives with considerable experience of estimates would take part. The working group’s task would be to consider articles 12, 19, 20 and 21, which were closely related, in order to see how a balance could be established in control measures between natural drugs and synthetic drugs, with a view to reaching a satisfactory compromise which would avoid the need for long discussions in the Committee and in the plenary Conference.

34. Dr. JOHNSON-ROMUALD (Togo) supported the proposal of the representative of Belgium, on condition that the working group would review the whole question of measures to control natural drugs and synthetic drugs.

35. Mr. PATHMARAJAH (Ceylon), speaking on a point of order, noted that some paragraphs of article 19 had already been approved and could not, under the terms of rule 37 of the rules of procedure of the Conference (Reconsideration of proposals) be reconsidered unless the Conference decided otherwise by a two-thirds majority of the representatives present and voting.

36. In reply to objections by Mr. CARGO (United States of America), Mr. KIRCA (Turkey) and Dr. BA-BALIAN (Union of Soviet Socialist Republics), Mr. HUYGHE (Belgium) clarified his proposal. The working group’s task would be to decide whether a balance had already been established between natural drugs and synthetic drugs in articles 12, 19, 20 and 21 and whether the content of the proposed paragraph 2 (c) of article 19 was not thus already covered. It would not be asked to revise the articles in question, but simply to see whether, in the light of those articles, the proposed sub-paragraph (c) was necessary.

37. Dr. JOHNSON-ROMUALD (Togo) said that he was in favour of setting up a working group which would be responsible for harmonizing all the articles in which it was necessary to establish a balance between synthetic drugs and natural drugs. However, he was against setting up a working group just to consider sub-paragraph (c).

38. Mr. ANAND (India) said that there were two possible solutions. First, the discussion could be continued. In that case, sub-paragraph (c) would have to be approved, since it was the counterpart for synthetic drugs of sub-paragraph (b), which had already been approved. In article 19, there was the same symmetry between sub-paragraphs (b) and (c) of paragraph 2 as between sub-paragraphs (e) and (f) of paragraph 1 on the one hand, and sub-paragraphs (g) and (h) of paragraph 1 on the other. Second, if a working group was set up, it would have to consider what was already in articles 12, 19, 20 and 21bis, not 21.

39. Dr. DANNER (Federal Republic of Germany) considered that it was necessary to set up a working group to consider the proposal paragraph 2 (c) of article 19, if only to define the term “synthetic drugs”, which, as the representative of Switzerland had noted (8th meeting), was not defined in the 1961 Convention.

40. After a discussion on the Belgian proposal, Mr. BEEDLE (United Kingdom) suggested that the way to deal with the question of setting up a working group would be to continue the discussion while keeping the Belgian proposal in mind. The discussion would show whether a working group was necessary or not. If signi-
significant differences arose, a working group would have to be set up.

41. Mr. HUYGHE (Belgium) accepted the solution proposed by the representative of the United Kingdom. For the moment, therefore, he would not request that his proposal to set up a working group should be put to the vote.

42. The CHAIRMAN suggested that the Committee should accordingly continue its discussion on the proposed sub-paragraph (c) of paragraph 2 of article 19 at the following meeting, and decide in due course whether to set up a working group to study the sub-paragraph. It was so decided.

The meeting rose at 5.35 p.m.

THIRTEENTH MEETING

Tuesday, 15 March 1972, at 10.10 a.m.

Chairman: Mr. CHAPMAN (Canada)

Consideration of all amendments proposed to the Single Convention on Narcotic Drugs, 1961 (item 11 of the Conference agenda) (continued) (E/CONF.63/5 and addenda)

ARTICLE 19 (Estimates of drug requirements) (continued) (E/CONF.63/5, E/CONF.63/C.1/L.22)

Paragraph 2 (continued)

Sub-paragraph (c) (continued)

1. The CHAIRMAN suggested that a time-limit should be fixed for speakers, so as to speed up the Committee's work.

2. After a brief exchange of views in which Mr. NIKOLIĆ (Yugoslavia), Mr. ANAND (India), Mr. BEEDLE (United Kingdom) and Mr. LIMANN (Ghana) took part, the CHAIRMAN proposed that, in the light of the suggestions made, statements should be as brief as possible and that delegations should try not to speak more than once on the same question. It was so agreed.

3. Dr. HOLZ (Venezuela) said that the purpose of his delegation's amendment (E/CONF.63/C.1/L.22), which proposed the addition of a sub-paragraph (c) to paragraph 2 of article 19, was to balance sub-paragraph (b) of the same paragraph (E/CONF.63/5), approved by the Committee at its 9th meeting, by providing a control system for synthetic drugs similar to the one prescribed for opium in that sub-paragraph. In addition to considerations of balance, his delegation's proposal was also motivated by practical considerations, since an attempt to limit the abuse of opium without provision for similar action with regard to synthetic drugs might have the effect of encouraging opium addicts to use the latter drugs, which were often more dangerous than opium itself.

4. Some delegations had said in the course of the debate on article 19 that the Venezuelan proposal constituted discrimination against the industrialized countries, which, if the Venezuelan amendment to add two sub-paragraphs (g) and (h) to paragraph 1 (E/CONF.63/C.1/L.1) was adopted, would be the only countries that would have to furnish estimates on the number of industrial establishments manufacturing synthetic narcotic drugs and on the production figures for such establishments. He wished to point out in that connexion that the estimates requested did not relate to pharmaceutical products but to drugs in their pure form, prior to their incorporation in products. Notwithstanding the views of some delegations, there was an illicit traffic in synthetic drugs; it existed even in Venezuela, where the problem of such drugs was only just beginning to arise. Such traffic had been taking place for some time in the case of other compounds, such as the amphetamines, which, though not covered by the 1961 Convention, were nevertheless dependence-producing.

5. It had been pointed out that the 1961 Convention contained no definition of synthetic drugs. In paragraph 1 (j) of article 1 (Definitions) of the Convention, however, the term "drug" was defined as "any of the substances in schedules I and II, whether natural or synthetic". Since the only natural substances included in schedules I and II were opium, concentrate of poppy straw, morphine, cannabis, coca leaf, cocaine and ephedrine, all the other substances in those schedules must be considered to be synthetic substances.

6. In view of what he had just said, it was clear that the provisions proposed by Venezuela would not involve discrimination against the industrialized countries which produced synthetic drugs. On the contrary, the absence of such provisions might be regarded by the opium producing countries as involving discrimination against them. In any event, as the representative of Togo had pointed out, the countries attending the Conferences should be solely concerned with co-operating for the benefit of the world as a whole, and should not seek to win victories over each other. It would unquestionably be dangerous for the future of the word if synthetic drugs were not subjected to the same system of control as opium.

7. It was for that reason alone and with a view to making a valuable contribution to world health that his delegation had submitted the amendment in paragraph 2 of article 19.

8. Dr. AZARAKHCH (Iran) said that, in the opinion of his delegation, which could speak quite objectively, since Iran was not a producer of synthetic drugs, the Venezuelan proposal should not be adopted. The production and manufacture of synthetic drugs was an entirely different matter from the production and manufacture of natural drugs. It was much easier to control the output of a factory than to track down poppy or cannabis crops, which could be raised in any private garden. Moreover, synthetic drugs were used only in doses expressed in milligrammes, and seizures on the illicit market, which scarcely amounted to a few hundred grammes in the case of synthetic drugs might amount to several tons in the case of natural drugs. The subsequent
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deduction of a few hundred grammes of synthetic drugs from a country's production would be a tedious operation.

9. Mr. BEEDLE (United Kingdom) said that his delegation was not composed of international jurists or of individuals with medical or pharmacological qualifications, but of civil servants with experience of laws and regulations.

10. He fully understood why the Venezuelan delegation had submitted its amendment to article 19, paragraph 2: the developing countries had the feeling that countries manufacturing synthetic drugs were being treated better than the countries producing opium and other natural substances. It was unfortunate, however, that the Venezuelan delegation had not given a general explanation of its position at the outset, when submitting its amendment to paragraph 1 of article 19. There might well be other proposals to follow the one now under consideration. When the first proposal had been discussed (8th meeting) and then put to the vote, his delegation, like others, had abstained, because it had not been convinced of its usefulness. Now that Venezuela had made a second proposal, his delegation wondered whether it would not have done better to have voted against the first one. The misgivings it had felt at the time were confirmed and it would therefore have to vote against the new sub-paragraph (c) which it was proposed to add to article 19, paragraph 2.

11. His delegation believed it had a duty to preserve the memory of those who, 45 years earlier, had established the present system of estimates and statistics, which had always functioned to the entire satisfaction of the international community. It was from that point of view and in the desire to ensure that the present system did not operate to the disadvantage of the developing countries or to the advantage of the industrialized countries that his delegation had examined the two Venezuelan proposals.

12. The first technical defect of the Venezuelan proposals was that they referred to "synthetic drugs". According to the Venezuelan representative, that term covered the substances listed in schedules I and II of the Convention, with the exception of a few natural drugs included in those schedules. He himself was not convinced by that interpretation and was afraid that other experts might take a different view in the future.

13. With regard to the effects of the Venezuelan proposal to amend paragraph 2, he pointed out that no amendments had been proposed to article 21 (Limitation of manufacture and importation), which provided for a comparison between estimates and performance.

14. The new sub-paragraph (g), which the Venezuelan delegation proposed should be added to article 19, paragraph 1, would make it mandatory for the parties to estimate the number of industrial establishments manufacturing synthetic narcotic drugs. His Government would have no difficulty in supplying such information, but it would be unable to say how many establishments would cease production or merge during the following year. In that connexion, and with reference to what the representative of Togo had said at the 12th meeting, he wished to give the assurance that the production of such estimates would involve little, if any, additional work for the United Kingdom civil service.

15. Under the proposed new sub-paragraph (h) of paragraph 1, the parties would also have to furnish estimates of the production figures for each of the industrial establishment mentioned in sub-paragraph (g). By adding up the figures supplied by each State, the Board would be able to determine the total national production of synthetic drugs. That total would include both drugs intended for consumption within the country and those to be converted into other drugs, added to stocks or exported. It was important to note that the figures would therefore partly reflect the volume of exports. The United Kingdom Government had often proclaimed that the country must "export or die". If the first Venezuelan proposal were accepted, it would in future have to say: "Export or die, but first put in your estimates".

16. His Government could supply the estimates referred to in the proposed sub-paragraph (h) of paragraph 1 immediately, but could not guarantee that they would not be over-optimistic. In fact, there would be a temptation for manufacturers to submit optimistic estimates with a view to securing a strong position in the competitive market, so that the figures submitted under sub-paragraph (h) would always be higher than the sum of the quantities specified in sub-paragraphs (a), (b) and (d) of paragraph 1. Under the sub-paragraph (c) which it was proposed to add to paragraph 2, if the Board established an excess in accordance with article 21, paragraph 3, it would have to deduct it from the quantities to be manufactured or imported in the following year.

17. Article 21 incorporated a system for controlling the statistics, which formed a workable whole. The addition of sub-paragraph (c) to article 19, paragraph 2, would detract from the unity of that system.

18. He again wished to remind the Committee of the statement made by the Board's representative at the twenty-fourth session of the Commission on Narcotic Drugs about the Board's role and expressed regret that the Board had felt unable to give its views on the additional information and its value in the system it was proposed to introduce.

19. He fully appreciated the developing countries' desire that the countries which produced synthetic drugs should be subject to control. But such control was, in fact, already provided for under the 1961 Convention. It must be remembered that all estimates were to some extent uncertain. Moreover, his delegation felt that it had a duty to safeguard the present system and would therefore vote against the Venezuelan proposal, because it did not achieve its purpose.

20. If the proposal were adopted, it would cause no difficulty for the United Kingdom Government, because it supplied estimates to the Board each year. If it were rejected, there would always be other ways of exercising control over the production of synthetic drugs, either by the adoption of resolutions, by the inclusion of com-

ments in the report of the Secretary-General or by discussions in the Commission on Narcotic Drugs.

21. Dr. BABAIAN (Union of Soviet Socialist Republics) found it unacceptable that delegations, whenever the interests of their countries were directly affected, felt compelled to invoke the respect owed to the memory of those who had designed the international control system. It would be more straightforward to recognize that that system had not provided for estimates of opium production. The Board had not wished to give its views on the question because it would have been obliged to admit the undesirable consequences of the Venezuelan proposal and consequently of the other amendments concerning opium.

22. It was not true to say that the second Venezuelan proposal followed from the first. The two proposals were admittedly connected but both originated in the amendments concerning opium. The Venezuelan delegation’s request that all drugs should be subject to the same system was logical.

23. With regard to the Iranian statement, it was precisely because the quantities of synthetic drugs could be counted in milligrammes that they were more dangerous and their effects much stronger than those of the natural drugs. They were also much easier to transport and camouflage.

24. He noted the flexible attitude of some delegations, which found arguments for or against the control measures contemplated according to whether they were favourable or unfavourable to their country. The consistent stand taken by the Soviet Union was that the present text of the 1961 Convention was satisfactory. His delegation would support the amendment proposed by Venezuela, and urged delegations that were considering accepting that amendment to do so.

25. Mr. NIKOLIČ (Yugoslavia) pointed out that the United Kingdom representative, who had put forward many arguments against the Venezuelan proposals, was not defending the interests of an opium-producing country.

26. As the Iranian representative had said, it was much easier to control the production of synthetic drugs than that of natural drugs. The United Kingdom representative had similarly said that the submission of estimates for synthetic products would present no difficulty for his country. In the circumstances, it would appear that estimates were justifiable in the complex matter of opium, but not in that of synthetic drugs.

27. After observing that some delegations had not hesitated to change their position radically during the Conference, depending on the question under consideration, he said he endorsed the arguments of the representative of the USSR and would accordingly support the Venezuelan proposal.

28. Mr. SAMSOM (Netherlands) said that, as far as the actual wording of the proposed sub-paragraph (c) was concerned, the term “synthetic drugs” gave rise to difficulties of interpretation, since its meaning was not sufficiently precise. Perhaps it could be replaced by the words “drugs with the exception of opium”, which would be clearer.

29. With respect to the application of the provisions, the main purpose of the sub-paragraph was to limit production to real needs. But that limitation was already provided for in article 21, paragraph 3, of the 1961 Convention, under which the Board, if it found that the quantity manufactured and imported in any one year exceeded the sum of the quantities specified in paragraph 1 of that article, would in the following year deduct any excess so established from the quantity to be manufactured or imported and from the total of the estimates, as defined in article 19, paragraph 2. If an estimates system were added, it was to be feared that the drug manufacturers might be tempted to submit estimates that were much higher than real needs in order to avoid the risk of an excess, and such figures would have to be accepted for what they were worth. There was, of course, the question of competition; since many enterprises produced and sold the same product to the same customers, the amount of drugs not sold by company A might perhaps be sold by company B. If the provisions of the proposed paragraph 2(c) of article 19 were applied, the net result would be an increase in stocks and thus a greater risk of diversion into the illicit traffic. In the Netherlands, the authorities were particularly concerned to keep stocks to the minimum, but the Netherlands Government could not ask producers to reduce their stocks unless establishments manufacturing the same products in other countries were asked to do the same. The Netherlands Government had no objection to supplying the figures asked for, but the solution proposed would seem to be nothing more than a placebo which would in fact satisfy none of the parties concerned. The aim should be to arrive at a text, together with any consequential amendments to other articles, that would not impair the control system already established.

30. Dr. JOHNSON-ROMUALD (Togo) said he was not convinced by the Iranian representative’s argument that addiction to synthetic substances represented a less serious problem than addiction to natural drugs. The doses in which those substances were used were expressed in milligrammes because they were much more powerful, and it was therefore easier to divert them, because the quantities involved appeared minimal. With regard to the assertion that it was easier to control the industrial production of synthetic drugs, everyone knew that there were clandestine laboratories for the production of heroin, and, in view of technical progress, the day was not far off when it would also be possible to set up clandestine laboratories for the production of synthetic substances.

31. With respect to the question of definitions raised by the United Kingdom representative, everything depended on the context in which a term was used; it was a matter of convention. If reference was made to a substance included in a given schedule, whether it was of natural or synthetic origin, such a definition might well be accepted in practice.

32. The United Kingdom representative had referred to economic imperatives and to his country’s need to export or die. But the opium-producing countries could use the same argument, since what was true of the countries producing synthetic substances was even more true of the developing countries whose livelihood depended...
on their agriculture. Nevertheless, if opium poppy cultivation made the producing country rich, that was a dangerous form of wealth that should be controlled, and the present Conference had met in order to strengthen the existing controls.

33. As far as an expression of the Board's views was concerned, the Soviet representative had rightly said that its position in the matter was already delicate and that any statement it made might be interpreted as the adoption of a particular stand, which would cast doubt on its impartiality and thus damage its prestige.

34. The representatives of India and Yugoslavia (7th meeting) had already shown that the estimates system would be difficult to apply for practical reasons connected with the agricultural nature of production and unpredictable climatic factors. Yet despite that uncertainty affecting opium production, there was no hesitation in increasing the difficulties of the producing countries. In those circumstances, there seemed to be no reason why the same rules should not be applied to the manufacturers of synthetic drugs, who had to deal with far less serious problems. The amendments to add a sub-paragraph (c) to paragraph 2 was merely the consequence of the amendment to add sub-paragraphs (g) and (h) to paragraph 1 that the Commission had already approved by roll-call vote (6th meeting). The control of opium production was undoubtedly inadequate in some respects, but other substances were equally deserving of attention. In fact the same conflict could now be observed as had arisen at the United Nations Conference to adopt a Protocol on Psychotropic Substances, a conflict between certain economic interests and the desire to sell a given volume of output, on the one hand, and the need to protect public health, on the other. That Conference had expressly decided in favour of the second need. The developing countries had no economic interests to defend, and the Venezuelan representative had expressed their view that the health of the peoples of the world must be protected.

35. Mr. VAILLE (France) said he wished to state, as categorically as the representative of Togo had done, that the French delegation was also most anxious to protect the public health, and that that concern should outweigh all economic interests. France was in basic agreement with the Venezuelan representative, and confirmed that in addition to the traffic in amphetamines already mentioned, United Nations reports had also referred to clandestine production of synthetic narcotic drugs and LSD. On the other hand, he could not agree with Venezuela's view that an exception should be made in the case of the galenicals, which were listed in schedule III of the 1961 Convention under the heading "preparations" and which must obviously be subject to the general system, since they could give rise to major diversions.

36. With regard to the extra work that would result from applying the provisions of the new article, it was not merely a question of additional administrative work, but also of the financial consequences which an increase in the number of estimates would entail for the Board. There would be no serious objection to accepting the measure if it proved useful, but that was not the case.

37. As far as the general implications and observance of the Convention were concerned, thus far the system had been consistent, as the 1953 Protocol had provided for the furnishing of estimates of the area of opium poppy cultivation and of opium production in the same way as for the consumed or manufactured products that were covered by the 1925 and 1931 Conventions. The 1961 Convention had constituted a setback, but as the 1953 Protocol had continued to be applied, the estimates had retained its full value. However, since paragraph 3 of article 20 (Statistical retains to be furnished to the Board) had not been amended and could not now be amended, no proposal to that effect having been submitted, valid comparisons could no longer be made.

38. Thus far, real equality had been maintained between the countries producing natural substances and those manufacturing drugs; that equality had been slightly affected by the text of the 1961 Convention, although not in practice, since the 1953 Protocol had in effect been maintained. In view of the mass of documentation in the possession of delegations, it was understandable that they had perhaps failed to attach sufficient importance to the Board's last report on the estimates for 1972. In that report the Board set forth the principle underlying the estimates, which was based on the provisions of articles 19, 20 and 21, but those provisions could only be invoked in so far as articles 20 and 21 were compatible with article 19. There was no question of penalizing the opium-producing countries and leaving the producers of synthetic products quite free. The French delegation wished to make it clear that it had always advocated equality between the producers of natural drugs and the manufacturers of synthetic products, but it also wished to point out that article 19 in the form proposed did not fit in with the other provisions.

39. Mrs. OLSEN de FIGUERAS (Costa Rica) said that her delegation whole-heartedly supported the Venezuelan proposal. Though synthetic drugs had extremely valuable specific and medical uses, they could unfortunately also be diverted to illicit purposes, and the amended 1961 Convention should therefore apply the same provisions to them as to opium. The Costa Rican delegation would welcome any proposals for improving the wording of the amendment.

40. Mr. KEMENY (Switzerland) said that he appreciated the concern which had prompted the Venezuelan delegation to submit its amendment. The arguments just put forward by the representatives of the United Kingdom, the Netherlands and France were, however, quite convincing. The Swiss delegation doubted whether such estimates were useful or even possible. To give an illustration, morphine and codeine were manufactured either from raw opium or from a poppy straw concentrate. Some firms were equipped to manufacture those drugs from poppy straw concentrate, while others had special machinery for converting raw opium into morphine. Before those firms could supply estimates, they would have to know not only the quantity of raw material

\[\text{INCB, Estimated world requirements of narcotic drugs and estimates of world production of opium in 1972 (United Nations publication, Sales No. E.72.XI.1).}\]
placed on the market (at a time when the producing countries had not yet submitted their own estimates), but also the proportions it would contain of poppy straw and raw opium. The preparation of such estimates would be made even more difficult by the provisions relating to the limitation of importation in article 21.

41. Dr. SULIMAN (Sudan) said it was doubtful whether natural and synthetic drugs could be put on the same footing, for, whereas opium, an agricultural product, could not be very closely controlled, the manufacture of synthetic drugs was governed by very strict laws and regulations. As a doctor, he had found that drug addicts tended to prefer the natural to the synthetic drugs, and the latter were therefore less profitable for traffickers.

42. Some developing countries seemed to harbour exaggerated fears about the development of the illicit traffic in synthetic drugs. Sudan had no problems of that sort; doctors estimated the requirements of narcotic drugs for the ensuing year and that quantity alone was admitted to the territory; imports of amphetamines were completely prohibited. The control system was comparatively easy to apply, owing to laws and regulations that were well understood and to the collaboration of the medical profession.

43. Another reason why it was reasonable to treat natural and synthetic drugs differently was because the synthetic drugs involved much less handling and transport, so that diversion was much more difficult. In any event, quite apart from all the foregoing considerations, he questioned whether, from a medical standpoint, it was really essential to use narcotic drugs, at any rate on the current scale.

44. His delegation did not therefore consider it essential for estimates to be established for synthetic drugs.

45. Dr. AZARAKHCH (Iran), speaking in exercise of his right of reply, explained that, contrary to what had been stated by the representative of Togo, he had not said that synthetic drugs were less dangerous than the others; he had simply referred, first to dosage and, secondly, to the quantities which might be seized in various countries.

46. Mr. ANAND (India), said he welcomed the Venezuelan representative’s well-conceived proposal, which had brought the Conference to the very heart of the problem. The illicit traffic in narcotic drugs was carried on in many countries, and diversions occurred at every stage, production, transport, conversion and consumption. It would thus be logical to supplement the Board’s sources of information by requesting establishments which produced synthetic narcotics drugs to submit estimates, which would be used in the same way as those relating to natural drugs.

47. The delegations of the developing countries had noted a steadily increasing contradiction as the Conference proceeded: the industrialized countries were adopting a totally different attitude depending on whether the discussion related to the production of opium or the manufacture of synthetic drugs, since the latter concerned them directly. The United Kingdom representative, for example, had made a brilliant and very eloquent statement about the amendment proposed by Venezuela, but why had he not spoken of the futility of estimates in connexion with raw materials? Did that not reflect discrimination? It might well be asked why it would be impossible for establishments manufacturing drugs to furnish estimates, when those same establishments put in orders for raw materials and therefore knew precisely what quantities they intended to produce. The argument that there were far too many establishments for valid estimates to be possible could well be advanced by the producing countries, which had to deal with thousands of growers. In point of fact, estimates were in any event very approximate, and the only figures which could really be relied upon were those relating to actual production. However that might be, since the diversion of drugs to illicit purposes might occur at all levels (the manufacturers of synthetic drugs being no above suspicion than anyone else), any measure should be equally applicable to synthetic products and to raw materials. Furthermore, as the Soviet Union representative had pointed out, it was much easier to smuggle manufactured drugs than raw opium, which was bulky and had a characteristic odour.

48. The United Kingdom representative had expressed opposition to the idea of estimates being furnished for exports. There was, however, no question of that in article 19, which referred only to estimates of the quantities to be produced, the quantities to be consumed or converted and the quantities to be added to special stocks. Nor did article 21 make any provision for estimates relating to exports. His apprehensions on that point were therefore unfounded.

49. The Venezuelan amendment was entirely appropriate and equitable; the Indian delegation considered that estimates, whether they related to raw materials or to synthetic substances, were of no great value and that the present provisions of the 1961 Convention were perfectly satisfactory. Like the delegations of the Soviet Union, Yugoslavia and Togo, his delegation considered that natural and synthetic drugs should be treated in the Convention in exactly the same way.

50. Mr. GROSS (United States of America) proposed that the Conference should consider holding night meetings.

51. The CHAIRMAN replied that, in view of the lateness of the hour, the matter would be discussed at the next meeting.

The meeting rose at 12.55 p.m.

FOURTEENTH MEETING

Wednesday, 15 March 1972, at 2.50 p.m.

Chairman: Mr. CHAPMAN (Canada)

Organization of work

1. The CHAIRMAN said that at the 13th meeting the United States representative had proposed that a night meeting should be held on Thursday, 16 March.
2. Mr. McKIM (Canada) supported that proposal.
3. Dr. AZARAKHCHI (Iran) suggested that morning meetings should begin at 9 a.m. instead of 9.30 a.m.
4. Mr. NIKOLIĆ (Yugoslavia) said that night meetings should be avoided. He associated himself with the Iranian suggestion and said that afternoon meetings should be extended until 7.30 p.m.
5. Dr. JOHNSON-ROMUALD (Togo) said that the solution proposed by the Yugoslav representative was the best in terms of efficiency. Additionally, night meetings might have to be held during the last week if it was really necessary.
6. Mr. SAGOE (Ghana) supported the United States proposal. He said that night meetings would be essential if delegations were to have sufficient time to express themselves fully.
7. Following a suggestion by Mr. KIRCA (Turkey), the CHAIRMAN proposed that a decision on the matter should be left to the Conference, which was to meet that day at 6 p.m., because the secretariat would first have to say whether it could service extended or night meetings.

It was so decided.

Consideration of all amendments proposed to the Single Convention on Narcotic Drugs, 1961 (item 11 of the Conference agenda) (continued) (E/CONF.63/5 and addenda)

ARTICLE 19 (Estimates of drug requirements) (continued) (E/CONF.63/5, E/CONF.63/C.1/L.22)

Paragraph 2 (continued)

Sub-paragraph (c) (continued)

8. Mr. OLUWOLE (Nigeria) said that opium and synthetic narcotic drugs should be placed on the same footing in the 1961 Convention. However, synthetic narcotic drugs were not even defined in the Convention. Nigeria, which was a consumer country, felt that a balance should be struck and uniform provisions applied to the two kinds of narcotic drugs. That was particularly justified at a time when synthetic narcotic drugs were being seriously abused. He therefore supported the Venezuelan amendment.

9. Mr. CALENDI (Italy) said that his country too thought that a balance should be established in the amended 1961 Convention between natural and synthetic narcotic drugs. However, opium processing consisted of elementary activities which were easy to perform, whereas synthetic narcotic drugs involved manufacture on an industrial scale, which lent itself far more easily to control. Italy shared the doubts which the United Kingdom had expressed about the Venezuelan amendment. In particular, it believed that the effect of the amendment would be to weaken the existing control system. His delegation was therefore unable to accept the amendment and, like the French delegation, asked that the reasons for its decision should be duly noted in the summary records.

10. Mrs. CAMPOMANES (Philippines) said that no country was likely to be inconvenienced if the amendment to add a sub-paragraph (c) to paragraph 2 of article 19, proposed by Venezuela (E/CONF.63/C.1/L.22), was adopted. The aim of the Conference was to reduce trafficking in both natural and synthetic narcotic drugs. The industrialized countries should channel their resources and expertise into the production of less dangerous products.

11. Dr. DANNER (Federal Republic of Germany) said that he did not think a provision concerning synthetic narcotic drugs could be adopted unless they were defined.

12. The CHAIRMAN asked whether, in addition to the Venezuelan amendment, any delegations had formal proposals to offer as a result of the suggestions they had made, including those put forward at the 13th meeting.

13. Mr. de BOISSERON (France) formally proposed that a working group should be set up to consider the various problems raised by the Venezuelan amendment, in order to ensure that the Conference did not adopt a text that was inconsistent with the Convention. In particular, care should be taken to avoid any conflict with the provisions of article 20 (Statistical returns to be furnished to the Board) and 21 (Limitation of manufacture and importation). It was necessary to create a working group if the text ultimately submitted to delegations was to be consonant with the principles of the 1961 Convention.

14. Mr. ANAND (India) said that the effect of the Venezuelan amendment had been to raise doubts about the entire estimate system for both natural and synthetic narcotic drugs. It would therefore be necessary to go beyond the proposed paragraph 2 (c) and review the question of estimates as a whole, because article 19 could not be separated from article 21bis (Limitation of production of opium), which flowed from it, and it was particularly connected with paragraphs 1, 2 and 3 of that article. He therefore supported the French proposal, on the understanding that the working group would deal with all problems of estimates.

15. Mr. NIKOLIĆ (Yugoslavia) said that the course proposed by the Indian representative was most to be recommended. The working group should review the whole question of estimates; if, as a result of its conclusions, the Committee wished to change any articles it had already approved, it could do so by a two-thirds majority vote, as provided for in the rules of procedure of the Conference.

16. Dr. JOHNSON-ROMUALD (Togo) pointed out that earlier he had formally proposed a vote on the Venezuelan amendment. Although he was not opposed in principle to the establishment of a working group, there had been formal voting on the other parts of paragraph 19 and that procedure should be adopted for the proposed paragraph 2 (c). The establishment and terms of reference of a working group could be considered afterwards.

17. Mr. SAGOE (Ghana) and Dr. HOLZ (Venezuela) supported the Togolese proposal.

18. Mr. KIRCA (Turkey), speaking on a point of order, said that the spirit, if not the letter, of the rules of procedure required that the proposal for the establishment
of a working group should be voted on first because it was the furthest in substance from the initial proposal. In making a pronouncement on that point, the Committee would show whether it considered the substantive question sufficiently ripe for an immediate decision. Turkey would vote in favour of the Venezuelan amendment if it was put to the vote immediately, but it felt that compromise solutions should be sought if the amended 1961 Convention were to be accepted by the largest possible number of States. He proposed that the working group should consider paragraphs 1, 2 and 3 of article 11bis and article 19 and try not to go back on decisions which had already been voted. If it found it necessary to propose new texts, they would have to be considered in accordance with the procedure contemplated in rule 37 of the rules of procedure (Reconsideration of proposals).

19. Mr. GROSS (United States of America) said that, in accordance with rule 33 of the rules of procedure (Order of procedural motions), the Togolese motion for closure of the debate took precedence.

20. The CHAIRMAN proposed that the Togolese motion for closure of the debate should be put to the vote.

21. Mr. VAILLE (France) pointed out that the Committee had already approved the closure of the debate. He interpreted the rules of procedure in the same way as the Turkish representative.

22. Mr. KIRCA (Turkey) said that he was not opposed to the closure of the debate in itself but asked that the Committee should first take a decision on the establishment of a working group.

23. The CHAIRMAN explained that the Togolese representative had requested that the Committee should first vote on the motion for closure, in accordance with rule 31 of the rules of procedure (closure of debate), and then on the Venezuelan amendment.

24. Mr. KIRCA (Turkey) said that if the motion for closure was carried, it would be impossible to vote on the question of establishing a working group. He therefore formally moved the adjournment of the debate, a motion which took precedence over the motion for closure, the proposal to set up a working group. If the latter was adopted, the vote on the Venezuelan amendment would be postponed.

25. Mr. GROSS (United States of America) said that it was superfluous to put the motion for closure to the vote, because it had already been received. He therefore suggested that a vote should first be taken on the motion for closure and then on the proposal to set up a working group. If the latter was adopted, the vote on the Venezuelan amendment would be postponed.

26. Mr. GROSS (United States of America) said that it was superfluous to put the motion for closure to the vote, because it had already been approved. The Togolese representative had requested the closure of the debate, followed by a vote on the Venezuelan amendment. He formally endorsed that proposal. The establishment of a working group would depend on the result of the vote on the Venezuelan amendment.

27. Dr. JOHNSON-ROMUALD (Togo) associated himself with the previous speaker's statement.

28. Mr. NIKOLIĆ (Yugoslavia) pointed out that the debate was in fact closed, since no one had opposed the motion for closure and it had therefore been adopted ipso facto. That decision could not be taken a second time by a vote.

29. Mr. KIRCA (Turkey) said that he had moved the adjournment of the debate to enable the Committee to take a decision on the proposal for the establishment of a working group. If that proposal was put to the vote first, he was prepared to withdraw the motion for adjournment. If the debate was closed, however, it would be impossible to set up a working group. He therefore proposed a vote on the principle of establishing a working group. A vote in favour would automatically amount to adjournment of the debate.

30. Mr. GROSS (United States of America) said that he disagreed with that proposal, since it was not in conformity with either rule 33 or rule 47 (Voting on proposals) of the rules of procedure. The proposal by the Togolese representative—closure of the debate followed by a vote on the Venezuelan amendment—took precedence over the proposal to set up a working group.

31. Mr. KIRCA (Turkey) said that it would be irregular for the Committee not to decide on a proposal made in proper form, and yet it could not take a decision on the establishment of a working group if the debate was closed. He had moved the adjournment of the debate in an attempt to find some way of a vote being taken on the question of the working group. He was prepared to withdraw his motion for adjournment if the decision to close the debate was followed by a vote on the establishment of a working group and not on the Venezuelan amendment. Otherwise he would maintain that motion.

32. The CHAIRMAN said he would put to the vote the Turkish motion for adjournment of the debate. In accordance with rule 30 of the rules of procedure (Adjournment of debate), two representatives could speak in favour of, and two against, the motion.

33. Dr. BABAİAN (Union of Soviet Socialist Republics) supported the Turkish representative's proposal. The establishment of a working group had been suggested at the 13th meeting and was therefore the first, in chronological order, of the proposals that had been submitted. The prevent a vote on the matter would be contrary to the elementary principles governing international meetings.

34. Dr. JOHNSON-ROMUALD (Togo) repeated that, in accordance with rule 47 of the rules of procedure, the motion for closure of the debate took precedence over the proposals made during the present meeting.

35. The CHAIRMAN, said that the closure of the debate had not yet been formally decided by vote. The Turkish motion for adjournment was therefore in order and took precedence under rule 33 of the rules of procedure. He put that motion to the vote.

The motion to adjourn the debate was adopted by 36 votes to 23, with 17 abstentions.

36. The CHAIRMAN invited the Committee to take a decision on the proposals to establish a working group. In accordance with rule 47 of the rules of procedure, the
Committee should vote on the proposals in the order in which they had been submitted.

37. Mr. GROSS (United States of America) said that he thought the Committee had plainly decided to adjourn any discussion of article 19. It should therefore take up another article.

38. The CHAIRMAN said that the Turkish representative had moved the adjournment of the debate to enable the Committee to take a decision on the establishment of a working group.

39. Mr. KIRCA (Turkey) pointed out that it was normal conference practice not to move the adjournment of a debate except for a specific purpose, for instance, to enable delegations to hold consultations. On the present occasion, his delegation had intended to make it possible for the Committee to decide on the establishment of a working group to examine the Venezuelan amendment. If it was procedurally necessary, he would make a formal request for the reopening of the debate and a vote on the proposals relating to the establishment of a working group.

40. Mr. ANAND (India), speaking on a point of order, said that in voting in favour of the adjournment of the debate, he had assumed that the Committee would proceed to vote on the proposals which had been submitted, and which were still valid. If the order of submission was followed, the Belgian proposal should be examined first, since it had been submitted the previous day (12th meeting).

41. Mr. SAMSOM (Netherlands), speaking on a point of order, said that, by virtue of rule 24 of the rules of procedure (General powers of the President), the Chairman was responsible for ruling on points of order for settling procedural questions. The members of the Committee should abide by his ruling.

42. Dr. JOHNSON-ROMUALD (Togo) protested against the fact that the Chair had given no consideration to his motion for closure of the debate.

43. The CHAIRMAN said that the Togolese representative's comment was unjustified.

44. Dr. BABAIAN (Union of Soviet Socialist Republics) said he did not think there was any reason why the proposals should not be considered after the adjournment of the debate. If the Committee had reached a deadlock on a particular question, the establishment of a working group would help it to resume its task constructively and would be a logical step.

45. Mr. GROSS (United States of America) pointed out that adjournment of the debate and closure of the debate implied different courses. In his view, adjournment put an end to the discussion on a particular question and was more decisive than closure, which allowed for the reopening of the debate. In any event, the Togolese proposal to close the debate should perhaps be considered.

46. The CHAIRMAN said that under rule 33 of the rules of procedure, a motion to adjourn the debate took precedence over a motion for the closure of the debate. Having consulted the Legal Adviser to the Conference, he considered that the adjournment of the debates concluded the examination of substantive proposals, but not of procedural ones, such as the proposal to set up a working group. He therefore invited the members of the Committee to examine the first proposal submitted on that point, by Belgium. It called for the establishment of a working group to examine article 19, paragraph 2 (c), in other words the Venezuelan amendment in document E/CONF.63/C.1/L.22, in the light of the relevant articles.

47. Dr. BABAIAN (Union of Soviet Socialist Republics) observed that two other proposals—that of France and that of India and Yugoslavia—were before the Committee.

48. Mr. de BOISSESON (France) said that his delegation would withdraw its proposal, in order to expedite the work of the Committee, but it supported the establishment of a working group. The Yugoslav and Indian suggestions constituted amendments to the Belgian proposal and should therefore be considered first, in accordance with rule 46 of the rules of procedure (Voting on amendments).

49. Mr. ANAND (India) said that he did not agree with the French representative. The Belgian proposal differed from that made by India and Yugoslavia, in that it would instruct the working group to consider not only paragraph 2 (c) of article 19 but also all the articles relating to estimates, namely articles 12, 19, 20, 21 and 21bis.

50. Mr. GROSS (United States of America) said that the working group would be empowered to consider only paragraph 2 (c) of article 19. If it was to reconsider articles already approved by the Committee, it would have to be authorized to do so by a two-thirds majority of the representatives present and voting, in accordance with rule 37 of the rules of procedure (Reconsideration of proposals).

51. Mr. KIRCA (Turkey) said that the articles and paragraphs to be dealt with by the working group should be spelled out precisely. If it was to consider the estimate system, that question was dealt with in article 19 and article 21bis, paragraphs 1, 2 and 3. He therefore proposed that the Committee should adopt a text worded on the following lines:

“The Working Group shall consider article 19 and article 21bis, paragraphs 1, 2 and 3, taking account of the decisions of substance already taken by the Committee. It shall also consider amendments on which the Committee has not yet taken a decision, and shall do so in the light of the deliberations of the Committee.”

That text would make it quite clear that the working group was not empowered to reconsider decisions of substance taken by the Committee with regard to the estimate system.

52. Mr. HUYGHE (Belgium) said that he could support the Turkish proposal, which defined the working group's terms of reference with precision.

53. Mr. NIKOLIĆ (Yugoslavia) said that he did not fully understand what the working group's terms of
reference would be under the Turkish proposal. If the group was to take account of the decisions of substance taken by the Conference, it could concern itself only with the Venezuelan amendment, and not with the articles on which the Committee had already taken a decision. If that was not the case, a two-thirds majority vote would be necessary to authorize it to reconsider adopted articles.

54. Mr. KIRCA (Turkey) acknowledged the merits of the Yugoslav representative’s observations; the working group could not be empowered to consider a proposal approved by the Committee except in accordance with the provisions of rule 37 of the rules of procedure, in other words, by a decision taken by a two-thirds majority of the Committee. In order to take account of those provisions, it might be possible for the text which he had just proposed to include wording indicating that the working group reserved the right, if necessary, to make proposals which were subject to rule 37 of the rules of procedure.

55. Mr. ANAND (India) said it was essential that the working group should consider the whole question of estimates, and he had interpreted the Belgian proposal in that light. If the group’s terms of reference were now to be limited to the consideration of paragraph 2 (c) of article 19, he would withdraw his delegation’s support for that proposal, which would amount to establishing a working group solely for the purpose of reconsidering the text of the Venezuelan amendment. If the Committee needed to take a decision by a two-thirds majority in order to give the working group broader terms of reference, he would have no objection to its doing so.

56. Mr. KIRCA (Turkey) pointed out that, in order to take account of the objections raised by the Yugoslav and Indian representatives, he had proposed the addition of a sentence stating, in substance, that the working group reserved the right, under rule 37 of the rules of procedure, to request the Committee to reconsider provisions on which a decision of substance had already been taken. However, it would be premature for the Committee to take a decision immediately on the reconsideration of proposals already adopted; a better course would be to wait until the working group reported to the Committee, which would then decide whether such a decision was necessary.

57. Mr. HUYGHE (Belgium) said that his delegation supported the formulation just indicated by the Turkish representative, which corresponded to his original proposal.

58. Dr. JOHNSON-ROMUALD (Togo) said that he too considered that the working group should have broad terms of reference and not confine its consideration to those provisions on which a decision of substance had not yet been taken; the Committee could decide by a two-thirds majority to reopen the discussion on the proposals.

59. Dr. BABAIAN (Union of Soviet Socialist Republics) supported the views expressed by the Yugoslav and Togolese representatives. It was important that the working group should be able to review all aspects of the proposed estimate system, whose coherence and reliability had been challenged by many delegations. The group would submit recommendations to the Committee for decision.

60. Mr. NIKOLIĆ (Yugoslavia) said that the Committee had reached a deadlock; the proposed estimate system could not operate and would not be accepted. The working group should therefore review the whole structure of the system and propose an entirely new basis, which might be generally acceptable. He intended to submit an amendment along those lines.

61. The CHAIRMAN read out the Belgian proposal, the text of which was:

“The Working Group shall examine paragraphs 1, 2 and 3 of article 21bis and article 19, taking account of the decisions of substance already taken by the Committee, subject to the right possessed by the Working Group under rule 37 of the rules of procedure to ask the Committee to re-examine the provisions on which a decision of substance has already been taken. It shall also examine amendments on which the Committee has not yet been able to decide.”

62. Mr. KIRCA (Turkey) suggested that, in order to secure the agreement of all delegations, the proposal should be worded:

“The Working Group shall consider article 19 and the relevant paragraphs of article 21bis as a whole, on the understanding that it may consider the possibility of proposing new texts to the Committee under rule 37 of the rules of procedure. It shall also consider those amendments on which the Committee has not yet been able to take a decision.”

63. Mr. HUYGHE (Belgium) supported that wording.

64. In reply to a question put by Dr. BABAIAN (Union of Soviet Socialist Republics), the CHAIRMAN said that the working group would naturally confine its consideration to those parts of article 19 in respect of which amendments had been proposed.

65. Mr. GROSS (United States of America) again pointed out that the Committee could not instruct the working group to consider proposals that had already been approved, unless it first decided by a two-thirds majority to reconsider those proposals, in accordance with rule 37 of the rules of procedure.

66. The CHAIRMAN read out a proposal submitted to him in writing by the Yugoslav representative:

“The Working Group shall be responsible for seeking a solution in conformity with the 1961 Convention concerning estimates, in the light of the ideas presented in the course of the discussion of the amendments made or proposed to article 19 of the 1961 Convention.”

67. He said that the Committee would have to adjourn its discussion because the Conference was about to meet in plenary session.

The meeting rose at 6.5 p.m.
FIFTEENTH MEETING
Thursday, 16 March 1972, at 9.15 a.m.

Chairman: Mr. CHAPMAN (Canada)

Consideration of all amendments proposed to the Single Convention on Narcotic Drugs, 1961 (item 11 of the Conference agenda) (continued) (E/CONF.63/5 and addenda)

ARTICLE 19 (Estimates of drug requirements) (continued) (E/CONF.63/5, E/CONF.63/C.1/L.22)

Paragraph 2 (concluded)

Sub-paragraph (c) (concluded)

1. The CHAIRMAN said that at the close of the 14th meeting, the Committee had had before it two proposals to set up a working group: one submitted by Belgium and Turkey and the other by Yugoslavia. He suggested that they should be put to the vote in the order in which they had been submitted, the Yugoslav proposal not being an amendment to the Belgo-Turkish proposal.

2. Mr. KIRCA (Turkey) said that, following consultations, he wished to support the Yugoslav proposal and that the Belgian proposal, had asked him to say that he too supported the Yugoslav proposal.

3. Mr. HUYGHE (Belgium) maintained his proposal.

4. Mr. de BOISSÈSON (France) thought that the Yugoslav proposal was too broad and would therefore vote for the Belgian proposal.

5. Mr. KIRCA (Turkey), speaking on a point of order, said that the texts of the two proposals concerning the working group’s terms of reference were different in form but not in substance. He therefore proposed that the Committee should first take a decision on the principle of setting up a working group and then, if necessary, on its terms of reference.

6. The CHAIRMAN considered it would be best for the Committee to take a decision on specific texts rather than on a principle.

7. Mr. KIRCA (Turkey) maintained his proposal, since if the two texts were put to the vote directly, the results might not give a clear idea of the Committee’s wishes. Both texts might be rejected for reasons of form, even if the Committee as a whole supported the principle of setting up a working group.

8. Dr. BABAIAN (Union of Soviet Socialist Republics) supported the Turkish proposal, which was in accordance with international practice.

9. The CHAIRMAN invited the Committee to take a decision on the principle of setting up a working group.

10. Mr. SAMSOM (Netherlands), speaking on a point of order, said that he understood that three proposals had been put before the Committee, the first submitted by Belgium, the second by Yugoslavia and the third by Turkey. He wondered whether it was in order to take a decision on the last proposal first.

11. The CHAIRMAN said that the Turkish proposal in effect invited the Committee to take a separate decision on the first part of the Belgian and Yugoslav texts. On the basis of rule 45 of the rules of procedure of the Conference (Division of proposals and amendments), he ruled that the Committee could first take a decision on the principle of setting up a working group.

12. Mr. de ARAUJO MESQUITA (Brazil), speaking on a point of order, asked whether the vote would be by a two-thirds majority or a simple majority.

13. Mr. GROSS (United States of America), speaking on a point of order, said that the Brazilian representative had put a very pertinent question. He himself considered that the Turkish proposal (like the Belgian and Yugoslav proposals) dealt with an extremely important point—the establishment of a working group to re-examine the whole estimate system. A decision of that importance required, in his opinion, a two-thirds majority.

14. Mr. WATTLES (Legal Adviser to the Conference) thought that a two-thirds majority was not necessary so far as the actual principle of setting up a working group was concerned. The two proposals concerning the working group’s terms of reference posed a more difficult problem. Under the Yugoslav proposal, the working group would be asked to find a solution for the estimates system in keeping with the 1961 Convention, bearing in mind the Committee’s debates and the amendments made or proposed to article 19. The Belgian proposal, on the other hand, was for the working group to study the whole of article 19 and the relevant paragraphs of article 21bis, on the understanding that it could propose new texts in accordance with rule 37 of the rules of procedure (Reconsideration of proposals), and to examine amendments which had not yet been taken up by the Committee. Rule 37 of the rules of procedure was applicable in cases when new amendments were submitted to texts which had already been approved; such amendments could only be considered if the Conference so decided by a two-thirds majority. But rule 37 only applied when it was the Committee itself and not another organ which was to reconsider the proposal already approved. The fact that one organ had taken a decision on a matter did not prevent another organ from discussing it.

15. Moreover, neither of the two proposals would empower the working group to actually change anything which had already been decided. All it would be able to do was to determine whether, in its opinion, such a change was desirable. Hence, it was not certain that the Committee itself would be asked to go back on any of its decisions.

16. In the circumstances, rule 37 of the rules of procedure did not seem to apply and the terms of reference of the working group need not be adopted by a two-thirds majority.

17. The CHAIRMAN said that in view of the statement made by the Legal Adviser to the Conference, the vote on the three proposals would be by a simple majority.

18. Mr. di MOTTO (Costa Rica), speaking on a point of order, thought that such an important and controversial question should be decided by the Committee.
19. Dr. BABAIAN (Union of Soviet Socialist Republics) said that the ruling by the Chairman should not be reversed. Moreover, under paragraph 4 of rule 41 of the rules of procedure (Required majority) decisions of the Committee were taken by a majority of the members present and voting.

20. The CHAIRMAN noted that the Costa Rican representative had appealed against his ruling. Under rule 27 of the rules of procedure (Points of order), that appeal had to be put to the vote immediately.

The ruling of the Chairman was sustained by 43 votes to 2, with 15 abstentions.

21. The CHAIRMAN announced that the Turkish proposal concerning the establishment of a working group would be put to the vote. To save time, however, he suggested that representatives who wished to speak should express their views on all three proposals, and not just on the first.

It was so decided.

22. Dr. MÄRTENS (Sweden) expressed disappointment at the turn the discussions were taking. Most delegations had come to the Conference in the hope of finding more effective means of controlling the abuse of narcotic drugs, whether natural or synthetic, but he was beginning to wonder whether it had not been naïve of them to do so. At all events, the time had come to decide whether the Conference was to be constructive or whether procedural discussions were to take precedence over matters of substance. His delegation firmly believed that the establishment of the working group would hamper the Committee's efforts still further, and urged the sponsors of the proposals to withdraw them; if they did not, the Committee would presumably have to decide the matter by a two-thirds majority. The Legal Adviser to the Conference had said that after one body had taken a decision, another body could discuss it afresh. But a working group set up by the Committee was not really a separate body; rather, it was an extension or off-spring of the Committee.

23. The CHAIRMAN pointed out that he had ruled in favour of a simple majority vote, that one delegation had appealed against his decision and that the appeal had been rejected by the majority of the Committee.

24. Mr. KIRCA (Turkey) said he understood the Swedish representative's feelings on the subject and agreed that legal wrangles would contribute nothing useful to the work of the Conference. However, the problems called for proper reflection, however, and for something more than an immediate reaction. The situation was such that representatives who wished to speak should express their views on all three proposals, and not just on the first. He appreciated the arguments advanced by the Turkish delegation in favour of setting up a working group, but in the present case it would be simpler to vote on the Yugoslav amendment, on which all delegations had had an opportunity to take a position during the discussions. If a working group were set up, however, his delegation would be fully prepared to participate in its work in order to help to find a workable solution.

25. Dr. HOLZ (Venezuela) shared the views of the Swedish representative. His own delegation had submitted its amendment in a sincere desire to ensure that all drugs were controlled on an equitable basis and to protect public health at the national and international levels. But the discussions on the amendment had brought in administrative, commercial and procedural considerations totally unrelated to public health, which was, after all, the basic objective of the Conference. Just when there were grounds for hoping that the discussions were about to clarify the situation, the idea of a working group had come up and given rise to a lengthy procedural debate. He appreciated the arguments advanced by the Turkish delegation in favour of setting up a working group, but in the present case it would be simpler to vote on the Yugoslav amendment, on which all delegations had had an opportunity to take a position during the discussions. If a working group were set up, however, his delegation would be fully prepared to participate in its work in order to help to find a workable solution.

26. As had been seen in connexion with article 14, the best way of reaching a compromise was to set up a working group. That method would also enable the Committee to make faster progress, since the working group could be asked to report on its work within a relatively short time.

27. He appealed to all delegations to support the setting up of a working group, because the earlier experience had produced positive results; if they hardened their positions, the protocol would be still-born.

28. The CHAIRMAN remarked that the Turkish representative had proposed the inclusion of a time-limit in the working group's terms of reference, and asked whether the Yugoslav and Belgian delegations accepted that proposal.

29. Mr. NIKOLIĆ (Yugoslavia) accepted the proposal.

30. Mr. HUYGHE (Belgium) also accepted the proposal and expressed regret that he had unwittingly involved the Committee in such lengthy discussions. His object had merely been to avoid difficulties by finding as quickly as possible a solution acceptable to all.

31. Dr. HOLZ (Venezuela) shared the views of the Swedish representative. His own delegation had submitted its amendment in a sincere desire to ensure that all drugs were controlled on an equitable basis and to protect public health at the national and international levels. But the discussions on the amendment had brought in administrative, commercial and procedural considerations totally unrelated to public health, which was, after all, the basic objective of the Conference. Just when there were grounds for hoping that the discussions were about to clarify the situation, the idea of a working group had come up and given rise to a lengthy procedural debate. He appreciated the arguments advanced by the Turkish delegation in favour of setting up a working group, but in the present case it would be simpler to vote on the Yugoslav amendment, on which all delegations had had an opportunity to take a position during the discussions. If a working group were set up, however, his delegation would be fully prepared to participate in its work in order to help to find a workable solution.

32. He also understood the reservations expressed by some delegations regarding the term "territory" as used in the proposed sub-paragraph (c) of paragraph 2 of article 19, by analogy with sub-paragraphs (a) and (b), and was prepared to consider any proposal for replacing it by a more suitable expression.

33. Dr. BABAIAN (Union of Soviet Socialist Republics) expressed regret that the Turkish delegation was against setting up a working group, the desirability of which had been most convincingly argued by the Turkish representative.

34. Mr. NIKOLIĆ (Yugoslavia) accepted the proposal.

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rigid a policy and endeavour, in a realistic and concilia­tory spirit, to bring their points of view closer into line and find a compromise solution acceptable to all. The establishment of a working group would greatly facilit­ate that task and his delegation fully supported the idea.

36. Mr. ANAND (India) whole-heartedly endorsed the views expressed by the Turkish and Soviet delega­tions. He was beginning to fear that, unless the Con­ference was more realistic, it would fail to carry out the task entrusted to it.

37. It was unrealistic, for instance, to study separately provisions which were in fact closely allied. The Vene­zuelan amendment had helped delegations to understand that it was not enough to control the traffic in natural drugs and that the struggle had to be waged on all fronts. The question of the usefulness of estimates had then arisen, and countries had realized that to control production did not in itself make one master of the situation; the relationships between estimates, actual production, licit and illicit production had become evi­dent, and the problem had appeared in its true perspec­tive and as a single whole.

38. Like the Turkish representative, he believed in the need to set up a working group as the only means of comparing and harmonizing, in a realistic way, the diver­gent views that had emerged concerning the system of estimates. It was not a question of pushing across one point of view at all costs, but of drawing up, in a spirit of compromise, a treaty which was likely to gain as many accep­tions as possible and thus prove capable of ensuring effective measures to combat the abuse of all kinds of drugs. The Working Group set up to deal with article 14 had produced a solution which, although not perfect, was at least balanced.

39. In his view, the Belgian and Yugoslav proposals regarding the terms of reference of the proposed working group were basically the same, in that they would give the group the task of studying all those aspects of the various articles which related to the system of estimates and its consequences. Terms of reference could be worked out on the basis of those proposals and put to the vote.

40. Mr. GROSS (United States of America) expressed doubts as to the value of a working group consisting, on the one hand, of well-meaning idealists convinced of the feasibility of finding a unanimously acceptable solution and, on the other, of negative thinkers who were unhappy about the provisions already approved and wished to call the whole control system in question. In his view, nothing could result from the confront­ment of such opposing points of view, particularly with regard to such a basic question as whether estimates should be extended to cover synthetic drugs or abolished altogether. A working group might be useful for finding a better formula or finalizing a text, as had been the case in connexion with article 14, but not for deciding on a question as serious as that now raised.

41. The Venezuelan proposals had already been the subject of lengthy and thorough debate, and all delega­tions had had an opportunity of defining their positions. A consensus of those positions could be worked out and votes taken on specific proposals. He agreed with the Swedish representative that that would be the only way of arriving at a solution acceptable to the world com­munity as a whole. But the establishment of a working group whose efforts, for the reasons he had just stated, would be doomed to failure, and which, moreover, would be unable to report on the outcome of its discussions until the following Monday, would considerably delay the work of the Committee and seriously jeopardize both its own success and that of the Conference as a whole.

42. Mr. McKIM (Canada) thought it would not be a good idea to set up a working group at the present stage of the Committee's work, particularly if, as appeared to be the case, the group was to study not only amendments which had already been considered by the Committee but also questions which had not.

43. Mr. SAMSOM (Netherlands) said that although he had supported the suggestion by Belgium at the 12th meet­ing to set up a working group, he now wondered whether the idea was a constructive one, in view of the short amount of time still available to the Committee. He saw little point in voting on the principle of setting up such a group: a vote could be taken immediately on the other proposals. His delegation would, however, vote for the Belgian proposal.

44. Mr. BRAENDEN (Secretary of the Committee), replying to a question by Mr. HVIDT (Denmark), stated that, for some time at least, interpretation services would be available to the proposed working group.

45. The CHAIRMAN invited the Committee to vote on the principle of setting up a working group to study article 19.

The principle of setting up a working group was rejected by 37 votes to 20, with 8 abstentions.

46. Mr. PATHMARAJAH (Ceylon), explaining his vote, said that he had voted against the proposal because, although he had been unable to attend the discussions on the question, he considered that at the present stage a working group could only hold up the Committee's work.

47. Dr. BABAIAN (Union of Soviet Socialist Repub­lics), explaining his vote, said he had voted for the estab­lishment of a working group, since he had thought that such a body had a chance of finding a formula acceptable to all. It was obvious, from the vote, that some delega­tions would rather pursue a hard-line policy than try to find a compromise. It might well be that because of their unrealistic attitude it would not be possible for the instrument finally drawn up to be adopted by all States, since it would be likely to contain measures discrimi­natory in respect of some of them.

48. Mr. ANAND (India) said he would be brief in explaining his vote, since the position of his delegation was already well known. In his view, the establishment of a working group would have made it possible to harmonize the divergent views and to arrive at more realistic pro­posals for amendments. He hoped that delegations would take a more realistic attitude in the discussion which was to follow, so that the results of the Con­ference would not be completely negative.
49. Mr. SAGOE (Ghana), explaining his vote, said that his delegation had voted against the establishment of a working group because it considered, like the Canadian delegation, that the Committee could not in the present circumstances run the risk of further delaying its work. Moreover, the question that the Danish representative had asked the Secretary of the Committee concerning the facilities that would be available to the working group had received only an evasive reply.

50. He wished to stress the fact that his delegation had always favoured the idea that natural and synthetic drugs should be governed by similar rules. He deplored the length of the procedural debate which had just ended, which he had tried in vain to avoid the previous day.

51. Mr. de BOISSESON (France), explaining his vote, said that although he had been opposed to the very idea of setting-up a working group, he had voted for it in the hope that it would make it possible to improve the drafting of the Venezuelan proposal sufficiently for his delegation to accept it. The French Government was in favour of any measure likely to facilitate the control of the illicit traffic in narcotic drugs, both natural and synthetic, and it would have no objection to providing more exact estimates for synthetic drugs. He thus welcomed the action taken by Venezuela in submitting its proposal but did not think that the proposal itself was in harmony with other provisions of the Convention, more particularly with article 21. Furthermore, it called for statistics on the number of establishments that manufactured synthetic drugs, but there was no similar provision for natural drugs. Lastly, the term "synthetic drugs" should be defined.

52. His delegation had at first thought that those questions could be settled by the Committee, but it had subsequently realized the need to establish a working group.

53. Mr. BEEDLE (United Kingdom), explaining his vote, reminded the Committee that since the beginning of the Conference he had opposed the establishment of working groups, mainly on account of the lack of time available. When the Committee had been deciding whether to set up a working group on the amendments to article 14, the future chairman of that working group had estimated that it would take 24 hours to complete its work; that time limit had in fact been exceeded, even though for quite understandable reasons. In the present case, the Committee had had to decide on the principle of setting-up a working group, without really knowing what its terms of reference were to be. One thing was certain, however, and that was that the working group would not have been in a position to consider article 21, which, in his view, was a very important article, and that it would have had little time at its disposal. Moreover, the representative of Venezuela had himself considered that the establishment of a working group would have been of no use. For all those reasons, the United Kingdom delegation had voted against the proposal.

54. Mrs. OLSEn de FIGUERAS (Costa Rica), explaining her vote, said that her delegation had voted against the setting-up of a working group. At a time when drug addiction was causing such havoc amongst youth, the Committee ought to apply itself seriously to the tasks entrusted to it, in order to ensure the success of the Conference. She appealed to all delegations to re-examine their positions and to act in a constructive way.

55. Dr. OLGUIN (Argentina), explaining his vote, said that his delegation had voted against the proposal because it considered that the questions to be dealt with by the working group were so important that they should be decided by the Committee itself.

56. He considered it regrettable that there had been such a long procedural debate before the vote. He had refrained from taking part, so as not to introduce new elements into the discussion.

57. Mr. CALENDÁ (Italy), explaining his vote, said that he had always been in favour of a working group set up to arrive at a compromise, without, however, calling into question the votes already taken on other amendments to the Convention. Generally speaking, his delegation would support any solution which would enable the Conference to achieve its aim, namely, the improvement of the Convention.

58. Mr. BOUZAR (Algeria), explaining his vote, said that he had voted against the proposal because the time allocated to the working group was inadequate and its terms of reference were not properly defined. Before voting on the establishment of a working group, two proposals concerning its terms of reference should have been voted upon, which would have made further long discussion necessary. According to the Yugoslav proposal, the working group would have been able to reconsider the provisions of article 19 already approved by the Committee, which would perhaps have nullified all the work accomplished during the preceding days. In those circumstances, the establishment of a working group could only have prolonged the discussion to no good purpose and might even have led to an impasse or to the failure of the Conference.

59. The CHAIRMAN observed that no other delegation wished to explain its vote.

60. Dr. OLGUIN (Argentina), supported by Dr. EL HAKIM (Egypt), formally moved that the Committee should vote immediately on the amendment proposed by the Venezuelan delegation.

61. Dr. EDMONDSON (Australia) said that his delegation was aware of the need to make progress, but it had so far refrained from participating in the discussion. Before the debate was closed, it would like, as other similarly placed delegations would doubtless like, to have an opportunity of expressing its point of view. Consequently, he suggested to the Committee that it should authorize each delegation to speak for a maximum length of two minutes, subject to the right of reply.

62. Dr. JOHNSON-ROMUALD (Togo), speaking on a point of order, said he was completely opposed to reopening the discussion and supported the Argentine motion to put the Venezuelan proposal to the vote immediately. He requested the closure of the debate in accordance with rule 31 of the rules of procedure.

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

64. Mr. SAGOE (Ghana), speaking on a point of order, pointed out that the representative of Argentina had made a formal proposal that the Venezuelan proposal
should be put to the vote. If any delegation was opposed to that proposal, it should make a counter-proposal, which would also be put to the vote.

65. Mr. NIKOLIĆ (Yugoslavia) supported the Argentine proposal and requested a roll-call vote.

66. The CHAIRMAN reminded the Committee that under rule 31 of the rules of procedure, two speakers opposed to the closure of the debate proposed by the representative of Togo could speak against the motion.

67. Mr. SAMSOM (Netherlands) opposed the closure of the debate because he feared that it would not then be possible to put the Venezuelan proposal to the vote.

68. Mr. BOUZAR (Algeria), speaking on a point of order, said that the proposal for the closure of the debate made by the representative of Togo had been preceded by the proposal of the representative of Argentina, which, in his opinion, should have priority.

69. Dr. EDMONDSON (Australia) opposed the closure of the debate because he felt that a brief discussion of the Venezuelan proposal might help to throw light on the subject.

70. Mr. KIRCA (Turkey), speaking on a point of order, pointed out that the closure of the debate could logically be followed by a vote. That was so obvious that rule 31 of the rules of procedure did not bother to say so.

71. Mr. BEEDLE (United Kingdom) supported those observations.

72. The CHAIRMAN put to the vote the motion of the representative of Togo for the closure of the debate on the amendment to add a sub-paragraph (c) to paragraph 2 of article 19.

The motion for closure of the debate was adopted by 63 votes to 2, with 6 abstentions.

73. The CHAIRMAN put to the vote the amendment proposed by the representative of Venezuela (E/CONF. 63/C.1/L.22), the purpose of which was to add a sub-paragraph (c) to paragraph 2 of article 19.

At the request of the representative of Yugoslavia, the vote was taken by roll-call.

Tunisia, having been drawn by lot by the Chairman, was called upon to vote first.

In favour: Tunisia, Turkey, United States of America, Venezuela, Yugoslavia, Afghanistan, Algeria, Argentina, Brazil, Bulgaria, Burma, Ceylon, Costa Rica, Cyprus, Dahomey, El Salvador, Finland, Ghana, Greece, Guatemala, India, Indonesia, Iraq, Israel, Ivory Coast, Kenya, Khmer Republic, Laos, Liberia, Mexico, Monaco, New Zealand, Niger, Nigeria, Panama, Philippines, Portugal, Republic of Korea, Republic of Viet-Nam, Saudi Arabia, South Africa, Spain, Sudan, Sweden, Thailand, Togo.

Against: United Kingdom of Great Britain and Northern Ireland, Belgium, Federal Republic of Germany, France, Hungary, Italy, Liechtenstein, Luxembourg Netherlands, Switzerland.

Abstaining: Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, Australia, Austria, Byelorussian Soviet Socialist Republic, Canada, Chile, Cuba, Czechoslovakia, Denmark, Egypt, Holy See, Iran, Japan, Kuwait, Lebanon, Libya, Mongolia, Norway, Poland.

The Venezuelan amendment to article 19, paragraph 2, was adopted by 46 votes to 10, with 20 abstentions.

74. Dr. BABAİAN (Union of Soviet Socialist Republics), speaking in explanation of his vote, said that his delegation had opposed the system of estimates provided for in the amendments to the 1961 Convention, because they would only complicate the control procedure without producing any useful results. He understood the reasons behind the Venezuelan amendment, which had to do with the discrimination in the control system between synthetic drugs and natural drugs. Nevertheless, his delegation had abstained, because the amendment did not seem to eliminate the discriminatory element from article 19 as a whole.

75. Mr. KIRCA (Turkey), explaining his vote, said that he would have liked to be able to vote on a text which was likely to receive broader support and he noted that his fears in that connexion had unfortunately not proved unfounded. Since the Committee had preferred to cling to well-defined positions in the belief that no compromise was possible, his delegation had voted for the Venezuelan amendment. It had done so only to remain faithful to its traditional position, which was based essentially on the fact that Turkey was an opium poppy producing country and a developing country.

76. However, so that the countries which had opposed the broadening of the system of estimates could ratify the instrument that the Conference was in the process of drawing up, it would be wise to make it possible for States to enter reservations on article 19.

77. Dr. EDMONDSON (Australia), explaining his vote, said he had abstained, not because of the difficulties which would be caused for his country by the application of the Venezuelan amendment, but rather because of the lack of clarity of the text and, in particular, the words "synthetic drugs", which each party could interpret as it liked unless the expression were to be included in the list of terms defined in the Convention.

78. Mr. McKIM (Canada), explaining his vote, said he had abstained because he considered that the amendment would only add to the mass of statistics already supplied to the Board without providing any truly useful information.

79. Mr. HVIDT (Denmark), explaining his vote, said he had abstained because the Venezuelan proposal did not seem satisfactory to him from the legal point of view. However, his delegation approved of the idea of making the treatment of synthetic and natural substances balanced, and hoped to be able to vote for article 19 as a whole.

80. Mr. BEEDLE (United Kingdom), explaining his vote, said he had voted against the amendment because it did not seem to him to be clear and because he was not sure of the value of the information to be supplied or of the spirit in which the proposed procedure was to be applied. The time did not yet seem to have come for setting up such a complex system.

81. Dr. DANNER (Federal Republic of Germany), explaining his vote, said he had opposed the amendment...
mainly because he doubted that the provisions of the new sub-paragraph could be applied without the term "synthetic drug" being defined.

82. Mr. SAMSOM (Netherlands), explaining his vote, said he considered, for the reasons he had already explained in detail in his previous statements, that the amendment was likely to weaken the control system set up by the 1961 Convention, without facilitating the work of the Board in any way. He saw no reason to increase the difficulties which might be caused arise as a result of the extension of the scope of application of certain provisions of the Convention.

83. Mr. KEMENY (Switzerland), explaining his vote, said he was not at all convinced that the proposed system of estimates would be of any value, whether for natural products or for synthetic substances. He had therefore voted against the Venezuelan proposal, the wording of which, moreover, did not seem satisfactory to his delegation.

84. Mr. WATTLES (Legal Adviser to the Conference), speaking at the invitation of the Chairman in reply to a question by Mr. KIRCA (Turkey), said that if the text proposed by Venezuela was considered as a separate amendment to the 1961 Convention, rather than as a sub-amendment to the amendments already submitted, there would be no need to take a vote on article 19 as a whole.

85. Mr. ANAND (India) pointed out that although it was not necessary to vote on article 19 as a whole, since some parts of it were taken word for word from the 1961 Convention, the Committee could nevertheless take a vote on the amendments to paragraphs 1 and 2 as a whole because the position of delegations was not necessarily the same on the Venezuelan amendment and on the other parts of the new text.

86. The CHAIRMAN noted that the Indian proposal amounted to considering the text submitted by Venezuela as a sub-amendment to the amendments which had been submitted previously.

87. Dr. BABAIAN (Union of Soviet Socialist Republics) said that the Committee had approved several amendments to article 19, and that they were closely linked. The Committee should now take a decision on those provisions as a whole, since the position of the various delegations had been different on different amendments. He therefore proposed that a vote should be taken on the new article 19, as amended.

88. The CHAIRMAN thought that neither the Committee, nor even the Conference, was competent to take such a vote. According to the mandate given by the Economic and Social Council, the Conference's task was only to consider all the amendments to the 1961 Convention.

89. Dr. BABAIAN (Union of Soviet Socialist Republics) was willing to withdraw his proposal if it would lead to difficulties and complicate the work of the Committee, but he reserved the right to state his position on the subject in the plenary Conference.

90. Mr. WATTLES (Legal Adviser to the Conference) said that, from the legal point of view, nothing prevented the Committee from voting on the amendments to paragraphs 1 and 2 of article 19 as a whole.

91. The CHAIRMAN put to the vote the amendments to paragraphs 1 and 2 of article 19 as a whole.

The amendments to paragraphs 1 and 2 of article 19 were approved by 45 votes to 12, with 13 abstentions.

The text of article 19 as a whole, as amended, was referred to the Drafting Committee.

92. Mr. ANAND (India), speaking in explanation of his vote, said that although he had been in favour of the Venezuelan amendment because its purpose was to create equality between synthetic and natural products, he had had to vote against the amendments as a whole because the system of estimates envisaged seemed to him doomed to failure.

The meeting rose at 12.35 p.m.

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90. Mr. WATTLES (Legal Adviser to the Conference) said that, from the legal point of view, nothing prevented the Committee from voting on the amendments to paragraphs 1 and 2 of article 19 as a whole.

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The amendments to paragraphs 1 and 2 of article 19 were approved by 45 votes to 12, with 13 abstentions.

The text of article 19 as a whole, as amended, was referred to the Drafting Committee.

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The meeting rose at 12.35 p.m.

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1 The text of article 19, as amended, as approved by the Committee, was circulated under the symbol E/CONF.63/C.1/L.31.

SIXTEENTH MEETING
Thursday, 16 March 1972, at 2.40 p.m.
Chairman: Mr. CHAPMAN (Canada)

Consideration of all amendments proposed to the Single Convention on Narcotic Drugs, 1961 (item 11 of the Conference agenda) (continued) (E/CONF.63/5 and addenda)

ARTICLE 14 (Measures by the Board to ensure the execution of provisions of the Convention) (continued* (E/CONF.63/5, E/CONF.63/C.1/L.23)


Paragraph 1 (continued*)

Sub-paragraph (a) (continued*)

1. The CHAIRMAN said that the Committee had before it a Mexican amendment (E/CONF.63/C.1/L.26) and two Indian amendments (E/CONF.63/C.1/L.27 and E/CONF.63/C.1/L.29) to the text of paragraph 1 (a) of article 14 as reproduced in the report of the Working Group (E/CONF.63/C.1/L.23). He suggested that the Committee should consider those amendments.

It was so decided.

2. Mr. KIRCA (Turkey) suggested that, in order to take care of the point raised by the Mexican delegation, the word "reason" in the first sentence of paragraph 1 (a) proposed by the Working Group should be replaced by the words "objective reasons".*

* Resumed from the 12th meeting.
3. As to the Indian amendments (E/CONF.63/C.1/L.27), the proposal to substitute the word “may” for the expressions “shall have the right” and “has the right” at the end of the first sentence and second sentence respectively was perfectly acceptable; the replacement of the word “shall” in the second sentence of the English text by the word “may” and the proposal to make a separate paragraph of the second sentence, beginning with the words “If without any failure... “, were also acceptable. On the other hand, the amendment to delete from the first sentence the words “and international non-governmental organizations which are in consultative status with the Economic and Social Council under Article 71 of the Charter of the United Nations or which enjoy a similar status by special agreement with the Council” was unacceptable, as was the design to introduce a new text in place of the phrase “to propose the opening of consultations to the Government concerned”, at the end of the first and second sentences. The opening of consultations was a recognized expression in diplomatic usage; he had already pointed out that all that was involved was consultations and that there was no question of the Board imposing anything on the Government concerned.

4. When the Indian amendments were put to the vote, he would ask for a separate vote on the amendments to replace the words “shall have the right” and “has the right” by the word “may”, to replace the words “propose the opening of consultations to the Government concerned” by the words “take up the matter with the Government concerned” at the end of the first sentence and to replace the words “propose to the Government concerned the opening of the consultations” by the words “draw the attention of the Government concerned to this danger...” at the end of the second sentence.

5. Lastly, the Indian amendment to the end of the first sentence, contained in document E/CONF.63/C.1/L.29, was completely unacceptable.

6. Mr. CASTRO (Mexico) withdrew his amendment (E/CONF.63/C.1/L.26).

7. Dr. BABAIAN (Union of Soviet Socialist Republics) supported the Indian amendment to delete from the first sentence the phrase in the first sentence relating to international non-governmental organizations, since those organizations were extremely numerous and some of them, which were not competent in the matter, might furnish information which was not objective.

8. He also supported the amendments to replace, in the first and second sentences respectively, the words “shall have the right to propose the opening of consultations to the Government concerned” by “may take up the matter with the Government concerned” and the words “has the right to propose to the Government concerned the opening of the consultations” by “may draw the attention of the Government concerned to this danger”. He was in favour of the proposal by the representative of Turkey to replace the word “reason” in the first sentence by “objective reasons”.

9. His delegation’s support for those amendments did not mean any change in its position on article 14 as a whole, certain provisions of which were unacceptable because they constituted an interference in the domestic affairs of States not parties to the Convention.

10. Dr. EL HAKIM (Egypt) reminded the Committee that, on the basis of Economic and Social Council resolutions 1296 (XLIV) and 1580 (L), entitled “Arrangements for consultation with non-governmental organizations” and “Contribution of the non-governmental organizations towards implementation of the International Development Strategy” respectively, his delegation had submitted a sub-amendment (E/CONF.63/C.1/L.4) to the initial amendment to article 14 (E/CONF.63/5). It took the view that the non-governmental organizations in question should be directly concerned with drug control. It did not think the text proposed by the Working Group offered that guarantee and feared that some of the non-governmental organizations on the list published on 28 July 1971 might interfere in an area in which they were not sufficiently competent.

11. Dr. NIKOLIC (Yugoslavia) supported the Indian amendment to delete from the first sentence the words “and international non-governmental organizations which are in consultative status with the Economic and Social Council under Article 71 of the Charter of the United Nations or which enjoy a similar status by special agreement with the Council”. That provision was fraught with danger both for States and for the Board, which might receive information that had no basis in fact.

12. Dr. EL HAKIM (Egypt) reminded the Committee that, on the basis of Economic and Social Council resolutions 1296 (XLIV) and 1580 (L), entitled “Arrangements for consultation with non-governmental organizations” and “Contribution of the non-governmental organizations towards implementation of the International Development Strategy” respectively, his delegation had submitted a sub-amendment (E/CONF.63/C.1/L.4) to the initial amendment to article 14 (E/CONF.63/5). It took the view that the non-governmental organizations in question should be directly concerned with drug control. It did not think the text proposed by the Working Group offered that guarantee and feared that some of the non-governmental organizations on the list published on 28 July 1971 might interfere in an area in which they were not sufficiently competent.

13. Otherwise, he would be equally happy with either the text proposed by the Working Group or the amendments proposed by India.

14. Mr. WATTLES (Legal Adviser to the Conference), replied that he did not recall ever having seen it used; some research would have to be done in order to give a definite answer.

15. Mr. KIRCA (Turkey) explained that the point was to make it clear that the Board had to base its action on objective facts and not on subjective appraisals. In his view, that idea was already contained in the word “reason” but since the Mexican delegation had proposed an amendment on that point, he had submitted a counter-proposal which was simpler and more concise.

16. Mr. GROSS (United States of America) fully supported the text by the Working Group, with the changes suggested by the Turkish representative. The ideas contained in the initial joint amendments had been retained and the drafting had been very much improved. The fears expressed by the Soviet representative should be allayed by the new text of paragraph 5 of article 9 proposed by France, India, Togo and the United States of America (E/CONF.63/L.3), which stated that “All measures undertaken by the Board within the framework of this Convention shall be those most consistent with the intent to further the co-operation of Governments with the Board and to provide the mechanism for a continuing
dialogue between Governments and the Board which will lend assistance to and facilitate effective national action to attain the aims of this Convention".

18. It was essential to keep the idea of "consultations", without which the procedure would simply be as at present prescribed in the 1961 Convention.

19. Mr. de ARAUJO MESQUITA (Brazil), returning to the point raised by the Egyptian representative, suggested that the text should specifically refer to international non-governmental organizations "working in the field of narcotic drugs".

20. Dr. JOHNSON-ROMUALD (Togo) emphasized that the Working Group's text was a compromise reflecting a general agreement, and as such could not be expected entirely to satisfy all delegations; in the present state of affairs, one could not expect more.

21. Recalling the fears expressed by several delegations concerning non-governmental organizations, not all non-governmental organizations would be involved but only those which were first recommended by the Board and then approved by the Commission on Narcotic Drugs. That double safeguard seemed to offer greater security than the criterion proposed by the Brazilian representative, namely, the inclusion only of non-governmental organizations "working in the field of narcotic drugs", since an organization could easily amend its statutes and say that it was going to concern itself with the drug problem. If those safeguards were still deemed inadequate, the solution might be to require that the Commission's approval should be subject to a two-thirds majority vote.

22. Mr. VAILLE (France) expressed satisfaction with the text of paragraph 1 of article 14 as proposed by the Working Group, which had accomplished much through the spirit of co-operation it had shown.

23. The new amendments were somewhat disturbing, since the text proposed by the Working Group could scarcely be improved upon. Admittedly, some of those amendments were purely a matter of form, and the Drafting Committee could be left to decide on the best drafting. There was some justification for the Mexican amendment, in that the Board should indeed have "objective reasons", but it would be better to retain the wording "the Board has reason to believe", as contained in the 1961 Convention. As to the Indian amendments to replace the words "shall have the right to propose the opening of consultations to" by "may take up the matter with..." and the words "has the right to" by "may", they involved no significant change. The wording should be left to the Drafting Committee.

24. Several delegations had expressed concern regarding the information that might be communicated by non-governmental organizations, but the text of article 14, paragraph 1, as proposed, did not give the Board carte blanche. Strict conditions were laid down: the organizations in question would have to be international, recommended by the Board, approved by the Commission on Narcotic Drugs and in consultative status with the Economic and Social Council.

25. The proposed text was thus well balanced and likely to secure better information for the Board, while at the same time relieving Governments of their misgivings.

26. Dr. EDMONDSON (Australia) said that the conditions laid down in the text proposed by the Working Group with regard to the communication of information by international non-governmental organizations should dissipate any fears. Those organizations would have to be approved by the Board, the composition of which was approved by the Economic and Social Council, and by the Commission on Narcotic Drugs, which was composed of government representatives whose competence could not be doubted. It had been said that there were in all 455 non-governmental organizations; however, none of them could be given a hearing without the consent of the Board and the Commission.

27. The CHAIRMAN said he thought that the Committee should take a decision first on the first Indian amendment in document E/CONF.63/C.1/L.27, which was to delete the phrase "and international non-governmental organizations... special agreement with the Council" in the first sentence of the text proposed by the Working Group and, if it was rejected, on the Brazilian amendment for the addition of the words "working in the field of narcotic drugs" after the words "international non-governmental organizations" in the same phrase.

28. The Committee should then vote on the Indian amendment to modify the end if the first sentence of the text proposed by the Working Group (E/CONF.63/C.1/L.29).

29. Mr. KIRCA (Turkey) requested a separate vote on amendment E/CONF.63/C.1/L.29. In his opinion, the word "may" should replace the words "shall have the right to" at the end of the first sentence and the words "has the right to" at the end of the second sentence of the Working Group's proposed text for paragraph 1 (a) of article 14. From the legal point of view, the two expressions had the same meaning.

30. Mr. ANAND (India) agreed with that interpretation.

31. Mr. ANTEQUERA (Spain) proposed that the words "have direct competence in the subject matter and" should be inserted after the words "international non-governmental organizations" in the first sentence of the text proposed by the Working Group.

32. Mr. de ARAUJO MESQUITA (Brazil) withdrew his amendment in favor of the one just proposed by the representative of Spain.

33. The CHAIRMAN put to the vote the first Indian amendment in document E/CONF.63/C.1/L.27, pointing out that, if it was adopted, the Spanish amendment would no longer apply.

34. The Indian amendment was rejected by 45 votes to 16, with 10 abstentions.

35. Dr. EL HAKIM (Egypt) proposed that the words "which are directly related to and have competence in the drug field and" should be added after the words "international non-governmental organizations" in the first sentence of the text proposed by the Working Group.

36. The CHAIRMAN put to the vote the first Indian amendment in document E/CONF.63/C.1/L.27, pointing out that, if it was adopted, the Spanish amendment would no longer apply.

37. Dr. BABAIAN (Union of Soviet Socialist Republics) said he considered that the Egyptian amendment was
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more complete than the Spanish amendment, since it stressed the international non-governmental organizations' competence.

36. The CHAIRMAN put to the vote the amendment just proposed by the Egyptian representative, which was furthest removed from the Working Group's text.

The Egyptian amendment was rejected by 39 votes to 27, with 7 abstentions.

37. Dr. BABAIAN (Union of Soviet Socialist Republics), explaining his vote, said that he had voted for the Egyptian amendment because it stipulated that the international non-governmental organizations consulted by the Board must both be related to and have competence in the drug field. Nevertheless, non-governmental organizations should not furnish the Board with information.

38. The CHAIRMAN put to the vote the amendment proposed by the representative of Spain, to insert the words “which have direct competence in the subject matter” after the words “international non-governmental organizations”.

The Spanish amendment was adopted by 43 votes to 7, with 21 abstentions.

39. Dr. BABAIAN (Union of Soviet Socialist Republics), explaining his vote, said that he had abstained in the vote, despite the fact that the Spanish proposal had the merit of requiring that the international non-governmental organizations which provided information to the Board should be qualified to do so, since he was opposed to the principle that such organizations could be consulted by the Board.

40. The CHAIRMAN put to the vote the Turkish amendment for replacing the word “reason” in the first sentence of paragraph 1 (a) by the words “objective reasons”.

The Turkish amendment was adopted by 47 votes to 3, with 19 abstentions.

41. Dr. BABAIAN (Union of Soviet Socialist Republics), explaining his vote, said that he had voted for the Turkish amendment despite his objection to paragraph 1 (a) as a whole, because it restricted the possibility of the Board acting for subjective reasons.

42. Mr. BEEDLE (United Kingdom) and Mr. VIENNOIS (France), explaining their votes, said that they had voted against the Turkish amendment because they saw no reason for adopting a different formula in subparagraph (a) from that appearing in the other articles of the 1961 Convention. The use of the words “objective reasons” in that sub-paragraph alone might lead to confusion in the future.

43. Mr. NIKOLIĆ (Yugoslavia), explaining his vote, said he had abstained because the Turkish amendment seemed to imply that, in the other articles, the Board was motivated by subjective reasons.

44. Mr. CAPASSO (Italy) pointed out that a reason which was not “objective” was not a reason, but a supposition.

45. Mr. CASTRO (Mexico), explaining his vote, said he had voted for the Turkish amendment because the expression “objective reasons” signified that the Board would base its opinion on tangible evidence, such as documents, estimates, and so on, and would therefore be able to act in full knowledge of the facts, and not in accordance with a priori deductions.

46. The CHAIRMAN put to the vote the proposal to replace the words “shall have the right to” at the end of the first sentence and the words “has the right to” at the end of the second sentence by the word “may”. The substance of that proposal was contained in the Indian amendments in documents E/CONF.63/C.1/L.27 and E/CONF.63/C.1/L.29, but the Turkish representative had requested a separate vote on the word “may”.

47. Mr. ANAND (India) explained that the word “may” was more acceptable to his delegation than the expression “has” or “shall have the right to”, which seemed to imply the superiority of one party over another.

48. In reply to a question from Mr. NIKOLIĆ (Yugoslavia), Mr. WATTLES (Legal Adviser to the Conference) said that from the legal point of view, there was no difference between the two expressions.

49. Mr. VIENNOIS (France) said that he would vote against the amendment because the original expression was the one used in the 1961 Convention and there was no reason for changing it.

50. Dr. BABAIAN (Union of Soviet Socialist Republics) said that he was opposed to both expressions, since they both authorized the Board to influence countries which had not been able to adhere to the 1961 Convention because of the discriminatory clauses in article 40 relating to the procedure for signature, ratification and accession.

The Indian amendment to replace the expression “shall have the right to” and the expression “has the right to” by the word “may” was rejected by 30 votes to 19, with 17 abstentions.

51. Mr. ANTEQUERA (Spain), explaining his vote, said that he had voted for the Indian amendment because in his opinion the expression “has” or “shall have the right to” was stronger than the word “may”, and the latter corresponded better to the powers of the Board.

52. Mr. PATHMARAJAH (Ceylon), explaining his vote, reminded the Committee that the Working Group had first envisaged using the form of words “shall have the option to”. When that form of words was rejected, the word “may”, which was more concise, had been considered, without being accepted. However, like the representative of India and for the same reasons, he had voted for the Indian amendment, which would have introduced a useful nuance.

53. The CHAIRMAN proposed putting to the vote the Indian amendment contained in document E/CONF.63/C.1/L.29 as a whole.

54. Mr. ANAND (India) pointed out that his amendment was no longer applicable, as the word “may” had been rejected. The two sentences would both contain the concept of “has the right to”, which was not the intention of the Indian delegation. He proposed that his amendment should be reworded as follows: “... it has the right to take up the matter with the Government concerned, with a view to resolving the matter satisfactorily or to request that Government to furnish explanations”.

55. Mr. KIRCA (Turkey) pointed out that the second part of the amendment in document E/CONF.63/C.1/L.29, which took up in part the first Indian amendment in document E/CONF.63/C.1/L.27, was similar to the expression adopted by the Working Group at the end of the first sentence: "or to request it to furnish explanations". Accordingly, the part of the new Indian amendment which should be put to the vote was the phrase: "it has the right to take up the matter with the Government concerned, with a view to resolving the matter satisfactorily".

56. Mr. ANAND (India) agreed with that interpretation.

57. Dr. BABAIAN (Union of Soviet Socialist Republics) said that the new Indian amendment was not without merit, because it toned down the dictatorial character of the original wording and introduced the idea that discussions between the Board and the Government must result in a satisfactory solution. However, in view of the reservations he had already expressed in respect of subparagraph (a), he would abstain in the vote.

58. Mr. KIRCA (Turkey) said he would vote against the Indian amendment. The expression "opening of consultations" was a stock phrase in diplomatic relations and the text only gave the Board the right to propose that procedure, leaving the Government concerned entirely free to refuse. Moreover, consultations did not imply any pressure from the Board nor any proposal that would ipso jure bind the Government, which would be free to accept or refuse anything that the Board might put forward during the consultations.

59. The CHAIRMAN put to the vote the revised Indian amendment (E/CONF.63/C.1/L.29) to replace the words "to propose the opening of consultations to the Government concerned" at the end of the first sentence of paragraph 1(a) by the words "to take up the matter with the Government concerned with a view to resolving the matter satisfactorily".

The Indian amendment was rejected by 39 votes to 2, with 21 abstentions.

60. The CHAIRMAN put to the vote the Indian amendment in document E/CONF.63/C.1/L.27 to replace the words "to propose to the Government concerned the opening of the consultations" at the end of the second sentence of paragraph 1(a) by the words "draw the attention of the Government concerned to this danger".

The Indian amendment was rejected by 40 votes to 1, with 23 abstentions.

61. Mr. ANAND (India) said that he had also proposed replacing the words "that it shall become" in the second sentence of the English text by the words "that it may become".

62. Mr. BEEDLE (United Kingdom), Mr. VIENNOIS (France), Mr. NIKOLIĆ (Yugoslavia) and Dr. BABAIAN (Union of Soviet Socialist Republics) were of the opinion that, in view of the difficulties of translation into the other languages, the question came within the competence of the Drafting Committee.

63. Mr. WATTLES (Legal Adviser to the Conference) proposed that the French text in the second sentence should read "un grave risque qu'il puisse le devenir", instead of "un grave risque qu'il le devienne".

64. Mr. KIRCA (Turkey) pointed out that the idea of risk already implied that the event was only a possibility and that it was redundant to stress it, at least in French.

65. Mr. GROSS (United States of America) was, on the contrary, of the opinion that the proposed nuance should be introduced, because the idea expressed was a possibility and, logically, the sentence should remain conditional all the way through.

66. The CHAIRMAN put to the vote the Indian amendment calling for the replacement of the words "that it shall become" by the words "that it may become" in the second sentence of the English text.

The amendment was adopted by 33 votes to 2, with 36 abstentions.

67. Dr. BABAIAN (Union of Soviet Socialist Republics), explaining his vote, said that he had abstained because he could only vote on a written text and because the Drafting Committee should know what amendments needed to be made to the text.

68. Mr. KIRCA (Turkey) explaining his vote, said that he had abstained because the question came within the competence of the Drafting Committee, whose task it was to find the best wording in each language.

69. The CHAIRMAN said that the Indian amendment in document E/CONF.63/C.1/L.27 calling for a separate paragraph to be made of the second sentence, starting with the words "If without...", would be referred to the Drafting Committee.

70. He suggested that article 14, paragraph 1(a), as a whole, as proposed by the Working Group and amended by the Committee, should be put to the vote.

71. Dr. BABAIAN (Union of Soviet Socialist Republics) explained that, despite the efforts of the Working Group, the text was still unacceptable because it gave the Board the right to use non-governmental organizations as sources of information and enabled it to exert pressure on countries which were not Parties to the Convention.

Paragraph 1(a), as a whole, as amended, was approved by 51 votes to 9, with 2 abstentions.

72. Mr. ANAND (India), explaining his vote, said that he had abstained because he was not in favour of giving non-governmental organizations the right to supply information to the Board. Nor was he willing that the Board should be given the right to propose the opening of consultations. In his opinion, the Board could take action only, if it had the goodwill and co-operation of Governments.

73. Dr. EL HAKIM (Egypt), explaining his vote, said that he had abstained, because the text would have been better if it had been amended in the way he had proposed.

74. Mr. NIKOLIĆ (Yugoslavia), explaining his vote, said that he had abstained because the text would have been better if it had been amended in the way he had proposed.

The meeting was suspended at 6 p.m. and resumed at 6.25 p.m.
Sub-paragraph (b)

75. The CHAIRMAN pointed out that sub-paragraph (b) of paragraph 1, as contained in the report of the Working Group, repeated word for word the text of the same sub-paragraph of paragraph 1 of article 14 in the 1961 Convention and therefore required no decision by the Committee.

Sub-paragraph (c)

76. The CHAIRMAN said that, in the third sentence of the French text of sub-paragraph (c) as proposed by the Working Group, the word "Conseil" should be replaced by the word "Organe". The secretariat would inform the Drafting Committee of the changes which should be made in paragraph 2 if that sub-paragraph was approved.

Paragraph 1 (c), as proposed by the Working Group, was approved by 41 votes to 9, with 1 abstention.

Sub-paragraph (d)

77. Dr. WIENIAWSKI (Poland) said that, despite the Working Group's efforts to improve the text of sub-paragraph (d), it was still unacceptable for several reasons. His delegation could not agree that the Board should be given the discretionary power to act "at any time", as stipulated at the end of the first sentence, and on the basis of information that it might have obtained from questionable sources, in accordance with paragraph 1 (a). In addition, there was a difference, which should be maintained, between the role of the Board and the role of the Commission on Narcotic Drugs. The Board's task was to control the legal market, which it did very well, and the Commission's was to co-ordinate intergovernmental action, particularly in accordance with sub-paragraph (c) of article 8 (Functions of the Commission) of the 1961 Convention. He found it surprising that the last sentence should provide that the Council might draw the attention of the General Assembly to the matter without the Commission even being able to make its opinion known. His delegation did not think that the proposed improvements would really help to combat illicit traffic, and it would therefore vote against sub-paragraph (d).

78. Mr. ANAND (India) could not accept the last sentence of sub-paragraph (d), which seemed to cast doubt on the competence of the Economic and Social Council to draw the attention of the General Assembly to a matter it considered serious or important. Naturally, if the Board's report was convincing, the Council would act accordingly. He therefore proposed that the sentence should be deleted.

79. Mr. ANTEQUERA (Spain) said that sub-paragraph (d) was concerned with what the Board could do as a last resort in exceptional cases, for example, if a Government had failed to reply to requests for explanations when called upon to do so, or had failed to adopt the remedial measures which it had been called upon to take, or if there was a serious situation that needed co-operative remedial action and if the aims of the 1961 Convention were being seriously endangered and it had not been possible to resolve the matter satisfactorily, or if the Board considered that it was the most appropriate method of solving the situation. Each of those possibilities depended on the existence of objective circumstances, except for the third, in which the subjective element of the Board's judgement was introduced. That subjective element was dangerous, because it gave the Board the power to disregard the other conditions. That meant that the Board could act as it wished in doubtful situations. He would like the Chairman of the Working Group to provide explanations on that subject, and he proposed that the penultimate sentence should be deleted if the explanations provided were not conclusive.

80. Mr. NIKOLIĆ (Yugoslavia) thought, like the representative of India, that the last sentence should be deleted. He reserved the right to revert to the proposal by the representative of Spain after he had heard the explanations of the Chairman of the Working Group.

81. Dr. BABAIAN (Union of Soviet Socialist Republics) again protested against the fact that the Board would be able to base its action on unofficial information communicated by non-governmental organizations, and against the discrimination against States, countries and territories which were not parties to the Convention and from which the Board could nevertheless request explanations pursuant to paragraph 1 (a).

82. His delegation also had reservations concerning the powers conferred upon the Board, because nothing guaranteed that the Board would not use them in a way which might constitute interference in the domestic affairs of a State. There was no reason for the last sentence of sub-paragraph (d), since, under Articles 10 and 62 of the Charter of the United Nations, the Economic and Social Council could make recommendations to the General Assembly concerning international economic, social, cultural and educational matters. In conclusion, his delegation was opposed to sub-paragraph (d) proposed in the report of the Working Group.

83. Mr. HUYGHE (Belgium) requested the sponsors of the text submitted by the Working Group to provide explanations of the second and third sentences of sub-paragraph (d). He wished to know whether the conditions laid down in them had to exist before the Board could act in the three cases described in the first sentence, or whether the intervention of the Board was merely possible in those three cases, but mandatory in the cases described in the two other sentences.

84. Mr. KIRCA (Turkey), Chairman of the Working Group, replying to the requests for clarification which had been made, said that under the terms of the first sentence of sub-paragraph (d), the Board was given a discretionary power; it acted if it felt it had to, but was not bound to do so. In any event, the text was the same as that of article 14, paragraph 1 (c), of the 1961 Convention, with the addition of a third possibility, namely the existence of a serious situation that needed co-operative remedial action at the international level. The co-operative remedial action referred to in sub-paragraph (d) of the text under consideration was similar to that provided for under sub-paragraph (b) of paragraph 1 of article 14 of the 1961 Convention, the only difference being that it was to be taken not by a Government but at the international level. The purpose of the amended text was to establish a dialogue between the Board and Governments.
85. Under the second and third sentences, the Board was obliged to take action. There were two possibilities. If the aims of the Convention were being seriously endangered and it had not been possible to resolve the matter satisfactorily, the Board was bound to act. It was also bound to act if it considered that the only means of initiating co-operative remedial action at the international level was by notifying the parties, the Economic and Social Council and the Commission on Narcotic Drugs. In the third sentence, the phrase “the most appropriate method” referred to bringing a serious situation to the notice of the parties and not to the remedial action recommended by the Board. If the Board considered it possible to initiate co-operative remedial action at the international level without having to notify the parties, the Council and the Commission, it would be under no obligation to bring the situation to their notice.

86. Dr. JOHNSON-ROMUALD (Togo) considered that the text submitted by the Working Group, of which his delegation was a member, was an improvement on the original text in the joint proposals, because it proposed the establishment of a dialogue between the Board and States. The same objective lay behind the proposal by France, India, Togo and the United States of America that a new paragraph should be added to article 9, providing that “measures undertaken by the Board... shall be those most consistent with the intent to further the... for a continuing dialogue” between them, and it had been suggested that that amendment should be included in article 14. Sub-paragraph (d) provided for various kinds of action by the Board. In the first case, the Board requested explanations; in the second, consultations were begun; in the third, in the event of a serious situation, co-operative remedial action at the international level was called for. In the last case, the Board could exercise its discretionary power to decide what measures were appropriate. Some delegations were afraid that the Board might be inclined to use its power too freely. But the amendment which proposed the addition of a new paragraph 5 to article 9 provided the necessary legal safeguard, since it stipulated that the measures undertaken by the Board should always be aimed at encouraging dialogue and co-operation between Governments and the Board.

87. Mr. KIRCA (Turkey) proposed that, in order to take account of the objections and reservations expressed by some delegations, and subject to the agreement of the other members of the Working Group, the second and third sentences of sub-paragraph (d) should be replaced by the following text: “The Board shall so act if it considers this to be the most appropriate method of resolving a matter in the event of the aims of the Convention being seriously endangered or of it not having been possible to resolve the matter satisfactorily”.

88. Dr. JOHNSON-ROMUALD (Togo) formally proposed that the list of speakers should be closed, so as to bring the discussion to an end.

89. Mr. GROSS (United States of America) also spoke against the new formula. The text submitted by the Working Group had been drafted with great care and it corresponded point by point with the other subparagraphs of article 14, paragraph 1. For example, the second sentence of sub-paragraph (b) referred to the case provided for in the first sentence of sub-paragraph (a) in which a party failed to carry out the provisions of the Convention. The United States Government, which favoured the adoption of a compulsory embargo, had already made concessions when it accepted the text submitted by the Working Group and it did not intend to go any further. He therefore asked the representative of Turkey to withdraw his amendment.

90. Mr. KIRCA (Turkey) did not think that the new text he had proposed altered the meaning of sub-paragraph (d), but he was willing to withdraw his proposal if it created difficulties for the delegations of India and the United States.

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92. Dr. JOHNSON-ROMUALD (Togo) formally proposed that the list of speakers should be closed, so as to bring the discussion to an end.

It was so decided.

The meeting rose at 7.30 p.m.

SEVENTEENTH MEETING

Friday, 17 March 1972, at 9.55 a.m.

Chairman: Mr. CHAPMAN (Canada)

Consideration of all amendments proposed to the Single Convention on Narcotic Drugs, 1961 (item 11 of the Conference agenda) (continued) (E/CONF.63/5 and addenda)

ARTICLE 14 (Measures by the Board to ensure the execution of provisions of the Convention) (concluded) (E/CONF.63/5, E/CONF.63/C.1/L.23)

Paragraph 1 (concluded)

Sub-paragraph (d) (concluded)

1. Mr. VAILLE (France), speaking on a point of order, said that the French version of document E/CONF.63/C.1/L.30, which was mentioned in the agenda for the meeting, had only just been circulated. He protested against the delays in issuing documentation in French. He added that the India sub-amendment, which was the subject of document E/CONF.63/C.1/L.30, was actually an amendment involving a question of substance and that the view of the Legal Adviser to the Conference should be sought on whether the text was in order.

2. Dr. BABAIAN (Union of Soviet Socialist Republics), referring to the issue of the Russian version of document E/CONF.63/C.1/L.30, associated himself with the remarks of the French representative.

3. The CHAIRMAN pointed out that the proposal in question related to article 11bis. The Committee should postpone its consideration of that article until the text had been issued in the four working languages, and should then first decide whether the proposal was in order or not.

4. He invited the Committee to continue its consideration of paragraph 1 (d) of article 14, as proposed by the Working Group in its report (E/CONF.63/C.1/L.23).

5. Mr. VINUESA SALTO (Spain) pointed out that, in the Spanish text, the sentence "la adopción en común de medidas correctivas en el plano internacional" was vague and might even be dangerous, because it could be interpreted as including very serious measures such as sanctions. The original English text was quite clear; it provided for co-operative action to assist the State concerned to solve a particular problem and not for sanctions. The correct translation in Spanish would therefore be: "la adopción concertada de medidas de cooperación a nivel internacional para remediar el problema". It would generally be desirable to see that there was concordance between the translations into the different languages.

6. In order not to equate (a) the exceptional measures to be adopted when a Government had failed to take the action requested of it to remedy a situation with (b) the measures called for by the discovery that a serious situation existed, the sub-paragraph should be divided into two, the new sub-paragraph beginning with the penultimate sentence proposed by the Working Group, starting with the words "It shall also so act if it considers that...". The question should no doubt be referred to the Drafting Committee.

7. Mr. WARNAND (Belgium) said that it was paradoxical, in the first sentence of sub-paragraph (d), to give the Board only the power to act in the event of an objective situation calling for international measures, but, in the third sentence of the sub-paragraph, to require it to act if it subjectively considered that a serious situation existed. It was essential that the text should be quite clear, because the provisions in question were very important. His delegation was entirely in favour of increasing the powers of the Board but it could not accept provisions of such apparent inconsistency. The situation would have been entirely different if the Committee had accepted the text proposed by Turkey at the 16th meeting. It was necessary to invert the terms used, and to speak of powers in the second case and of obligations in the first.

8. Mr. di MOTTOLA (Costa Rica) said that, in his view, the Working Group had succeeded in preparing a consistent text from heterogeneous elements, thanks to the number of concessions that had been made, and that the present text should not cause any difficulty. The problem of translation mentioned by the Spanish representative could be referred to the Drafting Committee.

9. Mr. CALENDA (Italy) said that the clear inconsistency of the first and second parts of sub-paragraph (d), which had just been pointed out by the Belgian representative, could also be rectified by the Drafting Committee.

10. Mr. KROG-MEYER (Denmark) said he was concerned at the fact that some delegations were making new proposals just when the Committee was on the point of taking a vote on a text which had been prepared with considerable effort by the Working Group. He thought that further changes might upset the whole balance of the text.

11. Mr. NIKOLIĆ (Yugosлавia) supported the suggestions made by the representatives of Spain, Belgium and Italy to obtain a text that was better worded and clearer from a legal point of view; he thought those suggestions did not involve any change of substance.

12. Dr. BABAIAN (Union of Soviet Socialist Republics) said that the proposed changes in the Russian and Spanish versions of sub-paragraph (d) were in fact amendments, since the sense of the English version was that pressure would be brought to bear on a Government by the Board.

13. The CHAIRMAN said that the English text, which was less categorical than the other versions, appeared at least to satisfy the English-speaking delegations. It could in any event be redrafted as required by the Drafting Committee and the Language Services in the light of the discussion. The Drafting Committee would also explore the possibility of dividing the sub-paragraph into two, as the Spanish representative had requested.

It was so agreed.

14. Mr. VAILLE (France) said that he would vote in favour of the text proposed by the Working Group, because the cogent points which had been made were a matter for the Drafting Committee, in which the Committee could have full confidence.

15. Mr. KIRCA (Turkey) said that the Working Group had not intended the third sentence of sub-paragraph (d) to be interpreted as calling for a subjective assessment; on the contrary, the Board should bear in mind the objective factors which testified to the existence of a serious situation calling for action. He had recognized himself that the text was not clear enough; that was why he had submitted an amendment, which he had subsequently withdrawn and would be re-submitting to the Drafting Committee. In the circumstances he would vote in favour of sub-paragraph (d).

16. Dr. BABAIAN (Union of Soviet Socialist Republics) said that he would vote against provisions which his delegation could not accept on grounds of principle.
Whatever the changes made in the text by the Drafting Committee, the fact remained that the English text implied certain sanctions and, if the Spanish and Russian texts were modified, the English text should be modified also; that would be tantamount to a substantive amendment.

17. Mr. NIKOLIĆ (Yugoslavia) said that he would have voted in favour of sub-paragraph (d) if the wording had been made clearer. Since, however, because of the time factor, it was to be retained in its present form, he would vote against it.

18. Mr. BEEDLE (United Kingdom) said that, in his view the words "co-operative remedial action at the international level" stressed the idea of co-operation; they in no way implied sanctions, but rather a remedy. The sentence was part of a complex whole and the words "serious situation" should be interpreted in the same way in the two cases envisaged. He would vote in favour of sub-paragraph (d).

19. Mr. de ARAUJO MESQUITA (Brazil) said that he was in favour of retaining the last sentence of sub-paragraph (d), as the Conference was not authorized to give directives to the Economic and Social Council, which was bound by the United Nations Charter and the resolutions of the General Assembly. The majority had decided, as the result of a compromise, to express its point of view in the text, but the latter indicated merely what was desired, and had no legal implications.

20. Mr. VINUESESALTO (Spain) said that he would vote in favour of sub-paragraph (d), provided that, in accordance with the decision just taken by the Committee, the Drafting Committee found an appropriate Spanish translation which would eliminate the notion of sanctions.

21. Mr. ANAND (India) said that at the 16th meeting his delegation had proposed the deletion of the last sentence of sub-paragraph (d) because it considered that the Council could not give directives to the General Assembly. It had also submitted amendments (E/CONF.63/C.1/L.27) to sub-paragraph (a) which the Committee had not seen fit to adopt. In the circumstances, he would abstain in the vote on article 14 as a whole.

22. The CHAIRMAN invited the Committee to take a decision on the Indian proposal to delete the last sentence of sub-paragraph (d) as contained in the text proposed by the Working Group.

The proposal was rejected by 45 votes to 13, with 16 abstentions.

Sub-paragraph (d), as proposed by the Working Group, was approved by 49 votes to 11, with 12 abstentions.

23. Mr. CASTRO (Mexico), explaining his vote, said that he had voted against the sub-paragraph because he did not think that the Board was an international body empowered to decide whether a Government had given or had failed to give satisfactory explanations. To confer that power upon it would be to impair the sovereignty of States.

24. Mr. KIRCA (Turkey), speaking on a point of order, said that, as the Committee had approved sub-paragraph (d), article 14, paragraph 2, should automatically be amended. The reference to sub-paragraph (c) in the present text of the 1961 Convention should logically become a reference to sub-paragraph (d).

25. The CHAIRMAN said, that if there was no objection, he would take it that the Committee approved the change proposed by the representative of Turkey.

The proposal was adopted without objection.

26. Mr. BEEDLE (United Kingdom), speaking on a point of order, said he took it that, under sub-paragraph (d), which had just been approved, it was the responsibility of the Economic and Social Council to decide whether or not the attention of the General Assembly should be drawn to a particular matter. His delegation therefore suggested that the words “and the General Assembly” in paragraph 2 of article 14 as contained in the text of the joint proposals should be deleted.

27. The CHAIRMAN said that, if there was no objection, he would take it that the Committee adopted the United Kingdom proposal to delete the words “and the General Assembly” in article 14, paragraph 2, as contained in document E/CONF.63/5.

The proposal was adopted without objection.

The amendments to article 14, paragraph 1, as a whole, were approved by 54 votes to 9, with 11 abstentions.

28. Mr. GHAUS (Afghanistan), speaking in explanation of vote, said that he had abstained because he considered that paragraph 1, sub-paragraph (a), added unduly to the Board’s sources of information. It also seemed to him that the procedures envisaged in paragraph 1, sub-paragraph (d), were complicated and could not lead to satisfactory solutions.

29. Mr. STAHL (Czechoslovakia), explaining his vote, said that his country had never accepted the provisions of article 14. It was not prepared to accept the new text of that article either, and he had therefore voted against the amendments.

30. Mr. GROSS (United States of America) proposed that article 14, as a whole, as amended, should be referred to the Drafting Committee.

The text of article 14, paragraph 1, as a whole, as amended, was referred to the Drafting Committee.

ARTICLE 21bis (Limitation of production of opium)
Amendment proposed by India (E/CONF.63/C.1/L.30)

31. The CHAIRMAN asked the Legal Adviser to the Conference to give the Committee his opinion on the admissibility of the amendment proposed by India (E/CONF.63/C.1/L.30), bearing in mind the fact that the latest date for the submission of amendments had been 13 March 1972. The amendment in question was to the re-draft of article 21bis contained in document E/CONF.63/C.1/L.19; and submitted by the 26 sponsors of the original joint proposals (E/CONF.63/5).

* Resumed from the 10th meeting.

The text of article 14, paragraph 1, as amended, as approved by the Committee, was circulated under the symbol E/CONF.63/C.1/L.31/Add.1.
32. Mr. WATTLES (Legal Adviser to the Conference) said that he wished first to comment on the French objection concerning the reference in the agenda for the present meeting in document E/CONF.63/C.1/L.30. He pointed out that the daily agenda was not an official document of the Conference and was circulated only for information; a reference to a document in the daily agenda was given for guidance and did not necessarily imply that the document would be considered by the Conference.

33. With regard to the admissibility of the Indian proposal, the position was not very clear; the reason why it had been decided to fix a time-limit was to prevent entirely new proposals being placed before delegations when the work had already reached an advanced stage and it would be difficult for them to consult their Governments. The issue therefore appeared to be whether the content of the Indian proposal was very new, and whether delegations were likely to have to refer it to their Governments. As India had followed fairly closely the wording of the re-draft of article 21bis submitted by the sponsors of the original joint amendments, that was perhaps not the case. It was for the Conference to decide whether the reference to synthetic drugs constituted or did not constitute a very new proposal.

34. Reference might also be made to rule 34 of the rules of procedure of the Conference (Proposals and amendments), which stated that the text of a proposal should be circulated to delegations not later than the day preceding the meeting at which the proposal was to be considered, but that the President might permit its consideration even though it had been circulated late; the President could also ask the Committee to decide on the matter.

35. Dr. BABAIAN (Union of Soviet Socialist Republics) said that, in his opinion, the Indian proposal constituted a sub-amendment and not an amendment; sub-amendments could be handed in at any time. He did not recall, moreover, that the Conference had to set a time-limit.

36. Mr. VAILLE (France) said that the Conference had formally decided that no amendment, in the sense of article 47, could be handed in at any time. He did not recall, moreover, that the Conference had to set a time-limit.

37. The amendment proposed by India in document E/CONF.63/C.1/L.30 would have the effect of substantially altering the 1961 Convention and the alteration had been drawn up in haste. Its sponsor, for instance, had not thought that article 1 (Definitions) of the Convention would also have to be amended in order to include in it a definition of synthetic substances; article 20 (Statistical returns to be furnished to the Board) also would have to be amended. Furthermore, whereas the Conference had been convened with a view to strengthening action against drug abuse, the proposed amendment would restrict the scope of the Convention, as it closely followed paragraphs 1, 2 and 3—relating to opium—proposed in the re-draft of article 21bis submitted by the sponsors of the original joint proposals. Synthetic substances should, however, be dealt with in a different way from opium. He was not certain what was meant by the expression “as far as possible” in paragraph 3bis, subparagraph (i), of the text proposed by India. Such an expression, which was justified in the case of opium, would make the provisions relating to synthetic substances meaningless. Paragraph 3 of the existing article 21 (Limitation of manufacture and importation) of the 1961 Convention was much more effective. In seeking to establish an exact parallelism between natural and synthetic drugs, an absurd situation would arise in which the control of synthetic drugs would be less strict than hitherto.

38. The French delegation could not take a position on the proposed amendment without referring it to the French Government.

39. The CHAIRMAN said that, in order to avoid a lengthy debate, he would like the Committee to vote on the admissibility of the amendment proposed by India.

40. Mr. di MOTTOLA (Costa Rica), speaking on a point of order, said he was in agreement with the comments made by the representative of France and, like him, considered that the text proposed by the representative of India was not a sub-amendment but an amendment of substance.

41. Mr. NIKOLIĆ (Yugoslavia) said he was of the opinion that the Indian text was a sub-amendment. He appealed to delegations, in their statements, to keep to the point under consideration—whether the Indian amendment should or should not be considered—without beginning a substantive discussion, as the representative of France had done.

42. Mr. TIOURINE (Byelorussian Soviet Socialist Republic) said that he, too, considered the Indian text a sub-amendment and not a new amendment.

43. Mr. WINKLER (Austria), speaking on a point of order, said that the Indian amendment, which introduced a new idea, was similar in that respect to the amendment which had been proposed by Venezuela. As the Committee had considered that the Venezuelan amendment had been a new amendment, it should treat the Indian amendment in the same way.

44. Mr. ANAND (India), speaking on a point of order, said that he would like to explain the purpose of his proposal, so that delegations could decide, in full knowledge of the facts, whether it constituted an amendment of substance and, consequently, whether it was admissible or not.

45. The CHAIRMAN said that he would call upon the representative of India to speak, on the understanding that the latter would keep to the point under consideration and not start a substantive discussion.

46. Mr. ANAND (India) said that his proposal aimed simply to reflect the ideas generally expressed by the Committee and to draw the conclusions from a series of deductions made during the discussion. The Indian amendment was the natural consequence of paragraph 2 (c) of article 19 as proposed by Venezuela (E/CONF.63/C.1/L.22) and approved by the Committee at its 15th meeting, which itself followed from paragraph 1 (d) of article 19, also proposed by Venezuela (E/CONF.63/C.1/L.1) and approved by the Committee at its 8th meeting. The fact that the Indian amendment, in
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its paragraphs 3bis (i) and (ii), referred respectively to paragraphs 1 (h) and 2 (c) of article 19, showed clearly that it was a sub-amendment to the last Venezuelan amendment. The Venezuelan amendments, by bringing out the fact that there was illicit traffic in synthetic drugs and that the same control requirements should be applied to it as to the illicit traffic in natural narcotic drugs, had started a process into which the Indian amendment fitted logically.

47. Mr. GROSS (United States of America) said that he would take a different view of the amendment proposed by the Indian delegation if the latter had accepted the first three paragraphs of article 21bis. There was no denying that limitation of the manufacture of synthetic drugs was as important as limitation of the production of opium. However, the same methods should not necessarily be used in both cases. The Indian amendment did not fit in with article 21bis; it altered the structure of that article, whose title it also sought to change.

48. The Venezuelan amendment, considered jointly with article 21 and article 14, and more particularly paragraph 1 (a) of the latter article, proposed a comprehensive system for the limitation of the manufacture of synthetic drugs which made the Indian amendment unnecessary. Accordingly, the United States delegation could not accept the text proposed by India.

49. Mr. ANAND (India) said that his proposal to amend the title of article 21bis had been made to allow for the possible inclusion in that article of his delegation's amendment, for which some place had to be found.

50. Mr. KUSEVIĆ (Executive Secretary of the Conference) said that the Committee might wish to decide whether or not it would meet the next day, Saturday, 18 March.

51. Mr. SAMSOM (Netherlands) said that that decision would depend on the decision taken with regard to the admissibility of the Indian amendment. He proposed that the debate on that question should end at 12.15 p.m.

It was so decided.

52. The CHAIRMAN invited delegations to continue their consideration of the question of the admissibility of the Indian amendment.

53. Dr. JOHNSON-ROMUALD (Togo), speaking on a point of order, said that he considered the Indian proposal admissible, since it constituted a sub-amendment.

54. Dr. BABAIAIN (Union of Soviet Socialist Republics), speaking on a point of order, observed that several representatives had raised questions of substance under the pretext of a point of order. He urged delegations to confine their remarks to the question of the admissibility of the Indian amendment. Personally, he thought his own view was that the Indian proposal constituted a sub-amendment, since its object was to modify new procedures that were not mentioned in the 1961 Convention.

55. Mr. PATHMARAJAH (Ceylon) said that in his opinion it was only fair to allow the Indian delegation to submit its sub-amendment. As the representative of India had pointed out, that proposal was the consequence of an amendment which had already been considered by the Committee. Moreover, it made several references to article 19, paragraph 1 (h), and it would not have been possible to submit it earlier.

56. Mr. GROSS (United States of America), speaking on a point of order, noted that several representatives had argued that the Indian proposal was the "consequence" of other proposed amendments. It might perhaps be helpful to hear the opinion of the Legal Adviser to the Conference on that question of "consequence".

57. Mr. WATTLES (Legal Adviser of the Conference) said that the practice of international conferences varied considerably in that respect. A proposed amendment which was the consequence of another one could, because of the adoption of that other proposal, be either essential or merely desirable. It was difficult to give a precise definition. It seemed, however, that juridical conferences tended to give a broader interpretation to the notion of consequence than did other conferences.

58. The CHAIRMAN invited the Committee to vote on the admissibility of the Indian proposal to amend the amendment submitted in document E/CONF.63/C.1/L.19.

The Indian proposal (E/CONF.63/C.1/L.30) was found admissible by 32 votes to 25, with 17 abstentions.

59. Dr. BABAIAIN (Union of Soviet Socialist Republics), explaining his vote, said that he had voted to consider the proposal admissible, not because he approved of its contents or because he supported the principle of an article 21bis, but because he thought that it was indeed a sub-amendment. In the circumstances, it was necessary to avoid creating a precedent which would make it possible in future to exclude sub-amendments considered undesirable.

60. Dr. JOHNSON-ROMUALD (Togo), explained in explanation of vote, that he had voted to consider the Indian proposal admissible because it undoubtedly constituted a sub-amendment. However, that vote in no way prejudged his delegation's position with regard to the content of the proposal.

61. Mr. SAMSOM (Netherlands), explaining his vote, said that he had voted to consider the Indian proposal admissible so that its sponsor might, comment on the points of substance which certain representatives had already raised in their statements.

62. Mr. BEEDLE (United Kingdom), explaining his vote, said that he had voted against considering the Indian proposal admissible, but without taking any position with regard to its content. His delegation had been sympathetic to the United States representative's argument that the Indian proposal, which sought, inter alia, to modify the title of article 21bis, was more closely related to article 21.

63. In the course of a procedural discussion, Mr. VAILLE (France), Dr. JOHNSON-ROMUALD (Togo), Mr. PATHMARAJAH (Ceylon) and Dr. OLGÜIN (Argentina) requested that a meeting of the Committee be held the following morning; Mr. OUMA (Kenya) said that he would like the Committee to meet both in the morning and in the afternoon; Dr. BABAIAIN (Union of Soviet Socialist Republics) and Mr. NIKOLIC (Yugoslavia) said that they had two meetings on Sunday, 19 March and Mr. GROSS (United States of America), speaking on a point of order, noted that several representatives had argued that the Indian proposal was the "consequence" of other proposed amendments. It might perhaps be helpful to hear the opinion of the Legal Adviser to the Conference on that question of "consequence".

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Alemania), supported by Mr. KROG-MEYER (Denmark), suggested that the Committee should meet on the morning of 18 March and that a plenary meeting of the Conference should be held in the afternoon.

64. After having sought information from the Secretary of the Committee concerning the availability of staff, the CHAIRMAN said that, in the absence of any objection, he would take it that the Committee was prepared to meet the following morning.

It was so decided.

65. Mr. GROSS (United States of America), supported by Mr. SAMSOM (Netherlands), withdrew his suggestion that a plenary meeting of the Conference should be held the following afternoon and proposed that the Committee should meet then instead.

66. Mr. VAILLE (France) and Dr. URANOVICZ (Hungary) said that they were not in favour of that proposal.

67. The CHAIRMAN put to the vote the United States representative's proposal that the Committee should meet the following afternoon.

The United States proposal was rejected by 28 votes to 22, with 16 abstentions.

The meeting rose at 12.40 p.m.

EIGHTEENTH MEETING
Friday, 17 March 1972, at 2.45 p.m.
Chairman: Mr. CHAPMAN (Canada)

Consideration of all amendments proposed to the Single Convention on Narcotic Drugs, 1961 (item 11 of the Conference agenda) (continued) (E/CONF.63/5 and addenda)


Amendment proposed by India (concluded) (E/CONF.63/C.1/L.30)

1. The CHAIRMAN said that a formal proposal had been made by the Netherlands representative to limit the length of statements. In the absence of any objection, the length of statements would be limited to five minutes per speaker, except in the case of the representative of India for the introduction of his delegation's amendment.

It was so decided.

2. Mr. ANAND (India), introducing the amendment proposed by India (E/CONF.63/C.1/L.30) to the amendment (E/CONF.63/C.1/L.19) of the sponsors of the joint proposals, said that the Indian proposal was based directly on the Venezuelan amendment (E/CONF.63/C.1/L.1 to article 19 (Estimates of drug requirements), approved by the Committee at its 8th meeting and consisting of the addition to paragraph 1 of that article of sub-paragraphs (g) and (h) relating to establishments which manufactured synthetic drugs. The Indian delegation wished to make it clear from the outset that, in its opinion, the system of estimates of drug requirements which had been approved was inadequate and unrealistic, firstly because it tied actual production to estimates, in other words what was to what should be, and secondly because it made Governments responsible for the misdeeds of opium producers. However, since the Committee had adopted that system, the Indian delegation had taken it as the basis for its amendment to article 21bis, concerning the limitation of the manufacture of synthetic drugs.

3. The Venezuelan delegation had proposed that the system of estimates applicable to opium should be extended to synthetic drugs derived from opium, pointing out that the risk of illicit manufacture and of diversion into the illicit traffic was as great for synthetic drugs as for natural drugs. Following the same reasoning, the Indian delegation was taking the provisions set forth in paragraphs 1, 2 and 3 of article 21bis on the limitation of opium production and applying them to the manufacture of synthetic drugs. That was why the same wording was to be found in its amendment as in the redraft of article 21bis submitted by the 26 joint sponsors in document E/CONF.63/C.1/L.19. Accordingly, if the Committee decided to change the place of the first three paragraphs of article 21bis, the place of the paragraph 3bis proposed by the Indian delegation should also be changed.

4. Mrs. OLSEN de FIGUERAS (Costa Rica) said that, if it could be said that the Indian amendment strengthened and improved the Venezuelan proposal, the Costa Rican delegation would have been quite prepared to accept it. However, that was not the case; firstly, the text proposed by India weakened, if anything the text of the 1961 Convention, which should be kept as simple and clear as possible, and secondly, it duplicated article 21. The Costa Rican delegation would like to hear the views of the Venezuelan delegation on the subject.

5. Mr. BEEDLE (United Kingdom) said he could not see what train of logic lay behind the amendment proposed by India. In the first place, the representative of India had not mentioned articles 22 and 24, which, however, concerned the prohibition of the cultivation of the opium poppy, the coca bush or the cannabis plant and limitation on production of opium for international trade. In the second place, the Indian proposal sought to establish a parallel between opium and synthetic drugs, when it was not known exactly what came under the definition of synthetic drugs. In the third place, the Indian delegation had advanced no concrete fact to justify the need for such a system of limitation; the statistics published by INCB for 1970 related for the most part to opium and cannabis, with only one or two entries for methadone and heroin. Lastly, the paragraph 3bis (ii) proposed by India did not take into account one factor which the Board had to consider before making

1 “Statistics on Narcotic Drugs for 1970” (E/INCB/15).
a deduction, namely, commitments by the manufacturing country to export synthetic drugs for medical purposes.

6. Dr. AZARAKHCH (Iran) pointed out that in the 1961 Convention there was an article 21 entitled “Limitation of manufacture and importation” which contained provisions that were different from those proposed by India. That contradiction would have to be resolved; it might in point of fact create difficulties for Iran, which was on the point of ratifying the Single Convention on Narcotic Drugs, 1961.

7. Dr. BERTI (Venezuela) said he shared the views of the Costa Rican delegation; he thought that article 19 achieved the aim sought by the Venezuelan delegation.

8. Dr. OLGUÍN (Argentina) said that article 21 of the 1961 Convention related explicitly to the manufacture and importation of narcotic drugs, including synthetic drugs, and contained specific provisions which covered the points raised by India. The Argentine delegation therefore considered that the Indian proposal did nothing to improve the text of the Convention, and it would not support it.

9. Dr. EDMONDSON (Australia) said he did not see how article 21 of the 1961 Convention and the amendment proposed by the Indian delegation could be reconciled. Australia, for its part, did not intend to modify the controls it exercised on the production of narcotic drugs. Moreover, it would be difficult to put such a provision into force without having a precise definition of synthetic drugs.

10. Dr. MÅRTENS (Sweden) said that the Swedish delegation would be unable to support the Indian proposal, although it had voted for the Venezuelan amendment and was aware of the need to control the spread of drugs. But there were different ways of limiting the production of opium and the manufacture of synthetic drugs. Article 21 in fact contained provisions for that purpose and it was to article 21 that the Indian delegation should have proposed an amendment, not to article 21bis, which dealt with opium. The Swedish delegation agreed with the comments made by the delegations of Iran and Australia. In its view, there was a contradiction between the provisions of article 21 and the amendment proposed by the Indian delegation.

11. Mr. SAGOŒ (Ghana) said he thought that the Indian proposal was out of place and associated himself with the views expressed by the Argentine, Australian and Swedish delegations, which considered that the Indian amendment should have been made to article 21. The Ghanaian delegation wished, however, to reserve its position until other delegations had expressed their views on the amendment.

12. Mr. SAMSOM (Netherlands) said he found it understandable that the Indian amendment had been submitted as a logical follow-up to the Venezuelan amendment to article 19, which the Committee had unfortunately accepted, but he wondered why the Indian delegation proposed applying to synthetic drugs a complex system of estimates which it considered bad to start with. The Netherlands delegation, which had not supported the Venezuelan amendment to article 19, would vote against the Indian amendment to article 21bis.

13. Mr. MAYOR (Switzerland) said he was not convinced of the value of the system of estimates, which was unrealistic and was not likely to curb illicit traffic in narcotic drugs. The Swiss delegation had been against the Venezuelan amendment and could not support the Indian proposal either. Article 21 could be amended only on condition that the idea of synthetic drugs was defined in article 1.

14. Mr. HUYGHE (Belgium) said that the Indian proposal was at variance with other provisions of the 1961 Convention and would lead to inconsistency between the amendments that had been or would be adopted and the articles that had not been amended. His delegation agreed on that point with the delegations of Iran and Switzerland.

15. Dr. SHIMOMURA (Japan) said that his delegation could not accept the Indian amendment to article 21bis, for the same reasons that had already prevented it from supporting the addition of sub-paragraph (g) and (h) to paragraph 1 of article 19.

16. Mr. NIKOLIĆ (Yugoslavia) said that the arguments advanced by the delegations opposed to the Indian proposal were inconsistent and illogical. He would have been inclined to consider the amendment favourably, and he regretted that it had been submitted too late to enable the Committee to discuss it thoroughly and to introduce modifications which might have made it generally acceptable.

17. Mr. PATHMARAJAH (Ceylon) said he had no hesitation in supporting the amendment proposed by India, which was the logical follow-up to the Venezuelan amendment to article 19, paragraph 1, which the Committee had approved.

18. The objection based on the lack of a definition of synthetic drugs was not valid; they were already defined in article 1 (j) of the 1961 Convention.

19. In any event, even if the amendment only did a little to bring the international community closer to the aims of the Convention and to strengthen the control of illicit traffic, the Committee ought to support it.

20. After a procedural discussion in which Mr. ANAND (India), Mr. NIKOLIĆ (Yugoslavia) and Mr. VAILLE (France) took part, the CHAIRMAN reminded the representative of India that the Committee had decided to limit the time allowed to each speaker to five minutes.

21. Dr. BABAIAN (Union of Soviet Socialist Republics) reminded the Committee that his delegation was totally opposed to article 21bis. He too thought there was a lack of consistency in the arguments put forward by the delegations opposed to the Indian amendment. They had failed to bring out its real weaknesses in support of their arguments. Their failure to do so was deliberate and the reason was very simple: if they had gone any further with their analysis, they would have demonstrated the inconsistency of article 21bis itself.

22. Dr. JOHNSON-ROMUALD (Togo) agreed that the Indian amendment had the great advantage of demonstrating all the defects of article 21bis. Nevertheless, in view of the complexity of the technical provisions contained in the Indian proposal, he would have to abstain in the vote.
23. However, he would like the Legal Adviser to the Conference to indicate whether all the provisions contained in paragraph 3bis as proposed by India were already covered by article 21 of the Convention.

24. Mr. GROSS (United States of America) said that the discussions clearly indicated that the Indian proposal was applicable to article 21 rather than to article 21bis. Moreover, the arguments advanced in favour of that amendment were concerned not so much with synthetic drugs as with amphetamines and barbiturates, which were dealt with in the Convention on Psychotropic Substances, signed at Vienna on 21 February 1971.

25. The Indian amendment, if adopted, would be inconsistent with the provisions of article 21, would impede the implementation of that article and would undermine the whole logic of the instrument the Conference was trying to adopt. His delegation would therefore vote against the amendment.

26. Mr. WATTLES (Legal Adviser to the Conference), replying to the question asked by the representative of Togo, said that article 21 limited the manufacture and importation of all drugs, whether natural or synthetic, whereas paragraph 3bis as proposed by India limited only the manufacture of synthetic drugs.

27. Mr. PATHMARAJAH (Ceylon) said that he would like to know whether, in the opinion of the Legal Adviser to the Conference, article 21bis was an extension of article 21 or a contradiction of it.

28. Mr. VAILLE (France) said that the Indian proposal might have the effect of weakening the categorical provisions of paragraph 3 of article 21.

29. Mr. ANAND (India) said that he wished to ask the Legal Adviser to the Conference several questions. First, was opium a narcotic drug and, if so, was it not covered by article 21? Secondly, was not article 21bis intended to limit opium production still further—in other words, was it not a supplement to rather than a replacement of article 21? Thirdly, was not article 21bis concerned merely with the limitation of the manufacture and importation of quantities of narcotic drugs produced illicitly or seized and released for licit use? Fourthly, did not article 21bis contain provisions on drugs diverted into the illicit traffic and, if so, were such provisions to be found in article 21? Finally, was article 21bis not a penal provision?

30. Mr. WATTLES (Legal Adviser to the Conference) said that he would not take a position on the substance of the articles under discussion, since only the Committee and the Conference were entitled to do so.

31. In reply to the question asked by the representative of Ceylon, he said that he could not express an opinion as to whether article 21bis was an addition to or an improvement of article 21.

32. With regard to the statement made by the representative of France, he did not think that article 21bis would necessarily have the effect of weakening the effect of paragraph 3 of article 21. The limitations provided for under articles 21 and 21bis seemed to him to be different in nature. Article 21 limited manufacture and importation to the real needs of the country concerned, whereas the sole purpose of article 21bis was to limit the licit and illicit production of the country to the amount of the estimates. The approval of article 21bis would not mean that the provisions of article 21 would cease to apply.

33. In reply to the questions asked by the representative of India, he said, first of all that opium was indeed a narcotic drug in the sense of the 1961 Convention. Secondly, article 21bis was certainly intended to limit the production of opium. Thirdly, it was true that article 21 was concerned only with licit production and drugs that were seized and released for licit use. Fourthly, article 21bis was concerned both with drugs diverted into the illicit traffic and with illicit production. Article 21 was concerned with drugs diverted into the illicit traffic, in so far as they had first been diverted into the illicit traffic, then seized and released for licit use. He was unable to give a view as to whether article 21bis was a penal provision.

34. Mr. ANAND (India), speaking in exercise of his right of reply, said that some delegations had confused the issue by maintaining that the problems concerning synthetic drugs were already dealt with in article 21. The Legal Adviser to the Conference had shown that there was no basis for that position, since article 21 applied only to licit production. Article 21bis, on the other hand, applied to illicit production. It provided that countries whose drug production was being diverted into the illicit traffic would be penalized. If there were to be penalties in the case of opium, why should there not also be penalties for the diversion of synthetic drugs? It had also been argued that article 19, with the addition of the Venezuelan amendment, already contained the desired provisions. Article 19, however, dealt only with statistical estimates and contained no penal provisions.

35. If the illicit traffic in drugs was to be stopped, penalties would have to be imposed not only in respect of opium but also in respect of synthetic drugs. He hoped that delegations would grasp that point and vote for his amendment.

36. Mr. CARGO (United States of America) moved the closure of the debate.

37. The CHAIRMAN noted that there was no objection to the United States motion for the closure of the debate. He then put to the vote the Indian amendment (E/CONF.63/C.1/L.30).

The Indian amendment was rejected by 38 votes to 3, with 35 abstentions.

Paragraph 4 (concluded*)

38. The CHAIRMAN drew the Committee's attention to the amendment (E/CONF.63/C.1/L.28) to paragraph 4 of article 21bis, submitted by the sponsors of the joint proposals (E/CONF.63/5). The sponsors wanted the proposed text to replace the three alternatives for paragraph 4 proposed in the re-draft (E/CONF.63/C.1/L.19) of article 21bis which they had submitted previously.

39. Mr. CARGO (United States of America), speaking on behalf of the sponsors of document E/CONF.63/C.1/L.28, said that it was a succinct new text intended to do

* Resumed from the 10th meeting.
away with the complexities of the previous three alternatives and the procedure they proposed, which would be difficult to implement. It also had the advantage of making the Convention more coherent by linking article 21bis to article 14. The Board would utilize an already existing procedure, which was better than the establishment of a new one.

40. Dr. JOHNSON-ROMUALD (Togo) said he welcomed the fact that the sponsors had dropped the appeals procedure they had originally proposed. His delegation had already expressed its opposition to such a procedure, which might have created disputes between Governments and the Board. He therefore supported the amendment.

41. Dr. BABAIAN (Union of Soviet Socialist Republics) considered that the new text proposed for paragraph 4 was a step in the right direction. There was no further mention of the “Appeals Committee”, which his delegation had found unacceptable. His delegation would, however, vote against the amendment, because it contained a reference to article 14; it had already voted against article 14 because of certain provisions affecting countries that could not become parties to the Convention.

42. Dr. WIENIAWSKI (Poland) said that his delegation would also vote against the amendment proposed by the sponsors, for the same reason. Poland was against the possibility of recourse being had to the compulsory embargo provided for in paragraph 2 of article 14 and considered that it would be going too far to apply such a procedure in the event of violation of the provisions of article 21bis.

43. Mr. SAMSOM (Netherlands) supported the amendment to paragraph 4, while reserving his delegation’s position on article 21bis as a whole.

44. Mr. OUMA (Kenya) supported the amendment. He congratulated the sponsors on the spirit of compromise that they had shown.

The amendment to paragraph 4 (E/CONF.63/C.1/L.28) was approved by 45 votes to 9, with 11 abstentions.

At the suggestion of the Chairman, the meeting was suspended at 5.10 p.m. and resumed at 5.30 p.m.

Paragraph 5

45. The CHAIRMAN invited the Committee to consider the text of paragraph 5 proposed in document E/CONF.63/C.1/L.19 by the sponsors of the joint proposals.

46. Mr. ANAND (India) was of the opinion that paragraph 5 was merely a repetition of paragraph 4. It was already established that when the Board was planning to take a decision, it consulted Governments. Moreover, it was difficult to see the relationship between illicit traffic and weather factors. It might even be feared that the text would create conflicts between the Board and Governments, and it was absolutely necessary to avoid such conflicts.

47. The other paragraphs of article 21bis contained provisions which would take care of countries which did not see reason. Paragraph 5 should therefore simply be deleted.

48. Mr. CARGO (United States of America) pointed out that paragraph 5 was related to paragraph 2. What was important in the new text was that the Board was requested to take into account all relevant circumstances. The sponsors had considered that the inclusion of additional criteria would ensure that the Board would act responsibly.

49. In reply to the question by the representative of India, he explained that good weather conditions led to increased production, which could be more easily diverted into illicit traffic.

50. Mr. BEEDLE (United Kingdom) also stressed the importance of the words “all relevant circumstances” in the paragraph. The Board should take into account both circumstances before the decision and circumstances afterwards.

51. Mr. ALBERTI (Chile) said that the Spanish text of paragraph 5 was not very clear; Mr. NIKOLIĆ (Yugoslavia) and Mr. HUYGHE (Belgium) had the same impression about the French text.

52. Mr. VAILLE (France) formally proposed that the phrase “including ... weather factors” should be deleted. He understood that it referred to the possibility that increased production might result in diversions, but, in his opinion, it would be sufficient if that interpretation was stated in the summary record.

53. Dr. BABAIAN (Union of Soviet Socialist Republics) said that he would vote against paragraph 5 because of his reservations concerning article 21bis as a whole. Moreover, the Russian text did not correspond to the English text.

54. Mr. SAMSOM (Netherlands) considered that the suggestion made by the representative of the United Kingdom was interesting. Since the members of the Committee seemed to agree on the principle of the amendment, that suggestion might be considered by the Drafting Committee with a view to arriving at a satisfactory text.

55. Mr. BEEDLE (United Kingdom) proposed the following text, which might guide the Drafting Committee in its work:

“... the Board shall take into account not only all relevant circumstances, including those giving rise to the illicit traffic problem referred to in paragraph 2 above, but also any relevant new control measures which may have been adopted by the Government”.

56. Mr. GROSS (United States of America) supported the United Kingdom amendment, which improved the text by emphasizing all the circumstances which the Board should take into account.

57. Mr. ANAND (India) was of the opinion that, logically, that paragraph should follow paragraph 2.

58. Mr. GROSS (United States of America) considered that the Drafting Committee could deal with that problem.

59. The CHAIRMAN stated that the text would be referred to the Drafting Committee, and then considered by the plenary Conference, so that the necessary adjustments could be made.

60. He put to the vote article 21bis, paragraph 5, as amended by the United Kingdom.
Summary records of meetings of the committees

Paragraph 5, as amended, was approved by 48 votes to 9, with 11 abstentions.

Article 21bis, as amended, was approved by 43 votes to 10, with 16 abstentions.

61. Mr. GHAUS (Afghanistan), explaining his vote, said that he had abstained because article 21bis did not take into account all the aspects of the extremely complex problem raised by opium poppy cultivation and by estimates of narcotic drug production in the States parties to the Convention. The information referred to in paragraph 2 did not seem to justify the adoption by the Board of measures such as those which had been proposed, and the words "licitly or illicitly", used with reference to an amount of opium produced in the territory of a party and introduced into illicit traffic, only added to the confusion. In addition, in that same paragraph, it was not clear what position should be adopted by the Board concerning a party which had officially prohibited opium poppy cultivation and opium production, and was resolved to eliminate illicit production and traffic, but was not fully successful because of economic and technical difficulties and needed to be assisted by United Nations bodies and the other States with which it maintained friendly relations. The provisions of paragraph 2 should be flexible enough to take such a situation into account. His delegation could not accept the consequences of provisions as important as those in article 21bis without having considered them from all points of view. However, it had preferred to abstain rather than vote against the article, as proof of its willingness to help strengthen the system of international drug control.

62. Mr. ANAND (India) explaining his vote, said that he had voted against article 21bis as a whole for five reasons: (a) his delegation was against the principle that production should be based on estimates; (b) article 21bis penalized Governments for illicit traffic for which they were not responsible and which they were trying to stop, sometimes with great difficulty; (c) it created a danger of conflict between Governments and the Board, which might have to interfere in the domestic affairs of States; (d) it created unjustified discrimination between producers of opium and manufacturers of synthetic drugs; (e) there was no reason to adopt article 21bis, since article 21 of the 1961 Convention covered both opium production and the manufacture of synthetic drugs.

63. Mr. ESPINO GONZALEZ (Panama) explaining his vote, stated that the new wording of article 21bis did not take his delegation's opinions into account, and that it had therefore abstained.

ARTICLE 12 (Administration of the estimate system) (E/CONF.63/5, E/CONF.63/C.1/L.14)

Paragraph 5

64. Dr. JOHNSON-ROMUALD (Togo) introduced his delegation's amendment (E/CONF.63/C.1/L.14) to the amendment to paragraph 5 of article 12 proposed by the sponsors of the joint proposals (E/CONF.63/5). The amendment now proposed replaced the former version submitted by Togo in document E/CONF.63/C.1/L.8, and was based on observations made at the twenty-fourth session of the Commission on Narcotic Drugs by various delegations which were in favour of strengthening international drug control. Although opium was the raw material of heroin, other drugs were equally dangerous and no discrimination should be made between opium producers and the manufacturers of synthetic drugs. His delegation's amendment was on the same lines as the Venezuelan amendment adding two sub-paragraphs (g) and (h) to paragraph 1 of article 19, which the Committee had approved at its 8th meeting and which aimed at applying the same control measures to all drugs.

65. Mr. VAILLE (France) said he recognized the need to accord the same treatment to producers, manufacturers and consumers of all classes of drugs, and therefore supported the Togolese amendment.

66. Mr. GROSS (United States of America) explained that in the text proposed for paragraph 5 in the joint proposals, the sponsors had wished to stress that the Board should take action to limit the use and distribution of drugs to the quantities required by medicine and science and accordingly to prevent the diversion of those substances to the illicit traffic. The second sentence contained the necessary stipulation that the Board would in certain cases have the right to establish its own estimates.

67. Since the Togolese amendment would give the Board broader powers than most delegations would wish, his delegation could not support it.

68. Mr. ANAND (India) could not agree that estimates established by the Board should be regarded as authoritative; in any event, it was doubtful whether the Government concerned would be able to conform to them, since it could not purposely increase or reduce production from one year to another. Opium-growing was often a family business and, in view of the large number of growers, it was impossible not only to communicate the Board's decisions to all of them but also to check on the implementation of those decisions and ensure that crops were rotated appropriately as the country was authorized to produce more or less opium. The Committee should not lose sight of the practical consequences of the decisions it took. He therefore proposed that the second sentence of paragraph 5 should be deleted, otherwise he would be obliged to vote against it.

69. Dr. BABAIAN (Union of Soviet Socialist Republics) considered that the measures proposed in the new text proposed for paragraph 5, which in fact gave INCB a supra-national character, were absurd. How could the Board estimate the quantity of opium a country needed for medicinal and scientific purposes when Governments themselves were often unable to estimate their own requirements? The amendment overstepped the limits of international law. The population's requirements were a matter which only the sovereign State was competent to decide. For all those reasons, the amendment to paragraph 5 was unacceptable.

70. Mr. LAMJAY (Mongolia) agreed.

71. Mr. BEEDLE (United Kingdom) pointed out that the provisions of article 21bis invoked in the second sentence of the amendment proposed in document E/CONF.63/5 were those of paragraph 2 and not para-
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The paragraph 5 proposed by the sponsors of the joint proposals was the item which completed the mechanism designed to limit production in the circumstances envisaged in article 21bis, which the Committee had just approved. The words "which shall be considered authoritative for the year" referred solely to the situation contemplated in article 21bis. "The year" meant that in which the Board considered that a reduction in production would be technically feasible once discussions with the Government concerned had been completed. The first sentence of the amendment expressed a different purpose, namely, for the Board to make it known what it thought of the estimates submitted to it. That was not asking too much, since the Board already established estimates for countries which failed to supply them.

72. The aim of the Togolese amendment to the second sentence of the amendment to paragraph 5 was to ensure that the estimate system was applied also to synthetic products in all circumstances and not only those referred to in article 21bis; moreover, the Board's estimates would be authoritative in all cases, which meant that the Board would have the power to establish the quantities each country needed beyond what was provided in article 21bis. That was unacceptable. He asked the French representative, who had supported the Togolese amendment, how he interpreted the words "which shall be considered authoritative for the year", and to which year they referred.

73. Mr. VAILLE (France) said he had indeed supported the Togolese amendment, on condition that its form was improved. The Commission on Narcotic Drugs had already declared itself against any discrimination between opium producers and manufacturers of synthetic drugs. Some countries, however, submitted grossly exaggerated estimates to the Board and, despite the Board's entreaties, failed to revise them, either through negligence or through bad faith. In such cases, the Board must be in a position to act. By "year" should be understood the year which followed.

74. Mr. ALBERTI (Chile) considered that paragraph 5 went too far, that the Board should not be given the status of a supra-national authority and that each country was alone qualified to make its own estimates.

75. Mr. GROSS (United States of America) stressed that the measures envisaged in the amended paragraph 5 stemmed from the decision which the Committee had taken in connexion with article 21bis, and particularly paragraph 2 thereof.

76. Dr. JOHNSON-ROMUALD (Togo) pointed out that his amendment was aimed solely at eliminating unacceptable discrimination between producers and manufacturers; logically, it should have the support of all who had voted for the Venezuelan amendment to paragraph 1 of article 19. Unless the Committee adopted his amendment, he would be unable to vote for the amendment proposed to paragraph 5, since that paragraph would only cover opium producers.

77. Dr. BABAIAN (Union of Soviet Socialist Republics) agreed that all delegations which were in good faith should vote for the Togolese amendment. Those who were proposing a provision as important as the one it was proposed to incorporate in paragraph 5 must believe that the Board would not act lightly. Yet any modifications it might make to estimates could have serious consequences for medical care. Therefore, if public health were to suffer as a result of a decision by the Board, the Board would have to be dissolved and new members elected.

78. Mr. OKAWA (Japan) recognized the need for an international control system to eliminate illicit drug operations, but did not think that national drug requirements should be subjected to such strict control as would be established under the new paragraph 5 and the Togolese amendment; the present estimate system was efficient enough. The supply of drugs for licit purposes should in no circumstances be allowed to suffer from measures taken to control drug abuse. It was difficult to see how the Board could obtain information so precise as to enable it to modify a Government's estimates, and he feared that the only effect of modifying an estimate would be to render insufficient the quantities of drugs available for medical purposes. Consequently, his delegation could not support the amendments proposed to paragraph 5.

79. Mr. de ARAUJO MESQUITA (Brazil) considered that since the new text proposed for paragraph 5 complemented article 21bis, which the Committee had already approved, it was ipso facto acceptable. On the other hand, it would be contrary to the Convention to give the Board the power to publish authoritative estimates for substances other than opium, as was proposed in the Togolese amendment. His delegation would therefore vote against that amendment and, if it was approved, against paragraph 5 as a whole.

80. Mr. BEEDLE (United Kingdom) proposed that, in order to avoid any distinction between drugs in respect of which the Board would be entitled to establish its own estimates—and to specify clearly that the only estimates established by the Board which could be considered authoritative were those envisaged in paragraphs 1(e) and (f) of article 19 and relating to the year in which the provisions of paragraph 2 of article 21bis had been invoked—the words "required by article 19, paragraph 1(e) and (f)" in the second sentence of paragraph 5 should be replaced by the words "for all drugs", and that, after the word "which", the words "in the case of estimates required in article 19, paragraph 1(e) and (f)" should be inserted.

81. Dr. BABAIAN (Union of Soviet Socialist Republics) requested that the United Kingdom proposal should be circulated in writing, although he already had the impression that what it amounted to was a clever rewording which in fact related solely to opium.

82. Dr. JOHNSON-ROMUALD (Togo) said that the United Kingdom representative's proposal changed nothing, since article 19, paragraph 1(e) and (f) related exclusively to opium. He therefore proposed to alter his own amendment by proposing the addition in paragraph 5 of the letters "(g) and (h)" after the words "article 19, paragraph 1(e) and (f)".

83. Dr. BABAIAN (Union of Soviet Socialist Republics) requested that the Togolese proposal should also be...
circulated in writing. Article 19, paragraph 1 (g) and (h) referred to industrial establishments and to the products they produced. The written texts of the proposals were therefore essential if all the implications were to be understood.

84. Mr. BEEDLE (United Kingdom) withdrew his proposal.

85. Dr. JOHNSON-ROMUALD (Togo) withdrew his amendment (E/CONF.63/C.1/L.14) but maintained his last oral proposal.

86. The CHAIRMAN suggested that, before voting, the Committee should await the written text of the amendment.

*It was so decided.*

The meeting rose at 7.40 p.m.

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**NINETEENTH MEETING**

*Saturday, 18 March 1972, at 9.30 a.m.*

*Chairman: Mr. CHAPMAN (Canada)*

Consideration of all amendments proposed to the Single Convention on Narcotic Drugs, 1961 (item 11 of the Conference agenda) (continued) (E/CONF.63/5 and addenda)

**ARTICLE 21bis (Limitation of production of opium) (continued)**

1. The CHAIRMAN proposed that article 21bis, as approved by the Committee at its 18th meeting,1 be referred to the Drafting Committee.

*The proposal was adopted without objection.*

**ARTICLE 12 (Administration of the estimate system) (continued) (E/CONF.63/5)**

**Paragraph 5 (continued)**

2. The CHAIRMAN said that at the 18th meeting the representative of Togo had proposed the insertion, in the second sentence of paragraph 5 of article 12 as proposed by the sponsors of the joint proposals (E/CONF.63/5), of the words "(g) and (h)" after the words "required by article 19, paragraph 1 (e) and (f)".

3. Sub-paragraphs (g) and (h) of paragraph 1 of article 19, approved by the Committee at its 8th meeting and reproduced in document E/CONF.63/C.1/L.31, read as follows:

- (g) The number of industrial establishments synthesizing narcotic drugs; and
- (h) The production figures which will be attained by each of the establishments referred to in the preceding sub-paragraph.

4. While waiting for the Togolese amendment to be circulated, the Chairman invited the Committee, if it saw fit, to continue its consideration of paragraph 5 of article 12.

5. Mr. NIKOLIĆ (Yugoslavia) said that, in any country, the medical services, which used narcotic drugs for lawful purposes, were in the best position to know the requirements. It would be absurd, therefore, to give the Board the power to decide on the quantities of opium or codeine which each country should produce.

6. If that was the purpose of the Togolese amendment, his delegation considered it unacceptable.

7. Mr. ANAND (India) said that in his opinion paragraph 5 of article 12 should be amended in the light of the decision taken with respect to articles 14 and 21bis. After all, if article 12 was aimed solely at limiting opium production within the meaning of article 21bis, there was no need for it to mention article 19, and if it only concerned the problems of illicit production and the disagreements between Governments and the Board, there was no reason for it to refer to paragraph 2 of article 21bis. His delegation would like some clarification on those points.

8. The original draft of article 21bis, paragraph 4, in the joint proposals provided for an appeal procedure in the case of disagreement between the Board and a Government. The paragraph 4 of article 21bis as approved made no such provision in the event of the situation not being satisfactorily resolved. However, the paragraph 5 of article 12 as now proposed implied that the decisions of the Board would be binding. In the circumstances, a Government which did not accept those decisions would be considered as contravening the provisions of the 1961 Convention, which was not really a proper state of affairs.

9. In order to remedy that situation, he proposed that the end of the second sentence of paragraph 5, from the words "required by article... ", be deleted.

10. At the most, his delegation could agree that the text should state that, in the event of disagreement, the Board could always invoke the provisions of article 14, as had been done in article 21bis. It reserved the right to submit a formal proposal if necessary.

11. Dr. BABAİAN (Union of Soviet Socialist Republics) said that in his opinion it would be absurd for the Board to be able to fix the production of each of the industrial establishments manufacturing synthetic narcotic drugs. The Board could, to be sure, fix the total quantity of narcotic drugs—opium and various synthetic drugs—which each country was to produce. However, it could not do any more, in view of the large number of producing establishments that existed in certain countries and the fact that, in countries such as the USSR, the State was entitled to decide the quantities manufactured by such establishments in its territory. It was also necessary that the text to be approved should not result in the obstruction of the work done by medical services to combat sickness or epidemics, which were unpredictable by nature.

12. For all those reasons, his delegation was opposed to the Togolese amendment.
13. Mr. GROSS (United States of America) formally proposed the deletion of the end of the second sentence of paragraph 5, from the words “required by article...”. That solution ought to satisfy all members of the Committee.

14. Mr. NIKOLIĆ (Yugoslavia) said that he supported that proposal. His delegation would like to propose in addition that the words “and publish” also in the second sentence, should be deleted.

15. Dr. OLGUIN (Argentina) said that he also supported the United States proposal. The one just made by the representative of Yugoslavia seemed interesting, but should be examined in the light of paragraph 6 of article 12. His delegation was prepared to continue the discussion, but the Committee would have to take a decision on the most effective means of implementing the provisions under consideration.

16. Mr. SAGOE (Ghana) said that his delegation, which was one of the sponsors of the original proposal, accepted the amendment suggested by the representative of India and formally proposed by the representative of the United States.

17. With regard to the suggestion made by the representative of Yugoslavia, his delegation would reserve its position until it had been able to study it.

18. Dr. AZARAKHCH (Iran) said that he fully supported the proposal by the United States representative. He asked the representative of Togo whether he intended to maintain or to withdraw his amendment.

19. Mr. di MOTTOLA (Costa Rica) said that he also supported the proposal by the United States representative, but he could not accept the Yugoslav amendment, for, in the event of disagreement, it was only proper that the Board should be able to act. One kind of action it should be able to take was to establish, communicate and publish its own estimates.

20. Mr. SAMSOM (Netherlands) said that he supported the proposal by the United States representative, which eliminated all the difficulties the Committee had come up against in connexion with article 12.

21. On the other hand, the suggestion by the representative of Yugoslavia might prevent the Board from publishing its Estimated world requirements of narcotic drugs and estimates of world production of opium, which appeared annually. For that reason, his delegation thought that the text in document E/CONF.63/5, as amended by the United States, should be retained.

22. Dr. JOHNSON-ROMUALD (Togo) said that, since there was now less of a threat to producers, thanks to the spirit of co-operation shown by the United States representative and the proposal he had made, he would withdraw his own amendment and hoped that the text now proposed would receive general approval.

23. Mrs. FERNÁNDEZ (Philippines) said that her delegation fully supported the United States proposal. With regard to the Board’s right to publish its own estimates, she was in complete agreement with the Netherlands delegation.

24. Mr. HUYGHE (Belgium) said that his delegation welcomed the United States proposal, which removed the difficulties found by some delegations.

25. Mr. PATHMARAJAH (Ceylon) said that he supported the United States proposal.

26. Mr. ANAND (India) thanked the United States delegation for having paid heed to the views expressed by the Committee. He observed that the provisions of article 9, paragraph 4, and article 12, paragraph 5, were the same, with the slight exception that the latter also indicated the use which might be made of the estimates established by the Board. However, article 9, paragraph 4, had not yet been considered by the Drafting Committee and it would certainly be preferable not to put article 12, paragraph 5, to the vote until a definite decision had been taken on article 9, paragraph 4. After all, it was always possible that the first sentence of article 9, paragraph 4, might be changed, because it was for Governments and not for the Board to see to it that the requirements of medicine and science were satisfied.

27. The CHAIRMAN said that that question would have to be settled by the Drafting Committee, if not by the plenary Conference.

28. Mr. ALBERTI (Chile) said that he shared the views of the representatives of Argentina and Yugoslavia.

29. Dr. WIENIAWSKI (Poland) said that in his opinion some clarification was still necessary before a vote was taken on the United States proposal, since paragraph 5 of article 12 was much broader in scope than appeared at first glance.

30. Mr. GROSS (United States of America) pointed out that the provisions of article 12, paragraph 5, and the very aims of the 1961 Convention were such that it was essential to preserve the Board’s right to publish estimates which in its opinion would facilitate the implementation of the Convention. The text of paragraph 5, therefore, must not be weakened. Accordingly, he hoped that all delegations would accept the text which he had proposed.

31. Dr. BABAIAN (Union of Soviet Socialist Republics) thanked the representative of Togo for having withdrawn his amendment. The proposal made by the United States delegation in a spirit of co-operation was a constructive one, but his delegation could not support it. Paragraph 5 should be examined in the light of paragraphs 2 and 3 of the same article 12, under which the Board was authorized to establish estimates even for States to which the Convention did not apply. Referring in that connexion to the example of the German Democratic Republic, he emphasized that that provision was not an equitable one. He would be unable, therefore, to vote for a new paragraph unless it contained no provision along those lines.

32. U HLA OO (Burma) said that he fully supported the United States proposal.

33. Mr. SAGOE (Ghana), after thanking the representative of Togo for withdrawing his amendment, said that, for the same reasons as the Netherlands representative, he was unable to support the Yugoslav proposal. He formally proposed that paragraph 5 of article 12 should be put to the vote and urged delegations to support it.

34. Mr. NIKOLIĆ (Yugoslavia), exercising his right of reply, pointed out that he had not made a formal
In actual fact, his views were similar to those of the Netherlands representative. With regard to the measures by the Board to ensure the execution of provisions of the 1961 Convention, he would like to know whether it was the estimates furnished by the Government concerned or the estimates established by the Board that would give rise to such measures.

35. Mr. DITTERT (International Narcotics Control Board), replying, on the invitation of the Chairman, to the representative of Yugoslavia, explained that the Board would enter into consultations with a Government in accordance with the usual procedure, which had been confirmed by the principles established at the present Conference, if it considered that the estimates furnished by that Government did not correspond to the real needs of the country concerned. So far, it had nearly always been possible to eliminate such differences through consultations. Under the terms of the text proposed for paragraph 5, if the disagreement remained unresolved, which happened very rarely, the Board would have the right to make, communicate and publish its own estimates. The proposed amendment to paragraph 5 could be interpreted as meaning, in the light of the provisions of article 31 concerning the limitation of exports, that it would be the responsibility of the exporting country to decide whether it should use the estimates furnished by the country concerned or the estimates established by the Board. The opinion of the Office of Legal Affairs of the United Nations Secretariat should be requested on the implications the proposed text would have for the application of article 21, paragraph 4.

36. The CHAIRMAN put to the vote the United States proposal to delete the end of the second sentence in paragraph 5, beginning with the words "required by article...". The proposal was adopted by 52 votes to 8, with 5 abstentions.

37. Mr. NIKOLIC (Yugoslavia), explaining his vote, said that he had voted against the United States proposal, although it had at first seemed acceptable, because, as the representative of the Board had pointed out, it was actually the responsibility of the exporting country to decide whether it wished to impose restrictive measures against the country which had infringed the provisions of the 1961 Convention. Such a procedure would inevitably lead to legal and practical complications.

38. Dr. BABAIAN (Union of Soviet Socialist Republics), explaining his vote, said that he had voted against the United States proposal because his delegation could not agree that the Board should establish estimates for countries and territories to which the 1961 Convention did not apply. Such a procedure would not only infringe the sovereignty of the State concerned, but was also liable to jeopardize the prestige of the Board, at least in the eyes of those who had more confidence in the estimates furnished by the State and would therefore conclude that the Board had exceeded its powers and established estimates which did not reflect the real requirements of the country in question.

39. Dr. WIENIAWSKI (Poland) was of the same opinion as the Soviet representative.

Article 12, paragraph 5, as amended, was approved by 50 votes to 10, with 5 abstentions.

40. Mr. ANAND (India), explaining his vote, said that he had abstained because his delegation was fundamentally opposed to the idea of the Board's establishing estimates, even in extreme cases, without the co-operation of the Governments concerned.

41. Mr. CASTRO (Mexico), explaining his vote, said that he had voted for the United States proposal, because he did not consider that the resulting text of paragraph 5 infringed the sovereignty of States. By acceding to the 1961 Convention, each party agreed to comply with the obligations deriving from it.

42. Mrs. RODRIGUEZ MAYOR (Cuba), explaining her vote, said that she had voted against paragraph 5 as amended because her delegation was strongly opposed to any provision that implied interference in matters which only the State in question was entitled to decide.

43. The CHAIRMAN said that, if there were no objections, he would take it that the amended text of article 12 could be referred to the Drafting Committee. The proposal was adopted without objection.


Paragraph 4 (concluded*) and paragraph 5

44. The CHAIRMAN invited the Committee to consider the amendments to article 9, paragraph 4 (E/CONF.63/5, E/CONF.63/C.1/L.24 and E/CONF.63/C.1/L.25) and the amendment proposed by France, India, Togo and the United States of America to add a new paragraph 5 (E/CONF.63/L.3).

45. Mr. GROSS (United States of America), pointing out that the Committee had already had a lengthy discussion at its 10th meeting on the amendments to article 9, paragraph 4 (E/CONF.63/C.1/L.24 and E/CONF.63/C.1/L.25) to the Indian proposal concerning article 9, paragraph 4, moved the closure of the debate on that paragraph.

The motion for closure of the debate on article 9, paragraph 4, was adopted by 37 votes to 4, with 18 abstentions.

46. The CHAIRMAN put to the vote paragraph 4, as amended, in accordance with the United States proposal (E/CONF.63/C.1/L.25).

Article 9, paragraph 4, as amended, was approved by 46 votes to 10, with 9 abstentions.

47. Mr. PATHMARAJAH (Ceylon), Dr. EL HAKIM (Egypt), Mr. NIKOLIC (Yugoslavia), Mr. ALBERTI (Chile), Mr. ANAND (India) and U HLA OO (Burma), explaining their votes, said that they had abstained because they had been unable to give proper attention to the amendments (E/CONF.63/C.1/L.24 and E/CONF.63/C.1/L.31/Add.3).
CONF.63/C.1/L.25) and to hold a satisfactory exchange of views on them.

48. Mr. ANAND (India) said that the Committee should inform the Drafting Committee of the change which had just been made in article 9, paragraph 4, with a view to a similar modification of article 12, paragraph 5, through the addition of the words “in cooperation with Governments” after the words “to ensuring their availability for such purposes”.

49. The CHAIRMAN said that the Indian representative’s suggestion would be transmitted to the Drafting Committee.

50. He put to the vote the amendment proposed by France, India, Togo and the United States of America to add a new paragraph 5 to article 9 (E/CONF.63/L.3).

Paragraph 5 was approved by 51 votes to none, with 11 abstentions.

51. Mr. ULUCEVIK (Turkey), explaining his vote, said that he had voted for the amendment on the assumption that the principles set forth in the paragraph in question would apply both to the Board and to the Commission on Narcotic Drugs.

52. Dr. EL HAKIM (Egypt), explaining his vote, said that he had voted for the amendment because his delegation was convinced that international co-operation and a continuing dialogue between Governments and the Board was bound to facilitate the action taken to attain the common aims of all countries participating in the work of the Conference.

53. Dr. BABAIAN (Union of Soviet Socialist Republics), explaining his vote, said that he had abstained because, in the opinion of his delegation, the provision concerned first and foremost the Commission on Narcotic Drugs and the Economic and Social Council and because the new paragraph 5 made article 9 unnecessarily cumbersome.

54. Mr. PATHMARAJAH (Ceylon) said that if he had been present when the vote was taken he would have voted for the addition of paragraph 5 as proposed in document E/CONF.63/C.1/L.3.

55. Dr. URANOVICZ (Hungary), explaining his vote, said that he had abstained because his delegation still believed that the paragraph was incompatible with other amendments and was liable to hamper the operation of the machinery for implementing the provisions of the 1961 Convention.

56. Mr. di MOTTOLO (Costa Rica), U HLA OO (Burma) and Mr. NIKOLIC (Yugoslavia), explaining their votes, said that they would have voted for the amendment because the establishment of a continuing dialogue between Governments and the Board would undoubtedly help to smooth out any difficulties that might arise.

57. The CHAIRMAN put to the vote article 9, paragraph 4, as amended, and paragraph 5, as a whole.

Article 9, paragraph 4, as amended, and the new paragraph 5 were approved by 52 votes to 9, with 2 abstentions.

58. The CHAIRMAN suggested that the text of article 9, paragraphs 4 and 5, as approved by the Committee, should be referred to the Drafting Committee.

The proposal was adopted without objection.

59. Mr. PATHMARAJAH (Ceylon), explaining his vote, said that he had abstained for the same reasons as he had abstained on article 9, paragraph 4.

ARTICLE 20 (Statistical returns to be furnished to the Board) (E/CONF.63/5)

60. The CHAIRMAN invited the Committee to consider article 20 as incorporated in the joint proposals (E/CONF.63/5).

61. Mr. ANAND (India), supported by Dr. BABAIAN (Union of Soviet Socialist Republics), asked for a short suspension of the meeting to give delegations the possibility of consulting informally on the matter.

The meeting was suspended at 11.45 a.m. and resumed at 11.55 a.m.

62. Mr. GROSS (United States of America) introduced the amendment to article 20, paragraph 1 (E/CONF.63/5), which proposed that a new sub-paragraph (g) stipulating that the statistical returns to be furnished to the Board should relate also to cultivation of the opium poppy should be added to the paragraph. As a result of the discussions which he had held during the recess, he also wished to propose that the words “area of” should be inserted before the words “cultivation of the opium poppy” in the proposed sub-paragraph (g). If that amendment was adopted, the existing paragraph 3 of article 20 would be deleted and the existing paragraph 4 would become paragraph 3.

63. Mr. HUYGHE (Belgium) said that, although he welcomed the United States proposal, which would have the effect of bringing the provisions of article 20 into line with the decisions already taken, he nevertheless wished to reserve his position on the question.

64. Mr. ANAND (India) said that the scope of the proposed sub-paragraph (g) was very different from that of the existing article 20, paragraph 3, of the 1961 Convention, which was only a recommendation; firstly, the parties would henceforth be obliged to furnish statistical returns in respect of cultivation of the opium poppy, secondly, the deletion of the words “as far as possible” deprived Governments of any flexibility with regard to the information on the areas cultivated, and thirdly, the statistical returns called for related to cultivation of the poppy in general, whether it was intended for opium production, the direct extraction of morphine or the production of seeds, and no longer only to the “production of opium”.

65. Article 19 already provided that the parties should furnish to the Board estimates in respect of the area (in hectares) to be cultivated for the opium poppy and the quantity of opium to be produced. As long as the obligation to furnish data related only to estimates, there was still hope of a possibility of dialogue with the Board, but once it became a question of furnishing statistics, i.e. exact figures on areas, difficulties would inevitably arise. In India, for example, despite a strict licensing
system, there were occasionally slight discrepancies in relation to the projected figures; some farmers would be cultivating areas smaller or, on the contrary, larger than those specified on their licences. India had voted against the introductory sentence in article 19, paragraph 1, by which sub-paragraphs (e) and (f) were governed, even though at that stage only estimates had been involved. He therefore urged the sponsors of the amendment to clarify their intentions before article 20 was put to the vote.

66. U HLA OO (Burma), noting that his country was a party to the 1961 Convention but not to the 1953 Protocol, said that in accordance with article 20, paragraph 3, of the 1961 Convention, the Burmese Government had, as far as possible, furnished to the Board the information requested in respect of areas cultivated for the production of opium. The deletion of the existing paragraph 3 and its replacement by the new sub-paragraph (g) to be added to paragraph 1 would place the Burmese Government in a very difficult position. A State could hardly be obliged to furnish more precise data when it had always shown every desire to co-operate and every intention of complying with the instrument in force. His delegation would therefore vote against the proposed amendment.

67. Mr. ASHFORTH (New Zealand) said that article 20, paragraph 1, as proposed, was unacceptable to his delegation. There were in New Zealand several varieties of *Papaver somniferum L.* which were grown solely for decorative purposes, particularly in private gardens. In order to comply with the provisions of the proposed new article 20, the New Zealand authorities would have to go to enormous trouble to register countless scattered and, moreover, very small areas, and it was doubtful whether the information obtained would be of any significance whatsoever. So far, no case of the extraction of morphine from poppy straw or of the production of opium from poppies whose capsules were too small to be landed had come to the attention of the authorities. His delegation could, however, consider supporting the amendment if the wording was changed slightly.

68. Dr. WIENIAWSKI (Poland) acknowledged that the proposed addition of sub-paragraph (g) to article 20, paragraph 1, was to some extent a logical consequence of the decision taken with regard to article 19. However, his delegation had not changed its position, since it still failed to see any connexion between the areas cultivated solely for the purpose of producing opium poppy seeds and the illicit drug traffic. The provisions of the proposed new text of paragraph 1 would oblige the Polish authorities to collect information from between 200,000 and 300,000 growers who were often unaware of the potential danger of the seeds and the illicit uses that might be made of them. He would therefore vote against the amendment.

69. Dr. BABAIAN (Union of Soviet Socialist Republics) said that the representatives of India, Poland and New Zealand had expressed views which were quite close to those of his own delegation, and he doubted the value of the proposed amendment. Article 20, paragraph 3, of the 1961 Convention was very clear and was also realistic; however, that was not the case with the proposed new text whose only certain effect would be to complicate the task of States and the Board considerably. Article 19, which had already been approved by the Committee (15th meeting), provided that the parties should furnish to the Board estimates in respect of the area (in hectares) to be cultivated for the opium poppy and the quantity of opium to be produced. His delegation, which had proposed those new provisions on the ground that they were unnecessary, would be unable to do other than vote against the proposed amendment to article 20, which was equally unnecessary.

70. Mr. PATHMARAJAH (Ceylon) said that he appreciated the misgivings of certain representatives and proposed that the word “ascertainable” should be inserted before the words “area of cultivation of the opium poppy”. He was convinced of the need to require States to provide statistics on opium production, for whatever purpose, but the insertion of the word “ascertainable” would allow the parties a certain amount of latitude comparable with, although less than, that which they had enjoyed under article 20, paragraph 3. He therefore urged the sponsors of the amendment to accept his proposal. If they did so, he would vote in favour of the new text of article 20.

71. Mrs. FERNÁNDEZ (Philippines) said that her delegation supported the proposed text of article 20. As worded, the article would be a logical continuation of article 19; if parties were to furnish estimates in respect of the area of cultivation of the poppy, it was only natural that they should also furnish statistical returns.

72. Mr. GROSS (United States of America) said that it had been the intention of the sponsors of the amendment to remedy the lack of rigour in article 20, paragraph 3, of the 1961 Convention. Stricter control and more precise information were necessary, and it was clearly understood that the estimates would be furnished at the beginning of the year and the statistics at the end of the year. While he appreciated the concern of some representatives, he felt that if, in a particular country, poppy cultivation was practised on a fairly large scale, even if only for decorative purposes, the world community must be informed of that fact. His delegation maintained its amendment but acknowledged that the Ceylonese proposal was a very sensible one. It therefore formally proposed that the proposed text of sub-paragraph (g) should be amended by the insertion of the word “ascertainable” before the words “area of cultivation of the opium poppy”.

73. Mr. de BOISSESON (France) said that, as a sponsor of the amendment to paragraph 1, he naturally supported it. However, he wished to add some comments. The objections concerning the different varieties of opium poppies grown for the manufacture of morphine or for poppy seed or for other purposes were equally applicable to the amendments made to article 19. There could be no question, therefore, of re-opening the matter and making distinctions in article 20 when the amendments to article 19 had already been approved. Moreover, while it might be reasonable to doubt the accuracy of estimates, which were no more than approximate forecasts, the same criticism could not be made of statistics on the areas under cultivation, which were prepared subsequently.
France, which cultivated small quantities of opium poppy, not to obtain opium but for the direct manufacture of morphine, had studied the implications of the amendment for that type of cultivation and was prepared to supply the statistics requested.

74. Mr. NIKOLIĆ (Yugoslavia) said he understood that the purpose of the proposed amendment was to make compulsory the provisions of article 20, paragraph 3, of the Convention, so far optional, which dealt only with the areas cultivated for opium production. If, however, the idea was to make a compulsory census of all areas cultivated for the opium poppy regardless of the purpose, the operation would in practice be quite impossible, because countless numbers of peasants grew a few opium poppies in their gardens and used the seed for food purposes. The Yugoslav Government, for its part, did not see how it could cope with such an operation.

75. Dr. BABAIAN (Union of Soviet Socialist Republics) again asked how it would help the Board to know the area cultivated for the opium poppy, since according to the wording of the amendment, Governments would not be obliged to indicate the purpose of such cultivation. The representative of the United States had said that even cultivation for decorative purposes should be declared if it was on a large scale. But what was to be understood by the word “large”? Would the area of all the flower-beds or herbaceous borders that each citizen in a population running into millions might have in his garden be considered a “large” area? In the case of psychotropic substances, information on cacti, which grew in great quantities in gardens in some countries, had not been included in the information to be supplied, because it had been recognized that it would be absurd to introduce such a requirement into a convention. What was required was data that would really assist the campaign against drug addiction and the illicit traffic, rather than a miscellany of information which might seem to be of value but would do no more than create difficulties for many States. He was therefore strongly against the proposed amendment.

76. Mr. di MOTTOLA (Costa Rica) said he could not see where the difficulty lay. The statistics were to be prepared annually and supplied to the Board by 30 June of the year after the one to which they related. In other words, they could be supplied later.

77. Dr. OLGÜN (Argentina) expressed support for the proposed amendment. The data requested were among those which his delegation considered should be supplied to the Board if it was to have available all the information it needed for the control of the illicit traffic and drug abuse. It was with that in mind, and because the proposed provision was linked with those of article 19, which had already been approved, that his delegation considered it really important to know the size of the area cultivated for the opium poppy. It was fully consistent with the text of article 19 approved by the Committee that a provision which was only optional under paragraph 3 of article 20 of the 1961 Convention in force should now be made compulsory. The question of the different varieties of poppies cultivated had been discussed when article 19 was being considered and it had been decided, for convenience, to refer to poppy cultivation generally. All things considered, the same reasoning was applicable to article 20, even if it was possible that the provision might cause difficulty for some countries.

78. Dr. BABAIAN (Union of Soviet Socialist Republics) said he still wanted to know just what the Board would get from the information supplied to it on the cultivation of the poppy for food or decorative purposes. He wanted to know whether gardeners would or would not be authorized to grow ornamental poppies and how the areas used for such cultivation would be estimated.

79. Mr. DITTERM (International Narcotics Control Board) said that, according to the proposed amendment, the Board would have to request the parties to supply estimates of the area to be cultivated for the opium poppy, as defined in article 1 of the 1961 Convention. In order to implement the Convention properly, the Board might have to ask the parties to give separate estimates for the areas cultivated for the opium poppy, according to whether the cultivation was intended for opium production, the direct extraction of alkaloids or for other purposes.

80. Mr. ANAND (India) said that the proposed sub-paragraph (g) was unnecessary, because all possible information would be supplied to the Board under articles 17, 19, 20, and 21bis. Article 19 required the parties to inform the Board of the area in hectares and the geographical location of the land to be cultivated for the opium poppy and the approximate quantity of opium that would be produced, while the article 20 at present in force contained provisions concerning the exact quantities of opium produced and morphine manufactured. Moreover, article 19 referred to articles 12 and 21bis, which meant that the estimates submitted in pursuance of that article would be checked very closely by the Board, which would in future have the power to change the figures and to ask the parties to reduce them, just as it had the power, if it discovered that illicit opium had found its way into the illicit market, even after reduction of the estimates, to deduct the amount diverted from the amount to be produced and from the estimate for a subsequent year. Consequently, it was difficult to see what purpose would be served by the information requested in the proposed sub-paragraph (g) of paragraph 1 of article 20. He, therefore, proposed that that sub-paragraph should not be added.

81. The CHAIRMAN put to the vote the proposal to insert the words “Ascertainable area of” at the beginning of the sub-paragraph (g) which it was proposed to add to paragraph 1 of article 20.

The proposal was adopted by 41 votes to 8, with 10 abstentions.

Sub-paragraph (g), as amended, was approved by 40 votes to 10, with 11 abstentions.

82. The CHAIRMAN put to the vote the proposal that paragraph 3 of article 20 of the 1961 Convention should be deleted.

The proposal was adopted by 33 votes to 14, with 12 abstentions.

Article 20 as a whole, as amended, was approved by 35 votes to 10, with 15 abstentions.

4 The text of article 20, as amended, as approved by the Committee, was circulated under the symbol E/CONF.63/C.1/L.31/Add.4.
The CHAIRMAN said that, if there was no objection, the amended text of article 20 which the Committee had just approved would be referred to the Drafting Committee.

The proposal was adopted without objection.

Mr. NIKOLIĆ (Yugoslavia), explaining his vote, said that he had abstained because he could not support provisions which, although acceptable in themselves, could not be applied in practice.

U HLA OO (Burma), explaining his vote, said that he had voted in favour of article 20, as amended, because the text had been improved by the amendments that had been adopted.

The meeting rose at 1.5 p.m.

TWENTIETH MEETING
Monday, 20 March 1972, at 9.50 a.m.
Chairman: Mr. CHAPMAN (Canada)

Consideration of all amendments proposed to the Single Convention on Narcotic Drugs, 1961 (item 11 of the Conference agenda (continued) (E/CONF.63/5 and addenda)

ARTICLE 35 (Action against the illicit traffic) (E/CONF.63/5, E/CONF.63/C.1/L.20)

1. The CHAIRMAN invited the Committee to examine simultaneously the joint amendment proposed to article 35 (E/CONF.63/5) and the sub-amendment submitted by the delegation of Costa Rica (E/CONF.63/C.1/L.20).

2. Mr. GROSS (United States of America), speaking on behalf of the sponsors of the joint proposals, introduced the proposed amendment to article 35. He said that the sponsors had felt that, in addition to the changes in other articles which they proposed, action against the illicit traffic demanded the addition of two new sub-paragraphs (f) and (g) to article 35. Those two new provisions would enable the Board to receive information on the illicit cultivation, production and manufacture of and traffic in narcotic drugs. It should be noted that the parties themselves would decide on the information to be furnished.

3. Article 18, paragraph 1 (c), dealt with information concerning cases of illicit traffic which had to be furnished to the Secretary-General whenever the Commission on Narcotic Drugs so requested, whereas the proposed amendment to article 35 related to information to be furnished to the Board. Furthermore, whereas that provision of article 18 concerned illicit traffic as such, the proposed new sub-paragraphs of article 35 referred to information regarding illicit activities in general; such information would be furnished more rapidly than that communicated in accordance with article 18.

4. The sponsors took the view that, the broader the Board's powers, the more comprehensive should be the information it could receive.

5. The proposed sub-paragraph (f) contained the essence of the amendment; sub-paragraph (g) related solely to the manner in which the information referred to in sub-paragraph (f) was to be furnished.

6. Referring to the Costa Rican sub-amendment (E/CONF.63/C.1/L.20) to add a paragraph 2 to article 35, he said he recognized that there was a link between illicit traffic and the social problems which might arise within a party's territory. Generally speaking, his delegation approved the idea underlying the proposed sub-amendment—which was to make society less vulnerable to drug-addiction—but it felt that its drafting should be improved.

7. Mr. MAWHINNEY (Canada) said he thought that the joint amendment to article 35 was acceptable. His country was already furnishing the Board with much of the information referred to in the proposed new sub-paragraphs. His delegation fully approved the objectives of the Costa Rican sub-amendment, but did not think it desirable to add that wording to article 35, in view of the amended text of article 35 (Measures against the abuse of narcotic drugs), which had received wide support in Committee II (6th and 7th meetings) and would no doubt be adopted by the Conference. In its modified form, article 38 would cover part of the proposed new paragraph 2 of article 35. Moreover, the Costa Rican sub-amendment was drafted in general terms which applied to a wide variety of activities, and its interpretation might give rise to misunderstandings. He also wondered whether the creation of "national" centres, as envisaged in the sub-paragraph (b) of the proposed paragraph 2, would call for centralized measures. If it did, the provision might be the cause of some reticence on the part of States which, like Canada, pursued a policy of decentralization.

8. Consequently, his delegation could not accept the Costa Rican sub-amendment, although it approved the underlying principle and Canada was in a position to meet the obligations it entailed.

9. After a short exchange of views in which Mr. di MOTTOLA (Costa Rica) and Dr. BABAIAN (Union of Soviet Socialist Republics) took part, the CHAIRMAN invited the Costa Rican representative to present her delegation's sub-amendment.

10. Mrs. OLSEN de FIGUERAS (Costa Rica), introducing her country's sub-amendment to article 35, said that, as long ago as 1961 at the United Nations Conference for the adoption of a Single Convention on Narcotic Drugs, the Swedish representative had pointed out that no one country alone could establish an effective system of self-protection against drug abuse and that international co-operation was needed in that field. That observation had later been amply confirmed.

11. There were several aspects to the Costa Rican sub-amendment. The proposed paragraph 2 was concerned, in the first place, in sub-paragraph (a), with education and
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the control of advertising activities. The discussion so far in the Committee had centred around restrictive measures, which formed the basis of the 1961 Convention, but it was necessary to stress the importance of education programmes in making the entire population aware of the dangers of drug abuse. Moreover, mass media were now playing a preponderant role in society. If they helped to encourage drug consumption, they nullified restrictive, preventive and corrective measures or reduced their effectiveness. There could therefore be no effective control of narcotic drugs without a parallel control of advertising. Furthermore, it would be somewhat inconsistent to take steps against the illicit traffic while tolerating advertising which encouraged the consumption of drugs.

12. Her delegation realized that some States would oppose the placing of limitations on freedom of expression or on the freedom of the press. Far from limiting those freedoms, the proposed new provisions would ensure that they were not used in a manner prejudicial to public health, whether physical or mental.

13. The proposed sub-paragraphs (b) and (c) related to the creation of national and regional centres. It had been found that a knowledge of certain basic techniques enabled young people in increasing numbers to indulge in the use of drugs. That phenomenon had been the subject of much study, but it had not been possible to find the exact causes. Furthermore, certain regions lacked the resources for carrying out scientific research, and they also lacked the economic and human resources for preparing rehabilitation programmes. Consequently, they confined their action to repressive measures. Such was the case in Central America, for instance. There was therefore an urgent need to create both national rehabilitation and prevention centres and regional centres responsible for investigation, education, co-ordination and control, so as to avoid duplication. There was also no doubt that countries had an interest in grouping together in regions in order to pool their experience.

14. In short, it was necessary to resort to the mass media if drug abuse was to be effectively controlled; moreover, such action would jeopardize neither freedom of expression nor the freedom of the press, but would benefit society as a whole. Furthermore, since it had not been possible to establish with accuracy the causes of the growing use of drugs by young people, concerted action was needed in the fields of research, education and rehabilitation, and, to that end, countries should combine their efforts at the regional level.

15. She pointed out that the English and French versions of the sub-amendment contained inaccuracies of translation, to which she drew the Committee’s attention. Some delegations had suggested that the beginning of the proposed paragraph 2 should be deleted and the remainder of the first sentence redrafted accordingly. It had also been suggested that the words “explicitly, subtly or by omission” should be deleted. She accepted both those suggestions. As thus reworded, the sub-amendment would read as follows:

(a) The adoption of simultaneous measures for education against drug abuse and for the control of any activity or advertising which encourages the consumption of drugs;

(b) The creation in the territory of every Party of national centres to deal with the stages of rehabilitation and prevention in relation to drug consumption;

(c) The establishment, among the Parties, of regional agreements for the creation of regional centres for investigation, education, co-ordination and for the control of drugs.

16. Referring to the Canadian representative’s statement, she pointed out that the measures envisaged in the sub-amendment were much more detailed than those provided for in the proposed amendment to article 38.

17. She hoped that each sub-paragraph of the sub-amendment would be considered separately and voted on separately.

18. Dr. BABAIAN (Union of Soviet Socialist Republics) considered that the sense of the amendment to article 35 proposed by the sponsors of the initial joint proposals was perfectly clear. It was concerned with information which supplemented, in certain respects, that which the parties had to furnish to the Secretary-General under article 18 of the 1961 Convention. However, the provisions appeared to duplicate, as it were, those of article 18, and he failed to see why information furnished to the Secretary-General could not also be used by the Board and by the Commission on Narcotic Drugs. As to the assistance which the Board might provide, it should be made clear that, if a party so desired, the Board could offer it its services.

19. The Costa Rican sub-amendment dealt with a matter which related more to article 38 of the Convention than to article 35. The idea of simultaneous measures for education against drug abuse was highly important and it would be a pity to delete the words “explicitly, subtly or by omission”, since the publicity given to matters involving drugs often aroused too much interest among the general public. It would certainly be useful to incorporate in article 38 some of the ideas suggested by the Costa Rican delegation. The idea expressed in the introductory part of the proposed paragraph 2 was a useful one, but he thought it would be a pity to make the measures in question subject to the provision of technical assistance by the Board, since a country might well need to take certain measures and yet not require any technical assistance. The proposed wording limited the scope of the provision unnecessarily.

20. Mr. KROG-MEYER (Denmark) said that, as one of the sponsors of the joint proposals, he naturally supported the amendments to article 35 submitted in document E/CONF.63/5. With regard to the Costa Rican sub-amendment, his delegation appreciated the reasons underlying it, but noted that it duplicated article 38. Moreover, some of the proposed innovations relating to the control of information might cause some difficulty for certain countries, including his own. It was obviously necessary to take action in that field, but there was a risk of infringing upon constitutional rights such as freedom of opinion and freedom of expression, and he wondered whether the Conference was competent to deal with such matters. Issues of that kind should have
been placed before the Conference earlier, so that delegations could have sought instructions from their Governments in good time.

21. Mr. SAMSOM (Netherlands) said that sub-paragraph (f) in the joint amendment to article 35 raised difficulties of interpretation which might lead to confusion in the application of the provisions. In the English text, it was not clear whether the word "they" at the beginning of sub-paragraph (f) referred to the parties, to the Board or to the Commission. It should be clearly specified what new information it was desired to obtain in addition to that already called for in the existing texts (articles 12, 13, 18, 19, 20 and 27, which were mentioned in the sub-paragraph). As far as sub-paragraph (g) was concerned, it would be much simpler to request the Secretary-General to transmit to the Board the information furnished by the parties, since that would cover all possible contingencies. If it was thought desirable to supplement the information which the parties were required to furnish to the Secretary-General, then article 18, paragraph 1 (c), should perhaps be modified. It would be useful if the sponsors reconsidered their position and drafted a clearer text, in which the relations between the Commission, the Board and the Secretary-General should be as clearly defined as in the existing texts.

22. With regard to the Costa Rican sub-amendment, about which several delegations had rightly said that some of its provisions would be more appropriate in article 38—as the very title of that article suggested—it posed for the Netherlands delegation constitutional problems similar to those already mentioned by the Danish delegation, as the points at issue had a bearing on article 7 of the Netherlands Constitution, which guaranteed freedom of expression. Sub-paragraph (b) of the proposed paragraph 2 duplicated the provisions of article 38, and there was no need to multiply measures of that kind. In sub-paragraph (c), the idea of establishing regional centres raised a number of problems connected with the functions and financing of such centres. As far as education was concerned, the relevant measures would fall within the competence of each country and he did not quite see what it was intended to co-ordinate. As for the control of narcotic drugs, it was the subject of the 1961 Convention. In the circumstances, his delegation was unable to support the sub-amendment.

23. Mr. BEEDLE (United Kingdom) acknowledged that the wording of sub-paragraph (f) was ambiguous and that the word “they”, which of course referred to the parties, was not altogether clear. It would also be advisable to delete the reference to the various articles, with the exception of article 18. The provisions under consideration were not strict obligations, in that it was left to the parties themselves to decide what information would be useful to the Board. The Board, for its part, could encourage the parties to furnish it with information, specifying the type of information required and the manner in which it should be furnished. There would in fact be an exchange, and if its optional nature was recognized, paragraph 1 (c) of article 18, which was the pivot of the information system, would become clearer. There was no question of compelling parties to furnish different reports, one to the Board, and another to the Commission on Narcotic Drugs. That was a matter for co-ordination between the Board and the Commission.

24. With regard to the sub-amendment submitted by Costa Rica, he said that article 35 dealt with a very specific point, namely, the illicit traffic, and it might be weakened if matters such as education, advertising and rehabilitation, in which the countries themselves were competent, were introduced. His delegation therefore regretted that it could not support the Costa Rican sub-amendment, even as modified.

25. Mr. ANAND (India) said that so far the Committee had concerned itself mainly with control of licit opium production and had not yet dealt with the heart of the problem, which was the campaign against illicit activities. His delegation was therefore glad that the Committee was at last taking up an article which dealt with action against the illicit cultivation, production, manufacture and use of, and traffic in, narcotic drugs and on the present occasion it was in agreement with the sponsors of the joint proposals. Nevertheless, the purpose of the two proposed sub-paragraphs (f) and (g) was simply to obtain further information, and they did not specify exactly how the problem of illicit activities was to be solved.

26. The proposed amendment matched the new text of article 14, as approved by the Committee at its 17th meeting (E/CONF.63/C.1/L.31/Add.1), which empowered the Board, if it thought such action necessary, to propose to Governments the opening of consultations. In the present case, the parties themselves, when they deemed it appropriate, were to furnish the Board or the Commission on Narcotic Drugs with information on illicit activities. He found those parallel provisions most satisfactory, especially as the problem was one which no Government could deal with by itself and which required international co-operation.

27. However, a few points needed to be clarified. First of all, it was stated in the proposed sub-paragraph (f) that the information would be furnished to the Board or to the Commission "as they deem appropriate". It was not very clear when the information was to be sent to the Board and when it would be preferable to send it to the Commission, nor was it clear what measures the Commission might then take. Sub-paragraph (g) would authorize the Board to take certain action, but did not mention the Commission. He wondered whether that omission was deliberate or accidental. Furthermore, sub-paragraph (f) mentioned the illicit cultivation, production and manufacture of and traffic in, narcotic drugs, but not their illicit use, although that was an important aspect which was mentioned in article 14. It was also desirable that the provisions under consideration should refer to "natural or synthetic" drugs.

28. Lastly, sub-paragraph (f) referred to articles 12, 13, 18, 19, 20 and 27, although, as the United Kingdom representative had pointed out, the reference to most of those paragraphs was unnecessary. Even a reference to article 18 might be misleading, since sub-paragraph (c)
mentioned only the illicit traffic, and not illicit cultivation, production, manufacture and use.

29. The amendments proposed by the sponsors in document E/CONF.63/5 were acceptable to his delegation, although the wording could be improved.

30. With regard to the sub-amendment proposed by Costa Rica, he wondered whether it was really relevant to article 35 and whether it might not be preferable to insert it in article 38, since it dealt with the prevention of drug abuse. The Danish and Netherlands representatives had spoken of possible constitutional difficulties, but the phrase in the introductory part of the proposed paragraph 2 which read “having due regard to their constitutional, legal and administrative systems” should allay their fears in that regard.

31. An important point was the question of “technical assistance of the Board”, as it was necessary to know who would finance such assistance. If the idea was to seek UNDP assistance, he wished to make it clear that the control of drug abuse was not a priority matter for India, and that his country would not request assistance from UNDP in that field. However, if countries were free to determine their priorities themselves and if the financing was to come from a source other than UNDP—the United Nations Fund for Drug Abuse Control for instance—the proposal seemed acceptable.

32. Mrs. FERNÁNDEZ (Philippines), referring to the expression “furnish to the Board and the Commission” at the beginning of the proposed sub-paragraph (f) (E/CONF.63/5), asked whether the Commission on Narcotic Drugs could not obtain the necessary information from the Board. She said that her delegation supported the proposed amendment, which would be a useful contribution to the control of illicit traffic.

33. Mgr. FOUGERAT (Holy See) supported the joint amendment, the object of which was similar to that of the draft resolution submitted by the Holy See (E/CONF.63/ L.6) entitled “Social conditioning and protection of youth against drug addiction”. However, the Costa Rican sub-amendment appeared to be related more to article 35 than to article 38. His delegation wished to propose some changes on examination of those amendments.

34. Dr. HOLZ (Venezuela) supported the sub-paragraphs (f) and (g) proposed in document E/CONF.63/5. It would be useful for the Board to have as much information as possible concerning illicit activities.

35. He warmly supported the sub-amendment proposed by Costa Rica because, in his opinion, the role of education and the social aspects of the problem were fundamental. As the representative of the Soviet Union had pointed out, there existed in many countries what might be termed disguised propaganda for drug-taking aimed particularly at young people. The establishment of rehabilitation centres was highly desirable. A centre of that kind had been opened in Venezuela, but the services it provided were still inadequate. It was most desirable to encourage all countries to take action along those lines.

36. The question whether the Costa Rican sub-amendment related more to article 38 or to article 35 seemed to be a matter for the Drafting Committee. However, the substance of the amendment was a matter of the greatest importance and should clearly be included somewhere in the amended 1961 Convention.

37. Dr. EDMONDSON (Australia), referring to article 35, said that many countries were already furnishing to the Secretary-General information on the illicit traffic. The new provisions might therefore involve some duplication, as the United Kingdom representative had pointed out. However, the United Kingdom sub-amendment to sub-paragraph (f) of the text of the joint proposal should overcome that drawback.

38. Dr. EDMONDSON (Australia), referring to article 35, said that many countries were already furnishing doubts regarding the proposal, first, because Australia, like Canada, was a federation and it was difficult for it to take centralized measures. It was still more difficult to solve the problem of the social structures and educational systems, which, being different, could not be tackled by the same methods in all countries. Australia had no educational plan concerned specifically with action against drug addiction. The teaching was oriented towards a way of life and the quality of life, which meant that the drug problem was placed in its proper perspective.

39. The establishment of a regional centre in the geographical area to which Australia belonged did not seem to serve any useful purpose, because that area included countries which differed so profoundly among themselves that a joint policy in matters of drug addiction was out of the question.

40. Dr. WENIAWSKI (Poland) said that the new sub-paragraphs (f) and (g) proposed by the sponsors of the joint proposals, amended as proposed by the United Kingdom delegation, would have the effect of increasing the sources of information on illicit traffic. However, information was already communicated to the Secretary-General under article 18, and there would be unnecessary duplication. The Board could perfectly well use the information communicated to the Secretary-General, as it had done in the past.

41. Moreover, the Board’s broader responsibilities would lead to an increase in its staff and its activities. His delegation could not take a decision on the amendment until it had received detailed information on the financial and other implications of such an expansion of INCB. It greatly appreciated the work of the Board, and the reason it did not wish to increase the latter’s powers was precisely because it did not want it to lose any of its effectiveness.

42. Dr. AZARAKHCH (Iran) approved of the general aim of the Costa Rican sub-amendment. It was true that some provisions might seem to conflict with national constitutional laws, but the introductory part of the proposed paragraph 2 allayed any fears in that connexion. His delegation shared the views expressed by the representative of the Soviet Union on the question of technical assistance. The representative of the Netherlands had very wisely pointed out the difficulties which arose in connexion with sub-paragraph (c) of the proposed paragraph 2, difficulties which would not be easy to solve.
Thus, although Iran agreed with the aims of the sub-amendment, it nevertheless considered that the text required redrafting.

43. Dr. OLGÜN (Argentina) said that the text proposed in document E/CONF.63/5 usefully supplemented the provisions of article 35, which had played an important role in the application of the 1961 Convention. The information which would be furnished to the Board and to the Commission should make it possible to improve the operation of the system of action against the illicit traffic.

44. His delegation fully agreed with the aim of the Costa Rican sub-amendment. It had already had occasion to mention the importance it attached to co-ordinated action, or even regional action, particularly in the matter of investigation, education and prevention. The Costa Rican proposal would supplement the provisions of article 38 of the Convention. It would also supplement the draft resolution submitted by the Holy See, which his delegation supported in principle. The Argentine Republic especially approved of the establishment of regional centres, which, in its opinion, would provide support for the action carried out by each country within its borders, even if the establishment of such centres meant overcoming some administrative difficulties.

45. Dr. EL HAKIM (Egypt) supported, on the whole, the amendments to article 35 proposed in document E/CONF.63/5, as modified by the United Kingdom sub-amendment. He wished, however, to know whether the provisions of sub-paragraph (g) applied only to the Board.

46. His delegation supported the substance of the Costa Rican sub-amendment, but considered that it would be preferable to insert it in article 38 of the 1961 Convention. He drew the attention of those delegations which had expressed doubts concerning the usefulness of regional activities, to the Anti-Narcotics Bureau established by the Arab League, whose effectiveness had been recognized by the Board. Each region should establish the kind of centre most suited to its particular characteristics.

47. Mr. CASTRO (Mexico) said that he had already stressed the importance of curbing any encouragement of consumption of narcotic drugs in newspaper articles, books or statements which, with their increasing dissemination in modern society, succeeded in creating among young people a state of mind which favoured the use of drugs.

48. However, some delegations seemed to fear that the measures against such publicity that were called for might interfere with freedom of expression or freedom of the press. In order to allay such concern—which he fully appreciated—sub-paragraph (a) of the proposed paragraph 2 of the Costa Rican sub-amendment might be changed in such a way as to tone down its provisions, while respecting the principles on which it was based. Consideration might perhaps be given to a wording such as the following: "The adoption of measures to develop education, to take action, through advertising, against drug abuse and to counteract any advertising which implicitly or subtly encourages the abusive consumption of drugs." That was merely a suggestion.

49. Mr. VAILLE (France) said that he was strongly in favour of the amendment to article 35 submitted by the sponsors of the joint proposals. He also approved the amendment proposed by the United Kingdom representative.

50. The French delegation was also in favour of the Costa Rican sub-amendment, but thought it would be better to submit it as a sub-amendment to the amended article 38. It appreciated the concern of the Danish and Netherlands delegations, which feared that some aspects of that amendment might conflict with the constitutional systems of their countries. The concern of Denmark and the Netherlands to protect within their territories all forms of freedom of thought and speech should be respected. However, the paragraph 2 proposed by Costa Rica stated that the measures listed in sub-paragraphs (a), (b) and (c) would be adopted having due regard to the constitutional, legal and administrative systems of the parties. That qualification should allay the fears of those countries.

51. His delegation approved the idea of regional centres such as those referred to in sub-paragraph (c) of the paragraph 2 proposed in the Costa Rican sub-amendment, and it endorsed the remarks made in that connexion by the representative of Egypt. In addition to the arrangements made by the Arab League, he also wished to mention certain agreements which had been drawn up in various fields by Latin American countries and which worked very well. As the representative of Australia had pointed out, the problem might obviously be different elsewhere. In some cases, regional action was probably inappropriate. However, account should be taken of those cases where co-ordinated action had some advantages.

52. Mr. NIKOLIĆ (Yugoslavia) said that he could accept the principles underlying all of the amendments under consideration. However, he thought that those principles were better expressed in the text of the 1961 Convention at present in force particularly in articles 18 (Information to be furnished by Parties to the Secretary-General) and 38 (Treatment of drug addicts). He shared the view of other delegations that the Costa Rican sub-amendment was out of place in article 35.

53. He wished to know whether, under sub-paragraph (f) of the article 35 proposed in document E/CONF.63/5, the Board and the Commission on Narcotic Drugs would receive identical reports from the parties.

54. He was surprised that some countries should mention difficulties of a constitutional nature which might be created by the Costa Rican sub-amendment, since that sub-amendment provided that regard would be had to the constitutional, legal and administrative systems of the parties.

55. Mr. KROG-MEYER (Denmark) said he did not think it was enough to state that the provisions of sub-paragraphs (a), (b) and (c) of the paragraph 2 proposed by Costa Rica would be applicable "having due regard to the constitutional, legal and administrative systems"
of the parties. That qualification would not guarantee, for example, that if Denmark took the measures called for, it would not lose the support of many private groups in the country which were taking action against drug abuse. The Mexican suggestion to delete in sub-paragraph (a) the reference to the adoption of control measures might help to overcome that difficulty and he urged the delegation of Costa Rica to take the suggestion into account in its proposal.

56. Dr. JOHNSON-ROMUALD (Togo) said that it would be simpler to provide, in the text of article 35 proposed by the sponsors of the joint proposals, for the Board and the Commission on Narcotic Drugs both to receive information which would be communicated to them by the Secretary-General, to whom such information would first be sent. He welcomed the United Kingdom representative's suggestion that the references to certain articles in the proposed text of sub-paragraph (f) should be deleted. Any improvements which the sponsors agreed to make in the text they were submitting would facilitate its acceptance by his delegation.

57. The Costa Rican sub-amendment contained ideas which were important to some delegations and, in particular, to the African delegations. The Secretary General of ICPO/INTERPOL had mentioned the harmful nature of certain kinds of advertising for drugs. He regretted that the word "implicitly" did not appear in sub-paragraph (a) of the paragraph 2 proposed by Costa Rica, because it stressed the insidious nature of that type of propaganda which, under the cover of freedom of expression, encouraged the consumption of drugs in order to increase their sale. Togo could not agree with such a conception of freedom of expression. It was of course necessary to have due regard to the constitutional, legal and administrative systems of the parties, but everything possible should also be done to keep freedom of expression within proper limits and to prevent it from becoming destructive.

58. The conclusion of regional agreements would probably be useful, if not essential, between African countries which were often separated by frontiers that were more theoretical than real. Account might be taken of the observations which had been made concerning the difficulties which such agreements might meet in other regions, by inserting the words "as far as possible" before the words "regional agreements" in sub-paragraph (c) of paragraph 2 in the Costa Rican sub-amendment.

59. Like other delegations, his delegation felt that that sub-amendment would be better placed in article 38, in which it would provide an appropriate complement to the draft resolution proposed by the Holy See.

60. He urged delegations to adopt the Costa Rican sub-amendment, provided it was worded in such a manner as to make it legally more acceptable.

The meeting rose at 12.40 p.m.
tion in Europe, the mass communication media in Latin America were in the hands of private bodies whose advertising activities must be properly controlled, not only with respect to the narcotic drugs proper, but also with respect to glues, fuels and other substances which young people used to drug themselves. For all those reasons, the Panamanian delegation would vote for the Costa Rican amendment as orally modified by the representative of Mexico.

6. U WIN PE (Burma) said that he was in general agreement with the principles underlying the proposed amendments to article 35 and the Costa Rican amendment, but he could not accept them in their entirety. In fact, after listening to the previous speakers, he doubted whether the sponsors of the amendments had found the key to the problem. Moreover, the proposed provisions implied a very heavy load of administrative work; that in itself would not be an objection, but such a situation might give rise to misunderstandings in the event of negligence. In the Burmese Government's view, the Costa Rican amendment was already largely applying the measures recommended in the proposed paragraph 2 in the Costa Rican amendment, and article 38 of the 1961 Convention clearly stated the duties of the parties concerning the treatment of addicts. In his delegation's view, it was for Governments to take the initiative with respect to measures in that field.

7. Mr. de ARAUJO MESQUITA (Brazil), speaking as a sponsor of the joint amendments to article 35, said he supported the proposed sub-paragraphs (f) and (g). He believed that the few divergencies that remained after the explanations given by the sponsors might be reconciled by the Drafting Committee. It would be very useful for each party to provide the Board with information on illegal drug activity within its borders, and Brazil was quite ready to furnish such information. The Costa Rican amendment would be more appropriately placed in article 38 than in article 35. The proposed regional centres might be very useful, but it was unnecessary to specify such a measure; countries that so wished would be completely free to establish such centres either by agreement among themselves or under the auspices of regional organizations. If the paragraph 2 proposed in the Costa Rican amendment were to be approved, the wording of its sub-paragraph (b) should be slightly modified to read: "The creation by each Party, in its own territory, of national centres, ...".

8. The CHAIRMAN asked the sponsors if they accepted the sub-amendment proposed orally by the United Kingdom representative to redraft the beginning of sub-paragraph (f) as follows: "Furnish, if they deem it appropriate, to the Board and the Commission, in addition to the information required by article 18, information ...". In the absence of any objection, he would assume that the sponsors accepted that sub-amendment.

The sub-amendment was adopted without objection.

9. Mr. SAGOE (Ghana) supported the amendments to article 35 proposed in document E/CONF.63/5. He welcomed the use in the English text of the proposed sub-paragraph (f) of the words "drug activity", since the term "drug", as defined in article 1 (j) of the 1961 Convention, covered both synthetic and natural substances. If the Panamanian proposal to delete the end of sub-paragraph (f) after the word "borders" was not adopted, he would propose that the words "and traffic" in that sub-paragraph should be replaced by the words "traffic and use".

10. His delegation supported in principle the paragraph 2 proposed by Costa Rica. The measures recommended in sub-paragraph (a) were most desirable for the African countries, and particularly for Ghana; those countries were in fact exposed to direct or indirect publicity in the foreign press, which did not always put forward ideas calculated to help them in combating drug abuse and thus further complicated the task of Governments. His delegation supported sub-paragraph (b) in principle, but would have preferred that provision to be added to paragraph 2 of article 38. The word "rehabilitation" should also be replaced by the words "social reintegration". Lastly, his delegation, which, at the twenty-fourth session of the Commission on Narcotic Drugs, had itself proposed the establishment of regional centres for the control of drugs, could not but support sub-paragraph (c) of the paragraph 2 proposed by Costa Rica.

11. In conclusion, while he supported the Costa Rican amendment in principle, he considered that its provisions belonged rather to article 38. He suggested that the representative of Costa Rica should consider, together with the representative of Sweden, what part of the paragraph she had proposed could be transferred to that article.

12. Mrs. CONTRERAS (Guatemala) said she supported the Costa Rican amendment, since it recommended measures which would make it possible to effectively combat the consumption of drugs; the proposed regional centres would be unquestionably useful, particularly in Central America, a region that was seriously threatened because of the continuous increase in the illicit traffic there.

13. Dr. BABAIAN (Union of Soviet Socialist Republics) said he did not see that the information mentioned in the proposed sub-paragraph (f) of article 35 would add anything new. The parties already furnished information to the Board and to the Secretary-General under articles 12, 13, 18, 19 and 20, and the Secretary-General transmitted that information to the Commission on Narcotic Drugs. It was even laid down in article 18 that the Commission could ask for particulars concerning cases of illicit traffic. Sub-paragraph (f) was therefore superfluous and would, in addition, entail additional expenditure which would not be justified. Sub-paragraph (g) would create an unusual legal situation, since if the Board itself assisted in the furnishing of the information submitted by the parties, it was difficult to see how it could ask them for additional information.

14. His delegation had several reservations with regard to the Costa Rican amendment. His first point was that the amendment concerned article 38 and not article 35; sub-paragraphs (b) and (c) of the proposed paragraph 2, in particular, dealt with the same question as article 38, apart from the idea of establishing national rehabilitation and prevention centres. His second and most im-
portant point was that the principle of rehabilitation itself and the methods of its application were for each Government to determine. On the other hand, the USSR delegation could accept sub-paragraph (a), which it considered as supplementing article 38. It was in fact indispensable to prevent the publication in the press of articles which might incite young people to consume drugs. Some delegations had criticized those provisions on the ground that they would limit the freedom of the press, but that argument carried no weight when it was a question of protecting young people against so serious a scourge as that of drugs.

15. Mr. OZGUR (Cyprus), speaking as a sponsor of the amendment to article 35 in document E/CONF.63/5, said that he accepted the United Kingdom sub-amendment to sub-paragraph (f). With regard to the Costa Rican amendment, his delegation considered that, to facilitate its acceptance by the greatest possible number of delegations, sub-paragraph (c) of the proposed paragraph 2 might be modified as follows: "The conclusion of regional agreements on measures to be taken against drug abuse". That was merely a suggestion and not a formal proposal.

16. Several representatives had said that the Costa Rican amendment would be more appropriately placed in article 38. If the Costa Rican delegation accepted that suggestion, the amendment might be referred to the plenary Conference after being redrafted by its sponsor in the light of the suggestions made by delegations.

17. Mr. GUERRERO (El Salvador) said that his delegation supported the Costa Rican amendment.

18. Mr. PATHMARAJAH (Ceylon) said he could accept sub-paragraphs (f) and (g) of article 35 as proposed by the sponsors of the joint proposals, with the amendment which had been read out by the Chairman. The Ceylonese delegation also supported the Costa Rican amendment, but suggested that it should be proposed as an amendment to article 38.

19. Miss SHILLETTO (Jamaica) said she was not sure if she had fully understood the meaning of sub-paragraph (g) of article 35 (E/CONF.63/5). Under that sub-paragraph, the Board would request information from the parties, whereas it was already specified in article 14, paragraph 1 (g), approved by the Committee at its 17th meeting (E/CONF.63/C.1/L.31/Add.1), that the Board had the right to request explanations from a Government after examining the information communicated to it by that Government or a United Nations organ.

20. Sub-paragraph (f) was acceptable to her delegation, provided that the words "including information on illicit cultivation, production, manufacture and traffic" were retained. Her delegation also supported the proposal for the addition of the words "and use" after the word "traffic".

21. The Costa Rican amendment presented some difficulties, particularly the recommendation in sub-paragraph (c) of the proposed paragraph 2 that the parties should conclude regional agreements providing for the establishment of regional centres. The words "where appropriate" should be inserted, in order to leave the parties complete freedom of action. The wording of sub-paragraph (c) proposed by the Cypriot delegation seemed preferable to the original wording. With reference to sub-paragraph (b), the difficulty was one of financing. As the Indian delegation had pointed out (20th meeting) the developing countries had priorities which must be taken into account, and it was not the function of an international convention to specify what priorities the parties should adopt.

22. Her delegation understood why the Costa Rican delegation had thought it necessary to make the proposals in sub-paragraph (a), but questioned whether that sub-paragraph added anything to article 38, as amended by Committee II at its 7th meeting, or to article 14bis proposed in document E/CONF.63/5, on technical and financial assistance to promote more effective execution of provisions of the Convention. It was doubtful whether it was really necessary to give the parties any indication of the measures to be taken in the field of education. Her delegation would prefer the Convention to request the parties to study the factors leading to drug abuse, without giving any specific guidelines. It was for the individual countries to decide which measures were the most appropriate.

23. Lastly, her delegation accepted the United States sub-amendment to replace the word "assistance" by the word "advice" in the introductory part of the paragraph 2 proposed by Costa Rica.

24. Dr. SHIMOMURA (Japan) said that he appreciated the need to encourage the adoption of regional measures to combat drug abuse. The wording of sub-paragraph (c) of the proposed paragraph 2 in the Costa Rican amendment was, however, too categorical; it was for the region itself to determine the measures to be taken in the light of its own conditions. In that respect, his delegation preferred the wording proposed for that sub-paragraph by the Cypriot delegation. In general, it considered that the whole of the Costa Rican proposal was better suited to a resolution than to the Convention.

25. Mr. ANAND (India) said that he had several comments to make on the joint amendment to article 35. The words "if they deem it appropriate" should be used at the beginning of sub-paragraph (f). It would be enough for that sub-paragraph to mention the information required by article 18.

26. Sub-paragraph (g) should point out that it was at the request of the parties that the Board might furnish assistance. Some delegations had expressed surprise that the Board should be called upon to assist parties in furnishing the information which it itself requested from them. His delegation thought that the sponsors' intention had been to request the Board to facilitate the countries' task. It supported the proposal to add the words "and use" at the end of sub-paragraph (f), after the word "traffic".

27. In view of those comments, his delegation proposed the following two texts for sub-paragraphs (f) and (g) respectively. Sub-paragraph (f) would read as follows:

The Parties may, if they deem it appropriate, furnish to the Secretary-General, in addition to the information required by article 18, and as far as possible in such manner and by such date as the Board may request, information relating to illicit drug activity...
within their borders, including information on illicit cultivation, production, manufacture, traffic and use.

Sub-paragraph (g) would be redrafted as follows:

The Board may, if requested by a Party, offer its services, to it in furnishing the information referred to in the preceding paragraph and in endeavouring to reduce illicit drug activity in that country.

28. His delegation also thought that the Costa Rican amendment should be included in article 38, and the Committee might submit it to the plenary Conference with a recommendation to that effect. However, his delegation wished to propose a number of changes in the amendment. The introductory phrase of the proposed paragraph 2 stated that the parties could request “the technical assistance of the Board”; since that phrase had financial implications, the words “technical assistance” should be replaced by the words “technical advice”. Moreover, the parties should be able to request technical advice not only from the Board but also from the Commission on Narcotic Drugs which, if its special sessions were taken into account, met nearly every year. Lastly, if the amendment was to be included in article 38, it would be preferable not to use the future tense in any of the three paragraphs of the text, because that made it too categorical.

29. In view of the comments he had just made, his delegation suggested, without making a formal proposal, that the amendment should be modified to read as follows:

Having due regard to their constitutional, legal and administrative systems, it is desirable that the Parties may, as far as practicable, promote: (a) the adoption of simultaneous measures for education against drug abuse and for the control of any activity or publicity which encourages the consumption of drugs; (b) the establishment in their territories of national centres to deal with the stages of rehabilitation and prevention in relation to drug consumption; (c) the establishment, in agreement with other interested Parties in the region, or regional centres for investigation, education, co-ordination and control of narcotic drugs.

The following new paragraph would then be added:

In promoting the above-mentioned measures, the Parties may, if they consider it necessary, seek the technical advice of the Board or the Commission.

30. Mrs. OLSEN de FIGUERAS (Costa Rica), referring to the question whether the Costa Rican amendment appertained to article 35 or article 38, said that once it had been approved in general terms by the Committee, it could be referred to the Drafting Committee for finalization; it would be for the latter Committee to insert it in whichever article it considered appropriate.

31. She accepted the sub-amendments suggested at the 20th meeting by the representative of Mexico for sub-paragraphs (a) and (c). Sub-paragraph (a) would read as follows: “The adoption of simultaneous measures to increase education and publicity against drug abuse and to counteract any activity or publicity which, explicitly or subtly, encourages the abuse of drugs”. She also accepted the Mexican proposal to redraft sub-paragraph (c) as follows: “The conclusion between the Parties of regional agreements providing for the establishment of regional centres for investigation and education in the matter of the abuse of drugs.”

32. She did not believe that the ideas contained in the amendment proposed by her delegation were already embodied in article 38. The latter article concerned the training of personnel, whereas the amendment related to the establishment of regional centres, which was an entirely different matter. It was important to bear in mind the special difficulties of the developing countries, which had limited resources for combating the illicit traffic. The establishment of regional centres would enable those countries to avoid duplication in that respect and to make the best possible use of the available resources. The developed countries had a duty to enable them to do so.

33. She accepted the proposal by Togo (20th meeting) that the words “as far as possible” should be inserted before the words “of regional agreements” in sub-paragraph (c), and the French proposal that the word “consumption” should be replaced by the word “abuse”.

34. With regard to the Indian representative’s statement, the text of the Costa Rican amendment already possessed all the necessary flexibility, since the introductory phrase in paragraph 2 stated: “... having due regard to their constitutional, legal and administrative systems, the Parties... if they desire it...”

35. She accepted the suggestions by the United States representative for the replacement of the word “assistance” by the word “advice”, the word “consumption” by the words “illicit consumption” and the word “advertising” by the word “publicity”. She also agreed that the word “rehabilitation” should be replaced by the words “social reintegration”, as suggested by the representative of Ghana.

36. Mr. NIKOLIĆ (Yugoslavia) suggested that, in view of the large number of changes proposed to or made in the original text of the Costa Rican amendment, the meeting should be suspended to enable the Costa Rican delegation and the other delegations which had proposed changes to agree on a common text.

37. Dr. BABAION (Union of Soviet Socialist Republics) reiterated his view that the Costa Rican amendment belonged to article 38 and not to article 35 and suggested that the Costa Rican delegation should prepare a new version of its proposal for submission to the plenary Conference as a sub-amendment to article 38.

38. Mr. SAMSOM (Netherlands) pointed out that the present text of the Costa Rican amendment conflicted in substance with several provisions of article 38. It might be better for the ideas contained in the amendment to be expressed in the form of a draft resolution.

39. Mr. BEEDLE (United Kingdom) suggested that the link between the Costa Rican amendment and article 35 would be clearer if the beginning of paragraph 2 were reworded on the following lines: “It is desirable that Parties, as part of their action against the illicit traffic, should also promote the following measures:”.

40. After a procedural discussion in which Mr. VAILLE (France), Dr. BABAION (Union of Soviet Socialist Republics), Mrs. OLSEN de FIGUERAS (Costa Rica), Dr. JOHNSON-ROMUALD (Togo), Mr. CARGO (United States of America) and Mr. ANAND (India) took part, the CHAIRMAN suggested that the meeting
should be suspended to give the Costa Rican delegation an opportunity to redraft its amendment in collaboration with the delegations which had proposed changes and also to enable the United States and Indian delegations to reconsider, as they had requested the wording of sub-paragraphs (f) and (g) which it was proposed to add to article 35.

It was so decided.

The meeting was suspended at 5.5 p.m. and resumed at 5.40 p.m.

41. Mr. CARGO (United States of America) announced that during the suspension the delegations concerned had reached agreement on the following text for article 35, sub-paragraph (f):

Furnish, if they deem it appropriate, to the Board and the Commission through the Secretary-General, in addition to the information required by article 18, information relevant to illicit drug activity within their borders, including information on illicit cultivation, production, manufacture, traffic and use.

42. Mr. ANAND (India) and Mr. SAGOE (Ghana) withdrew their sub-amendments to article 35, sub-paragraph (f).

43. Mr. FERRER ANGUIZOLA (Panama) said that he maintained the whole of the sub-amendment he had proposed to sub-paragraph (f), namely, to place a full stop after the word “borders” in the original text of the sub-paragraph in document E/CONF.63/5 and to delete the remainder of the sub-paragraph.

44. Dr. BABAIAN (Union of Soviet Socialist Republics) said he would like some additional information regarding the new text of sub-paragraph (f) just read out by the United States representative. Was the additional information requested to be included in the report referred to in article 18 or in a different report?

45. Mr. CARGO (United States of America) replied that the sponsors were chiefly concerned with the content of the information to be furnished; the form in which they were furnished would have to be worked out on the basis of sub-paragraph (g).

46. Mr. NIKOLIĆ (Yugoslavia) also referred to the text of sub-paragraph (b) read out by the United States representative and asked whether a State which wished to furnish additional information could communicate it either to the Commission on Narcotic Drugs or to the Board, or whether it would have to communicate it to both.

47. Mr. CARGO (United States of America) said that he had helped to draft the text read out by the United States representative. Parties would communicate the information to the Secretary-General, who would transmit it to the Commission and the Board.

48. Mr. ANAND (India) said that he had helped to draft the text read out by the United States representative. Parties would communicate the information to the Secretary-General, who would transmit it to the Commission and the Board.

49. The CHAIRMAN suggested that the two amendments before the Committee should be put to the vote, beginning with the Panamanian sub-amendment, which seemed to be the one furthest removed from the original text.

50. Dr. BABAIA. (Union of Soviet Socialist Republics), Mr. NIKOLIĆ (Yugoslavia), Mr. ANAND (India), Miss SHILLETTO (Jamaica), Dr. EL HAKIM (Egypt) and PATHMARAJAH (Ceylon) took part in a procedural discussion concerning the order of voting suggested by the Chairman.

51. Mr. FERRER ANGUIZOLA (Panama) said that he would not press for a vote on the Chairman's ruling.

The Panamanian sub-amendment to delete the phrase following the words “their borders” at the end of sub-paragraph (f) was rejected by 54 votes to 1, with 22 abstentions.

52. Dr. BABAIAN (Union of Soviet Socialist Republics), referring to the text of sub-paragraph (f) read out by the United States representative, said it would be asking too much of Governments to request them to furnish additional information to the Board and to the Commission over and above that required by article 18. Governments would then have to draft two separate reports. Moreover, to judge from the proposed text, the additional information would be broad in scope. Admittedly, the text stated that Governments would furnish such information if they deemed it “appropriate”, but the sub-paragraph none the less placed them under some sort of obligation. He was therefore in favour of deleting that text.

Sub-paragraph (f) of article 35 (E/CONF.63/5), as amended, was approved by 59 votes to none, with 18 abstentions.

53. Mr. FERRER ANGUIZOLA (Panama), speaking in explanation of vote, said he had not voted against the proposal because he had been one of the sponsors of its original text. He wished to know, however, why Panama, as a sponsor of that text, had not been consulted in connexion with its modification.

54. Dr. BABAIAN (Union of Soviet Socialist Republics), speaking in explanation of vote, said his delegation had abstained because the sub-paragraph added nothing to the Convention; the appropriate provisions were already contained in article 18. Admittedly, the new sub-paragraph specified that the additional information was to be addressed to the Secretary-General, but that provision was unlikely to cause any difficulty.

55. Mr. CARGO (United States of America) introduced the text of sub-paragraph (g), as it had emerged from the discussions just held between the sponsors of the joint proposals:

(g) Furnish the information referred to in the preceding paragraph as far as possible in such manner and by such dates as the Board may request; if requested by a Party, the Board may offer its services to it to assist it in furnishing this information and in endeavouring to reduce the illicit drug activity in that country.

56. Mr. NIKOLIĆ (Yugoslavia) asked for a specific example of the services which the Board could give to a country in such circumstances.

57. Mr. CARGO (United States of America) replied that the nature of those services would depend on the wishes of the parties. The Board could help a country to modify the presentation of its information and statistics.
in such a way that they were more useful, better organized and better suited to the Board's work.

58. Dr. BABAIAN (Union of Soviet Socialist Republics) considered that the phrase "to reduce the illicit drug activity in that country" would involve an immense amount of work for the Board, since it would not simply be consulted on the presentation of reports by Governments but would assist in reducing illicit activities in countries. Such a task would certainly have considerable legal and financial implications.

59. Mr. ANAND (India) replied that the proposed sub-paragraph (g) should not have any financial implications. The intention simply was that assistance would be given to a country reporting illicit activities. The sub-paragraph under consideration was in fact an extension of paragraph 1 of article 14, as approved by the Committee, which mentioned consultations between the Board and a country in which an illicit activity was reported. In order to dispel the Soviet representative's fears, he formally proposed that the word "services" should be replaced by the word "advice".

60. Mr. CARGO (United States of America) said that the modification was acceptable.

61. Mr. BEEDLE (United Kingdom) requested a separate vote on the last phrase of the proposed sub-paragraph, "... and in endeavouring to reduce the illicit drug activity in that country".

62. Mr. HUYGHE (Belgium) associated himself with the views expressed by the Togolese and Soviet representatives. The Indian sub-amendment did not seem very clear in French; it was difficult to see how a Government could need the Board's "advice" to assist it in supplying information.

63. Dr. SULIMAN (Sudan) said he was also opposed to the Indian sub-amendment. The word "advice" introduced a shade of meaning which weakened the text by diminishing the importance of the help the Board could give in the control of illicit activities; on the other hand, the word "services", of which the United States representative had given specific examples, was perfectly clear.

64. The CHAIRMAN put the two parts of the version of the second phrase of sub-paragraph (g) read out by the United States representative to the vote separately, as proposed by the United Kingdom representative. The first part began with the words "if requested" and ended with the words "this information"; the second part began with the words "and in endeavouring" and ended with the words "in that country".

The first part of the second phrase of sub-paragraph (g) was approved by 53 votes to none, with 20 abstentions.

The second part of the second phrase of sub-paragraph (g) was approved by 36 votes to 3, with 33 abstentions.

Sub-paragraph (g) of article 35, as a whole (E/CONF.63/5), as amended, was approved by 48 votes to 1, with 23 abstentions.

65. Mrs. OLSEN de FIGUERAS (Costa Rica) read out the revised text of her delegation's amendment, as follows:

It is desirable that each Party, as part of its action against the illicit traffic in drugs, having due regard to its constitutional, legal and administrative systems, and, if it so desires, with the technical advice of the Board, should promote:

(a) The adoption of measures to increase education and publicity against the illicit use and traffic in drugs, and to suppress as far as possible all activities and publicity which stimulate the illicit use of and traffic in drugs;

(b) The creation, as far as practicable, of centres concerned with the problems of prevention and social reintegration in relation to the illicit use of and traffic in drugs;

(c) The establishment, in consultation with other interested Parties in the region, of agreements which contemplate the development of regional centres for investigations and education to combat the problems resulting from the illicit use and traffic in drugs.

66. The sole purpose of her amendment was to protect young people against the drug scourge and to meet the growing concern of mothers about the present situation. The amendment was intended especially for small countries and the developing countries, which could thus combine their efforts to control the illicit use of and traffic in drugs.

67. The CHAIRMAN asked the Costa Rican representative whether she wished each paragraph of her amendment to be put to the vote separately.

68. Mrs. OLSEN de FIGUERAS (Costa Rica) said it was for the members of the Committee to decide in the light of rule 45 (Division of proposals and amendments) of the rules of procedure of the Conference.

69. Dr. BABAIAN (Union of Soviet Socialist Republics) said he appreciated the general motives behind the Costa Rican amendment and considered that it might be useful. For legal reasons, however, he could not accept it in its present form as an amendment to article 35, since the Board would be entrusted with functions which were much too broad; it did not need to know the laws of individual States regarding the prevention of drug addiction and the rehabilitation of addicts.

70. Mr. KROG-MEYER (Denmark) recognized the usefulness of the Costa Rican amendment. Since, however, some States might have difficulties in suppressing all activities or publicity which encouraged drug consumption, he would prefer the word suggested by the Mexican representative, namely, "counteract".

71. The CHAIRMAN remarked that the amendment under consideration had already been discussed at length and that most delegations had merely raised objections on points of detail which could be referred to the Drafting Committee.

72. Mr. CARGO (United States of America) pointed out that sub-paragraph (a) of the proposed paragraph 2 contained two separate ideas: the adoption of measures to increase education and publicity against the illicit use of and traffic in drugs, and the suppression of all publicity which might stimulate drug consumption. It was necessary to clarify the point at which the Mexican sub-amendment was to be inserted, since its meaning was not very clear.

73. Mr. ANAND (India) said he would like some additional information on the Costa Rican amendment, and particularly on the meaning of the word "investiga-

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a The text of sub-paragraph (g) of article 35, as approved by the Committee, was circulated under the symbol E/CONF.63/C.1/L.31/Add.5.
tions” in sub-paragraph (c). If that word referred to research conducted jointly by several States, his delegation would have difficulty in accepting it, but would not object to it if the reference was to general research. Although his delegation was in agreement with the substance of the text, it did not see how it could be inserted in article 35, which dealt exclusively with the control of the illicit traffic and not with ways of preventing and treating drug addiction. It might be better to leave it to the Drafting Committee to decide where it should be placed.

74. Dr. JOHNSON-ROMUALD (Togo) requested the Chairman to put the Costa Rican amendment to the vote.

75. Miss SHILLETTO (Jamaica) considered that the provision for the creation of drug abuse control centres should be accompanied by a qualifying phrase such as “as far as possible”, since no party could be obliged to establish such centres.

76. Mr. HUYGHE (Belgium) pointed out that the Costa Rican amendment to some extent reproduced the general idea of article 38 concerning the treatment of addicts. Paragraph 1 of that article was of a compulsory nature, as the use of the future tense indicated. He feared that the provisions of that article might be weakened by the incorporation of the Costa Rican amendment, under which parties were to take measures, having regard to their constitutional, legal and administrative systems.

77. Dr. BABAIAN (Union of Soviet Socialist Republics) said that, in his view, the whole of the Costa Rican amendment related to article 38, which had been referred to Committee II for consideration.

78. The CHAIRMAN thought it would be preferable to postpone the vote on the Costa Rican amendment, so as to give the sponsor time to consider the suggestions made and, if necessary, modify the text accordingly.

79. Mrs. OLSEN de FIGUERAS (Costa Rica) said she was prepared to engage in consultations in order to work out a text acceptable to all delegations and to settle the translation problems; in particular, the term “investigations” could be replaced by the term “research”.

The meeting rose at 7.30 p.m.

TWENTY-SECOND (CLOSING) MEETING

Tuesday, 21 March 1972, at 9.50 a.m.

Chairman: Mr. CHAPMAN (Canada)

Consideration of all amendments proposed to the Single Convention on Narcotic Drugs, 1961 (item 11 of the Conference agenda) (concluded) (E/CONF.63/5 and addenda)

ARTICLE 35 (Action against the illicit traffic) (concluded)

1. Mr. NIKOVIĆ (Yugoslavia) formally proposed that the debate on article 35 should be closed and that the new text of the amendment by Costa Rica to article 35, which the Costa Rican delegation had introduced orally at the 21st meeting, should be put immediately to the vote, paragraph by paragraph, on the understanding that the Committee would leave it to the plenary Conference to decide whether the amendment should be included in article 35 or in article 38.

It was so decided.

2. Mr. KROG-MEYER (Denmark) welcomed the fact that Costa Rica had taken the suggestions of the representative of Mexico (20th meeting) into account in the new text of its amendment. He would vote for the revised version, on the understanding that in the final version the Drafting Committee would respect the delicate balance prevailing in the present text.

3. Dr. URANOVICZ (Hungary), speaking on a point of order, said that in his view the vote could only be an indication of the Committee’s feelings, since in the short time at their disposal delegations could only take a position on the general purport of the text.

4. Mr. HUYGHE (Belgium) said that, although Belgium completely agreed with the ideas expressed in the proposed amendment, it could not vote for it, because it took up certain ideas—for example with regard to education and prevention—contained in article 38. That article was mandatory in character and did not contain any qualifications of a legal, constitutional or administrative nature. If the text proposed by Costa Rica was adopted, there was liable to be confusion, since it would not be clear whether or not the measures in question were governed by article 38 of the 1961 Convention. As a result, the article would lose its force, which would be very regrettable, since, by virtue of the categorical sanctions and obligations it contained, it was an essential addition to the 1961 Convention.

5. Dr. BABAIAN (Union of Soviet Socialist Republics) said he thought that the Committee was acting against its own interests by making the Conference responsible for solving problems of drafting and of insertions in the Convention which it had been unable to settle itself.

6. Mr. BEEDLE (United Kingdom) said he could not vote for the proposed amendment without knowing where it was to be inserted.

7. Mr. MAWHINNEY (Canada) said that, in voting on the text, his delegation reserved its position on the question of where it was to be inserted in the Convention until the matter was discussed in the plenary Conference.

Sub-paragraph (a) of the revised text of paragraph 2 proposed by Costa Rica was approved by 45 votes to none, with 31 abstentions.

8. Mr. NIKOVIĆ (Yugoslavia), explaining his vote, said that he had abstained for the reasons given by the Belgian representative.

Sub-paragraph (b) was approved by 46 votes to none, with 30 abstentions.

Sub-paragraph (c) was approved by 37 votes to none, with 36 abstentions.
The Costa Rican amendment as a whole was approved by 43 votes to none, with 31 abstentions.

The text of article 35 as a whole, as amended, was referred to the Drafting Committee.

9. Dr. BABAIAN (Union of Soviet Socialist Republics), supported by Dr. WIENIAWSKI (Poland), expressed great regret that the Committee had felt it necessary to rush through the consideration of such an important matter, thus creating a precedent.

10. Mr. CARGO (United States of America), explaining his vote, said he had voted in favour of the amendment with the proviso that it did not imply any action or intervention contrary to the principles which should govern a free society.

11. Mr. ABDO GHANEM (Lebanon), explaining his vote, said he had abstained in the vote on the three subparagraphs and on the Costa Rican amendment as a whole because it added nothing to the 1961 Convention. If an amendment involved no specific obligation for the parties, there was no point in including it in the Convention.

ARTICLE 24 (Limitation on production of opium for international trade) (E/CONF.63/5, E/CONF.63/C.1/L.21)

12. The CHAIRMAN invited the Committee to consider the joint amendment to paragraph 4 (b) of article 24 (E/CONF.63/5) and the proposal to add two sub-paragraphs (c) and (d) to paragraph 4, submitted by Costa Rica (E/CONF.63/C.1/L.21).

13. Mr. CARGO (United States of America), speaking on behalf of the sponsors of the joint proposals, said that they were ready to participate in a discussion of article 24 but, to gain time, they would be prepared to refer the matter to the plenary Conference if that was the wish of the majority.

14. Mrs. OLSEN de FIGUERAS (Costa Rica), observing that the Committee had spent a lot of time considering the amendments to article 35, withdrew her delegation's proposal, in the interests of speeding up the work. However, she reserved the right to reintroduce it in the plenary Conference.

15. Mr. ANAND (India) reminded the Committee that the plenary Conference had given the two Committees the task of considering all the amendments proposed. If it referred the amendments to article 24 back to the plenary Conference, the Committee would be failing in its task and would be following an irregular procedure. It should, on the contrary, hold a general discussion on the question, which was a technical one, leaving the possibility open for delegations to agree subsequently on a generally acceptable text.

16. Furthermore, article 24 was closely linked with article 22 (Special provision applicable to cultivation). When it had referred the amendment to article 22 to Committee II, the Conference had stated (5th plenary meeting) that Committee I might study the conclusions reached by Committee II before considering what other articles required modification. In the circumstances, it seemed clear that it was for Committee I and not for the Conference to study the amendments to article 24.

17. Mr. VAILLE (France), speaking on a point of order, observed that both the United States representative and the representative of Costa Rica were in favour of referring the amendments to article 24 to the plenary Conference. He formally proposed, therefore, that the Committee should not consider the amendments to article 24 but refer them to the plenary Conference.

18. Mr. ANAND (India) said that, in view of its terms of reference, he doubted if the Committee could take such a decision.

19. The CHAIRMAN pointed out that the Committee was free to decide on its own procedure.

20. Mr. PATHMARAJAH (Ceylon) said he was afraid that if the Committee acted in that way, it would create an unfortunate precedent. He proposed that the Committee should consider the amendments to article 24; it might perhaps limit the length of the debate or the time for each speaker.

21. Dr. BABAIAN (Union of Soviet Socialist Republics), supported by Mr. ANAND (India) and by Mr. PATHMARAJAH (Ceylon), said that the Committee could not refuse to consider the amendments to article 24 when it had considered all the other amendments referred to it.

22. Mr. VAILLE (France) requested the closure of the procedural debate under rule 31 of the rules of procedure of the Conference.

The motion for closure of the debate was carried by 36 votes to 12, with 29 abstentions.

The proposal to refer the consideration of the amendments to article 24 to the plenary Conference was adopted by 38 votes to 13, with 22 abstentions.

23. Mr. CARGO (United States of America), explaining his vote, said that his delegation had voted to refer the amendments to article 24 to the plenary Conference, not in order to avoid a discussion in the Committee, but in order to speed up the work.

24. Dr. BABAIAN (Union of Soviet Socialist Republics), explaining his vote, said that the Committee had violated the rules of procedure by deciding to refer the amendments to the plenary Conference without having considered them itself.

25. Mr. HUYGHE (Belgium), explaining his vote, said he had voted against the proposal because of the terms of reference given to the Committee.

26. Mr. ANAND (India), explaining his vote, repeated the reasons he had given before the vote was taken for his vote against the proposal.

27. He hoped that the Committee would make a recommendation to the plenary Conference that priority should be given to the amendments to article 24.

28. The CHAIRMAN pointed out that the plenary Conference was composed essentially of the same delegations as the Committee, and it would be for them to
Committee II—First meeting

1. The Acting CHAIRMAN invited nominations for the office of Chairman.
2. Mr. VAILLE (France), on a point of order, asked whether the Vice-Chairman of Committees I and II could not also be elected at the present meeting.
3. The Acting CHAIRMAN suggested that, in view of the lateness of the hour, their election might be conducted at some later meeting by the Chairmen of the respective Committees.

It was so agreed.
4. Mr. NIKOLIĆ (Yugoslavia) nominated Dr. Bölcs, the head of the Hungarian delegation.
5. Mr. ANAND (India) and Dr. JOHNSON-ROMUALD (Togo) supported the nomination.

Dr. Bölcs (Hungary) was elected Chairman by acclamation and took the Chair.

The meeting rose at 1.5 p.m.

SECOND MEETING

Tuesday, 7 March 1972, at 5.5 p.m.

Chairman: Dr. Bölcs (Hungary)

Election of the Vice-Chairman

1. Mr. BRAY (Australia) nominated Mr. Bugarin (Philippines) for the office of Vice-Chairman.
2. Mr. BANNA (Lebanon) supported that nomination.

Mr. Bugarin (Philippines) was unanimously elected Vice-Chairman.

The meeting rose at 5.20 p.m.

THIRD MEETING

Wednesday, 8 March 1972, at 9.40 a.m.

Chairman: Dr. Bölcs (Hungary)

Consideration of all amendments proposed to the Single Convention on Narcotic Drugs, 1961 (item 11 of the Conference agenda) (E/CONF.63/5 and addenda)

ARTICLE 9 (Composition and functions of the Board) (except paragraph 4) and ARTICLE 10 (Terms of office and remuneration of members of the Board) (E/CONF.63/5)

1. The CHAIRMAN invited the Committee to consider the proposals for the amendment of article 9 (except paragraph 4) and article 10, submitted by the sponsors of document E/CONF.63/5 and addenda.
2. Mr. VAILLE (France) said that article 9 of the Single Convention on Narcotic Drugs, 1961 provided in its paragraph 1 for the International Narcotics Control Board to consist of 11 members, to be elected in two different ways. During the general debate in the Commission on Narcotic Drugs at its twenty-fourth session...
it had been argued that a membership of 11 was hardly large enough to satisfy the dual requirements of competence and equitable geographical representation. In proposing that the membership of INCB should be increased to 13, the sponsors of the proposed amendment (E/CONF.65/5), on whose behalf he had been asked to speak, sought to enable all the major groups of countries, from a geographical standpoint, to be represented on the Board.

3. Under paragraph 1 of article 10 as at present in force, members were elected for a period of three years, and clearly most of the first year was needed to allow them to familiarize themselves with the estimates and statistical returns systems operated by the Board, while during the last year consideration was already being given to the choice of their successors. In those circumstances, it was obvious that the real power of decision lay, or could lie, with the secretariat of INCB, whose proper function was merely to advise the members of the Board. In order, therefore, to ensure that the Board was in a position to perform its appointed task of supervising the execution of the provisions of the 1961 Convention, it was now proposed that members should serve for a period of five years.

4. The sponsors of the amendment had also taken account of the view expressed in the Commission on Narcotic Drugs by the Canadian representative, who had stated at its twenty-fourth session that it was desirable to ensure continuity in the work of the Board. The joint amendment met that point by providing for the partial rotation of membership through the election of certain members every year.

5. Mr. BARONA LOBATO (Mexico) said his delegation was in favour of the proposed amendment to article 9 to increase the Board’s membership to 13.

6. With regard to the proposed amendments to paragraph 1 of article 10, his delegation would be in favour of the proposed amendment to article 9 to increase the Board’s membership to 13.

7. Dr. POGADY (Czechoslovakia) said that the proposal to increase the membership of the Board to 13 was acceptable, provided such an increase envisaged the inclusion on the Board of a member from a socialist country of Eastern Europe. He too had been struck by the fact that the amendments proposed to article 10 discriminated between members nominated in accordance with article 9, paragraph 1 (a) and members nominated in accordance with article 9, paragraph 1 (b).

8. His delegation was in favour of a term of office of five years for the members of the Board.

9. Dr. ALAN (Turkey) said that his delegation shared the views expressed by the Mexican representative. It was in favour of an increase in the term of office of members of the Board, but found it difficult to understand the discrimination between those persons who were nominated by WHO and those who were not.

10. Again, the proposed amendment providing for the election of members every year did not make it clear which members would be chosen for a term of one year, and which for two years, three years, four years or five years. Would those members be designated by the Economic and Social Council or would some other system, such as the drawing of lots, be used?

11. Mr. BRAY (Australia) said that his delegation supported the proposed amendment to article 9 to increase the membership of the Board from 11 to 13.

12. With regard to article 10, his delegation was in favour of a five-year term of office for members of the Board, but had some reservations regarding the provision that members should be elected every year. Frequent elections would not only give rise to administrative difficulties, but might cause States to regard the elections as an automatic process and not to give the matter the consideration it deserved. Furthermore, the retirement of members each year would mean a perpetual change in the Board’s membership, a situation which would not be conducive to the desired continuity of experience. In his delegation’s view, it would be preferable to hold elections at longer intervals, say, every two and a half years.

13. Mr. OLIVIERI (Argentina) said that in general his delegation was in favour of the proposed amendments to articles 9 and 10. However, it had some doubts with respect to the provision in article 10 that elections for members nominated in accordance with article 9, paragraph 1 (b) should be held every year. It should be made clear that the proposal did not call for a total renewal of the membership but only for a partial rotation of the 10 members involved.

14. Mr. ALVAREZ-CALDERÓN (Peru) said that his delegation supported the proposal to raise the number of members of the Board from 11 to 13 and to extend their term of office to five years. It was not in favour of the re-election of members, since that would create an obstacle to the participation of members from a larger number of countries in the work of the Board.

15. Mr. MILLER (United States of America), said that it was necessary to attract the most competent people to the Board, and, in his delegation’s view, that objective might be achieved by increasing the term of office of members to five years. At the same time, the membership of the Board should be increased. The proposed scheme of rotation would help to ensure continuity in the work of the Board and improve its effectiveness.

16. Dr. CARVALLO (Venezuela) said his delegation was in favour of the proposed amendment to article 9, to increase the number of members of the Board from 11 to 13, with due respect for the principle of equitable geographical representation.

17. In general, his delegation agreed with the spirit of the proposed amendment to paragraph 1 of article 10 but considered it should be made clear that members would be re-elected only once, that the election of mem-
bers nominated in accordance with article 9, paragraph 1 (b) would be by lot, and that the introduction of the system of rotation would not affect the continuity of the Board’s activities.

18. Mr. KOZLJUK (Ukrainian Soviet Socialist Republic) said that, in general, his delegation could support the proposed amendments to article 9, but wished to emphasize the importance of paragraph 3 of the text at present in force; the need for the countries of Eastern Europe, including socialist countries, to be represented on the Board should be taken into account.

19. With regard to the amendment to paragraph 1 of article 10, his delegation thought the proposal to elect members nominated by WHO on a different basis from those who were not discriminatory, since members representing parties would in that case be relegated to a secondary position. Elections to the Board should all be on the same basis.

20. Mr. GUILLOT (Cuba) said that the provisions of the 1961 Convention had proved quite satisfactory and his delegation saw no need to increase the membership of the Board. However, if an increase would make for greater efficiency, then the principle of equitable geographical representation should be respected, so as to enable other States, including developing and socialist countries, to participate.

21. Mr. MAZOV (Union of Soviet Socialist Republics) drew attention to the need to ensure equitable geographical representation on the Board with the increase in its membership. It had been pointed out in the plenary Conference that certain other regions, including socialist countries of Eastern Europe, should be represented on the Board. His delegation reserved its position regarding the amendment to paragraph 1 of article 9 of the 1961 Convention to increase the membership of the Board, since it would like to express its final opinion on the matter in the light of the discussion of the amendments to the Convention in Committee I.

22. His delegation was in favour of the proposed amendment to paragraph 1 of article 10 to extend the term of office of members of the Board to five years, but regarded the proposal that persons nominated by WHO should be elected for five years and those nominated by Member States for a different number of years, as discriminatory. That discriminatory provision should be eliminated.

23. Mr. MALIK (India) said he agreed that, since article 9 was related to provisions under consideration in Committee I, it would be better to await the results of the discussion in that Committee.

24. In principle, his delegation was in favour of some of the amendments proposed, but could not agree that there was a need to extend the term of office of members from three to five years. A five-year term would conflict with the practice followed in other expert bodies set up by the Economic and Social Council. In the past, some of the sponsors of the joint proposals had themselves expressed the view that a three-year period was adequate to meet the needs of a rapidly changing situation.

25. The proposed amendment to article 10 seemed discriminatory.

26. Mr. GROS ESPIELL (Uruguay) said that his delegation entirely agreed with the amendment to paragraph 1 of article 9 to increase the membership of the Board from 11 to 13.

27. Similarly, with regard to paragraph 1 of article 10, his delegation agreed with the proposal to increase the term of office of members of the Board to five years. His delegation did not, however, think that there should be any discrimination in article 10 between members elected under paragraph 1 (a) of article 9 and members elected under paragraph 1 (b).

28. On the question of rotation in office, the Conference might perhaps adopt a similar formula to that set out in Article 13 of the Statute of the International Court of Justice, paragraph 1 of which stated “The members of the Court shall be elected for nine years and may be re-elected, provided, however, that of the judges elected at the first election, the terms of five judges shall expire at the end of three years and the terms of five more judges shall expire at the end of six years”. Paragraph 2 of that Article provided that “the judges whose terms are to expire at the end of the above-mentioned initial periods of three and six years shall be chosen by lot to be drawn by the Secretary-General immediately after the first election had been completed”.

29. Mr. HOOGWATER (Netherlands) said that his delegation could agree to the proposed term of office of members of the Board of five years and also, with a view to ensuring equitable geographical distribution, to the proposed increase in the membership of the Board to 13.

30. With regard to rotation in office, his delegation would hesitate to support the idea of annual elections, but might possibly endorse the Australian suggestion as a compromise solution.

31. Mr. TZVETKOV (Bulgaria) said that his delegation would not object in principle to the proposed increase in the membership of the Board, although such an increase would run counter to the present efforts of the United Nations and the specialized agencies to reduce expenditure. He fully agreed with the representatives of Mexico, Turkey and Czechoslovakia that there should be no discrimination in the method of election.

32. Mrs. ABOU STEIT (Egypt) said that her delegation agreed in principle with the proposed amendments to articles 9 and 10. In view of the growing responsibilities of the Board, its membership might well be increased to 18 rather than to 13, while members might be elected for a term of four years and new elections held every two years.

33. Mr. STEWART (United Kingdom) said that with regard to article 9, paragraph 1, the majority of delegations appeared to be agreed that the time had come to increase the membership of the Board.

34. With regard to paragraph 1 of article 10 on the question of staggering elections, he had been attracted by the analogy which the Uruguayan representative had drawn with the practice of the International Court of Justice, which seemed to match the intention, if not the wording of the proposed amendment to paragraph 1 of article 10. The essential purpose of staggering elections was to ensure
continuity of personnel, policies and work. The important principles to be secured in the amended articles were first, that the Board should consist of 13 members, secondly, that the basic term of office of members should be five years, and thirdly, that elections should be staggered.

35. There were two other points he would like to mention. First, it had been suggested that the Committee should defer a decision on article 9 until it knew what had been decided in Committee I, but in view of the limited time available to the Conference, he would oppose that suggestion. Secondly, it had been suggested that the proposed method of election was discriminatory, but considering the special character of the candidates to be nominated by WHO, he thought that suggestion could only be the result of a misunderstanding.

36. Mr. VINUESA SALTO (Spain) said that his delegation had no objection in principle to the proposed amendments to article 9, although it felt that the number of members with medical, pharmacological or pharmaceutical experience nominated by WHO should, in the interests of increasing the Board's efficiency, be increased to four.

37. In paragraph 3 of that article, he wished to propose that the word "concerned" be inserted after the words "in the producing, manufacturing and consuming countries".

38. With regard to the term of office of members, he agreed with the suggestion made by Uruguay and supported by the United Kingdom that some such system as that followed by the International Court of Justice might be adopted.

39. Mr. VAILLE (France) proposed that the Committee take a decision on the proposed amendments to articles 9 and 10, paragraph by paragraph.

40. Mr. ABSOLUM (New Zealand) said that the proposal to increase the Board's membership to 13 appeared to strike a reasonable balance between the interests of efficiency and those of equitable geographical distribution. He also agreed with the proposal to extend the term of office of members to five years. The major problem was how to ensure both continuity and reasonable rotation. Of the various proposals put forward for achieving that end, that of the Australian delegation appeared to have the most to commend it.

41. Mr. PRAWIROSUJANTO (Indonesia) said that his delegation supported the proposal to increase the membership of the Board from 11 to 13 was reasonable, provided Africa was adequately represented.

42. Mr. MAWHINNEY (Canada) said that his delegation, although always concerned about any increase in expenditure, was particularly desirous of calm and continuity in the Board and would be particularly desirable in the case of the three members appointed by WHO.

43. Mr. DAZOCLANCLOUNON (Dahomey) said that the proposal to increase the membership of the Board from 11 to 13 was reasonable, provided Africa was adequately represented.

44. With regard to the proposed amendments to paragraph 1 of article 10, a term of office of five years was acceptable, but he failed to understand the subsequent provision relating to elections for members nominated in accordance with article 9, paragraph 1(b). A member elected for one year only could hardly make any useful contribution. Some intermediate solution might perhaps be found, but it had to be remembered that the drawing of lots was in fact discriminatory.

45. Dr. ALAN (Turkey) said that an increase in the number of members of the Board and in their term of office were both acceptable to him, but he had reservations concerning the complicated system suggested for the elections. He felt sympathetically inclined towards the suggestion by the representative of Uruguay that members of the Board should be elected in the same way as members of the International Court of Justice.

46. Mr. STEWART (United Kingdom) said that he would like to put before the Committee for its consideration a suggestion for a text as article 10, paragraph 1, which he thought would satisfy every point of view which had been expressed during the meeting; the text read:

The members of the Board shall serve for a period of five years, provided that in the first election six members shall be elected for three years and seven members for five years. Members shall be eligible for re-election. The members whose terms are to expire at the end of the above-mentioned initial periods of three and five years shall be chosen by lot to be drawn by the Secretary-General immediately after the first election had been completed.

47. Bearing in mind the reference which had been made to the Statute of the International Court of Justice, he had paid particular attention to the precedent of the Court. The Committee's work could be shortened if the principle he had expressed could be accepted as one which the Drafting Committee should reflect in preparing a text for submission to the plenary Conference.

48. Mr. WATANABE (Japan) said he had no difficulty in accepting the increase in the membership of the Board and in the extension of the term of office from three to five years. Nor had he any objection of principle to the introduction of a system of rotation, but he reserved his position with regard to the detailed suggestions put forward.

49. Mr. BUGARIN (Philippines) said that his delegation agreed with the general principles of the proposed amendments to articles 9 and 10, but was not in favour of members serving for too short periods. He thought the United Kingdom proposal that six members should be elected for three years and seven for five years would solve the problem. The need was for continuity and expertise. However, in the drawing of lots it might happen that all the members elected from the list of WHO nominations might be elected for three years and he thought that provision should be made to ensure that, of the three members with medical, pharmacological or pharmaceutical experience, one at least should serve for a five-year period.

50. Mr. BANNA (Lebanon) said that Lebanon agreed with the proposals to increase the membership of the
Board from 11 to 13 and to extend the term of office of members from three to five years. With regard to the mode of election, the United Kingdom proposal was practical, simple and in conformity with the provisions for the election of members of the International Court of Justice.

51. Mr. VAILLE (France) said he ought to have explained that, prior to the 1961 Convention, members of the various organs concerned with the implementation of conventions relating to narcotic drugs had been elected for a term of five years, and that arrangement had proved satisfactory for purposes or rotation. The principle of rotation had been retained because of the need to ensure equitable geographical distribution, a principle which had been recognized in the 1961 Convention and the 1971 Convention on Psychotropic Substances. In electing members to serve on organs concerned with the implementation of narcotics conventions, the Economic and Social Council had always borne in mind the need for those countries which were most directly interested as well as the most important geographical regions to be represented on them. Most of the sponsors of the joint amendments agreed that the Australian proposal, improved by United Kingdom suggestion, would provide a solution to the problem.

52. The representative of Peru had said that he could not accept the proposal concerning re-election and that appeared to him to involve a degree of independence. Such candidates were difficult to find and it would be unwise to prohibit their re-election.

53. He could not agree with the representative of the Soviet Union concerning the reasons for the proposed increase in the membership of the Board. One reason for the proposal had been to achieve a balance.

54. The proposal by the representative of Egypt to increase the membership of the Board to 18 was ruled out by the need to limit United Nations expenditure. It might be unwise to adopt the Spanish amendment to article 9, paragraph 3, because of the difficulty of interpretation.

55. Provision had to be made for some form of rotation, since some members might have been elected in the first instance for reasons which no longer applied later. He would therefore suggest a slight change in the proposed provisions of article 10, paragraph 1, to take account of the Canadian representative's suggestion that elections should be staggered, as far as the 10 members referred to in article 9, paragraph 1 (b), were concerned.

56. Mr. MILLER (United States of America) said he was now convinced that the original proposal for rotation was unnecessarily cumbersome, and he would be prepared to support any other generally acceptable formula. At first, he had thought that the United Kingdom suggestion might solve the problem, but he would prefer to hear other views before adopting a definite position on it.

The meeting rose at 12.30 p.m.

FOURTH MEETING

Wednesday, 8 March 1972, at 2.40 p.m.

Chairman: Dr. BÖLCS (Hungary)

Consideration of all amendments proposed to the Single Convention on Narcotic Drugs, 1961 (item 11 of the Conference agenda) (continued) (E/CONF.63/5 and addenda)

ARTICLE 9 (Composition and functions of the Board) (except paragraph 4) (concluded), and ARTICLE 10 (Terms of office and remuneration of members of the Board) (continued) (E/CONF.63/5, E/CONF.63/C.1/L.1)

1. Mr. KROG-MEYER (Denmark) said that, since he agreed with those who at the 3rd meeting had stated that some system of rotation should be included in the provisions for electing the members of the Board, he supported the United Kingdom proposal concerning paragraph 1 of article 10, which had been circulated as document (E/CONF.63/C.2/L.1).

2. The representative of Spain had raised the question of the representation, in addition, of countries affected by narcotic problems—presumably countries with transit problems—but, for his own part, he did not think that the expertise of such countries was needed on the Board.

3. Dr. POGADY (Czechoslovakia) said that the representative of France had stated (3rd meeting) that several delegations were in fact concerned with such considerations but with the question of international justice and equitable distribution. His own delegation was not, in fact, concerned with such considerations but with the question of international justice and equitable distribution.

4. Mr. ASLAN (Italy) said he supported the French proposal concerning the proposed amendments to articles 9 and 10.

5. Mr. STEWART (United Kingdom) said he formally proposed that the compromise text for article 10, paragraph 1, which his delegation had put forward at the 3rd meeting, should be approved for submission to the Drafting Committee. He thought that the text in question met most—though not all—of the views put forward in the debate.

6. Mr. VAILLE (France) and Mr. GROS ESPIELL (Uruguay), said that they supported the principle contained in the United Kingdom proposal, on the understanding that it would be for the Drafting Committee to decide on the final text.

7. Mr. HOOGWATER (Netherlands) said he wished formally to express his support for the United Kingdom proposal.

8. Mr. ABSOLUM (New Zealand) said it was not clear from the proposed United Kingdom text what the term of office of a Board member would be after re-election.

9. Mr. VAILLE (France) said that the excellent compromise proposal submitted by the United Kingdom adequately reflected the viewpoints of all representatives.
except the representative of the Philippines, who wanted four WHO members on the Board.

10. Mr. PUNARO (Mexico) said that, while the United Kingdom formula removed a number of difficulties, there remained the question whether the re-election of members for an indefinite number of terms should in principle be possible. It was undesirable that the Board should become a closed circle of ageing members. Consequently, the possibility of re-election should be limited to one—or at the most two—subsequent terms.

11. Mr. STEWART (United Kingdom) said that, according to his compromise proposal, members of the Board would be "eligible for re-election". There was no question of them being automatically re-elected. Article 9, paragraph 1 (b), stated that a prospective member of the Board had to be nominated by a Member of the United Nations or by a party. If, at the end of his term of office, a member of the Board had proved unsatisfactory, he would not be nominated again. Even if such a person were nominated, the Economic and Social Council would refrain from electing him. Members of the Board were not representatives of countries, regions or continents but served in their personal and private capacities.

12. Any person re-elected to the Board would serve a full term of five years. It was only in the first election that there was any question of a three-year term. Six of the persons elected in the first election would serve a three-year term and seven would serve a five-years term, and the members whose terms were to expire at the end of the initial periods of three and five years would be chosen by lot.

13. Mr. DURRIEU (Argentina) and Mr. NAIK (Pakistan) agreed that each case should be considered on its merits, and that there was no question of automatic re-election.

14. Mr. VAILLE (France) said that there were three points at issue, on which three separate votes should be taken. The first was whether the existing three-year term should be increased to five years; the second was whether the Board should be partially renewed by the Council rather than renewed in a single election; and the third—the point raised by the Mexican representative—was whether or not re-election for an indefinite number of terms should be possible. He suggested that the Committee should take a decision in principle on each of those three issues, and then leave it to the Drafting Committee to modify the United Kingdom text if necessary.

15. The CHAIRMAN said that it would seem to be appropriate for the Committee to take its decisions relating to article 9 and then to adopt the French procedural suggestion concerning the decision on article 10.

16. The first proposed change in article 9—the addition of the words "and functions" to the title of the article—was closely linked with paragraph 4 of the article, and consequently did not fall within the terms of reference of Committee II. The second amendment was the insertion of the word "thirteen" in place of the word "eleven" at the beginning of paragraph 1.

The amendments to the title and to the introductory phrase of paragraph 1 of article 9 were approved by 51 votes to none, with 3 abstentions.

17. The CHAIRMAN observed that it was proposed that the word "Eight" in sub-paragraph 1 (b) of article 9 of the 1961 Convention should be replaced by the word "Ten".

The amendment to paragraph 1 (b) of article 9 was approved by 48 votes to none, with 4 abstentions.

Article 9 (except paragraph 4), as amended, was approved and referred to the Drafting Committee.

18. Mr. VAILLE (France) pointed out that the Mexican representative had raised the question of the number of terms for which members of the Board could be re-elected.

19. Mr. PUNARO (Mexico) said that two issues were involved: first, whether the principle of re-election was acceptable and secondly, if the principle was accepted, how many times re-election would be permitted.

20. Mr. ABSOLUM (New Zealand) pointed out that the original text of the 1961 Convention, as well as the amendment just approved, provided for re-election without any limitations.

21. Mr. MILLER (United States of America) said his impression was that the Mexican representative had not questioned the possibility of re-election, but had suggested setting a limit of one re-election. He would oppose any formal proposal for limitation, since the Board might thereby be deprived of the services of its most valuable members. On the other hand, the possibility of unlimited re-election in no way implied that members would be elected for life, in view of the election procedures provided for in both the initial joint proposal and the United Kingdom amendment.

22. Mr. KANDEMIR (Turkey) endorsed those views and expressed surprise at the fact that a completely new element had been injected into the debate on a simple article at the present late stage.

23. Mr. BARONA LOBATO (Mexico) said that his delegation had stated its position on the matter both during the twenty-fourth session of the Commission on Narcotic Drugs and in the current debate (3rd meeting); there was therefore no question of introducing a new element. As a compromise solution, he suggested that the Committee should accept the principle of limitation and should allow for two possible re-elections, which would enable some members to remain in office for 15 years.

24. Mr. MAZOV (Union of Soviet Socialist Republics) said that the procedure proposed in the United Kingdom amendment to article 10, paragraph 1, was entirely new and, as compared with the sponsors' original amendment seemed to imply that members of the Board would be eligible to serve on it for life. He would welcome further information from the United Kingdom representative on that point.

25. Mr. HOOGWATER (Netherlands) said he agreed with the United States representative that, in order to have a strong Board, it was undesirable to deprive valuable members of the possibility of re-election simply
because they had served for a certain number of years. It should be borne in mind that the Economic and Social Council was absolutely free to re-elect a member or not to do so.

26. Mr. Bray (Australia), Mr. Mawhinney (Canada) and Mr. Krogh-Meyer (Denmark) agreed with the Netherlands representative.

27. The Chairman suggested that a small working party might be set up to draft a generally acceptable text.

28. Mr. Stewart (United Kingdom) said that there seemed to be no need for such a working party, since the only issue before the Committee was whether a limit should be set to the number of times that a member could be re-elected. In his opinion no such limit should be established. In the first place, a limit might deprive the Board of the best available talents; secondly, the advocates of limitation were showing lack of faith in the election system and in the competence of the Economic and Social Council to ensure that the best candidates were elected; and, thirdly, the same representatives seemed to harbour undue misgivings concerning the possibility of automatic re-election. The Committee should vote first on the principle of a five-year term of office, then on the principle of whether a limit should be set on eligibility for re-election, and then on his delegation's proposal.

29. Mr. Miller (United States of America) said that he too considered it unnecessary to set up a working party. The issues before the Committee seemed to be whether the terms of office were renewable; if they were, whether any limit should be set on eligibility for re-election; and, if a limit should be set, what it should be.

30. Mr. Alvarez-Calderón (Peru) said that his delegation was opposed to the principle on unlimited eligibility for re-election, not because it questioned the validity of the election system, but because it considered that the largest possible number of experts representative of the membership of the United Nations should have an opportunity to serve on the Board. Expertise was essential for the Board's efficiency, but experience per se was not necessarily an overriding factor.

31. Mr. Vaille (France) formally proposed that a vote should be taken on the principle of a five-year term of office for members of the Board.

The principle of a five-year term of office was approved by 47 votes to none, with 8 abstentions.

32. Mr. Raton (Deputy Legal Adviser to the Conference), referring to the remarks made by the United Kingdom and United States representatives, said that there was no formal proposal before the Committee to limit eligibility for re-election, since the principle of eligibility for re-election, without limitation, was incorporated both in article 10 of the 1961 Convention and in the initial joint proposal and the United Kingdom amendment. To settle the issue, the Committee would presumably have to vote on a formal proposal to limit eligibility for re-election.

33. Mr. Barona Lobato (Mexico) said that the reason why his delegation had not submitted an amendment in writing was that it had received no answer to the clear question it had asked at the twenty-fourth session of the Commission on Narcotic Drugs as to whether the intention was to revise the 1961 Convention completely or merely to submit amendments to it.

34. He formally proposed that the first sentence of article 10, paragraph 1, should be amended to read: "The members of the Board shall serve for a period of five years, and shall be eligible for re-election not more than twice.”

The Mexican amendment was rejected by 30 votes to 4, with 22 abstentions.

35. Mr. Vaille (France) urged that the Committee should vote on the principle embodied in the United Kingdom proposal—namely, that the elections of the members of the Board should take place twice every five years, so that only half the memberships were renewed at each election. If that principle was adopted, the drafting of the actual text would be a matter for the Drafting Committee.

36. Mr. Kosljuk (Ukrainian Soviet Socialist Republic) said that his delegation had carefully examined the proposals circulated in advance of the Conference. Although the United Kingdom was one of the sponsors, the proposal it had made was entirely new and involved fundamental changes; it had been submitted orally, which was contrary to the rules of procedure, and he would like time to study it before indicating his position. He requested that his remarks be regarded as a formal statement and that the vote be deferred until a later meeting.

37. Mr. Mazov (Union of Soviet Socialist Republics) asked whether the amendment in document E/CONF.63/5 had been withdrawn following the submission of the formal United Kingdom proposal. In particular, he wished to know the views of the other sponsors on the matter.

38. Mr. Vaille (France), speaking as one of the sponsors of the initial joint proposals, said that the United Kingdom proposal constituted an amendment to the main proposal. Therefore, if the United Kingdom amendment was not approved, the Committee would have to vote on the initial proposal (E/CONF.63/5). Besides, the United Kingdom proposal was the one furthest removed from the original text of the 1961 Convention.

39. Mr. Hoogwater (Netherlands) said that it was not quite certain which of the two proposals was in fact furthest removed from the original text. He would have preferred the sponsors of the joint proposals to withdraw their text, so that it could be replaced by the United Kingdom text. He would like to hear the views of the Legal Adviser to the Conference on that point.

40. Mr. Miller (United States of America) said that he saw no need to withdraw the joint proposal. If the United Kingdom amendment was approved, it would automatically supersede the joint proposal.

41. Mr. Raton (Deputy Legal Adviser to the Conference) said that the United Kingdom proposal constituted
an amendment to the original joint proposal, which need not therefore be withdrawn. In fact, withdrawal would mean that, in the event of the rejection of the United Kingdom amendment, the text in the 1961 Convention would be retained—a result which would certainly be contrary to the intentions of the sponsors of the joint proposal.

42. It was therefore appropriate for the Committee to vote first on the United Kingdom amendment; if that amendment was rejected, the Committee would then take a vote on the original joint proposal in document E/CONF.63/5. He noted that the principle involved in the United Kingdom amendment was quite common in United Nations bodies, as was clear from the provisions of Article 61, paragraph 3, of the Charter of the United Nations on the election of members of the Economic and Social Council, Article 13, paragraph 2, of the Statute of the International Court of Justice and article 3, paragraph 2, of the Statute of the United Nations Administrative Tribunal.

43. The CHAIRMAN said that, if there were no objections, he would take it that the Committee agreed to defer until the next meeting the vote on article 10, paragraph 1.

It was so agreed.

ARTICLE 16 (Secretariat) (E/CONF.63/5)

44. Mr. STEWART (United Kingdom), introduced the proposed joint amendment to article 16 (E/CONF.63/5).

45. The present text of article 16 of the 1961 Convention, which stated briefly that “The secretariat services of the Board shall be furnished by the Secretary-General”, had been written into the Convention to deal with the question of the secretariat services of the new International Narcotics Control Board, which, under the 1961 Convention, was to replace the two previously existing bodies—the Permanent Central Narcotics Board, established under the International Opium Convention, signed at Geneva on 19 February 1925 and the Drug Supervisory Body, established under the International Convention for limiting the manufacture and regulating the distribution of narcotic drugs, signed at Geneva on 13 July 1931.

46. In the 1925 and 1931 conventions, the provisions concerning the secretariat were not identical. Article 20 of the 1925 Convention stated that the Secretary-General “shall appoint the secretary and staff of the Board on the nomination of the Board and subject to the approval of the Council”. The relevant provision in the 1931 Convention for the Drug Supervisory Body, on the other hand, simply stated that its secretariat “shall be provided by the Secretary-General”, who would “ensure close collaboration with the Permanent Central Board”.

47. At the 1961 United Nations Conference for the adoption of a Single Convention on Narcotic Drugs, it had been felt sufficient to specify in article 16 of the new Convention that the secretariat services of the new Board, which was to replace the two previously existing bodies, would be “furnished by the Secretary-General”. That provision should be read in conjunction with the last sentence of article 9, paragraph 2, which stated that the Economic and Social Council “shall, in consultation with the Board, make all arrangements necessary to ensure the full technical independence of the Board in carrying out its functions”. With that aim in view, the Council had adopted on 16 May 1967 its resolution 1196 (XLI), the annex to which gave a list of administrative arrangements, prepared by the Secretary-General in consultation with the new Board’s predecessor bodies and entitled “Administrative arrangements to ensure the full technical independence of the International Narcotics Control Board (article 9, paragraph 2, of the Single Convention on Narcotic Drugs, 1961)”. It began with a set of detailed provisions on the secretariat of the new Board, and ended with a paragraph 20 (Duration) stating that the “arrangements outlined in paragraphs 1 to 19 above shall be in force from 2 March 1968 to 1 March 1974”. In the circumstances, there was some concern among the States parties to the 1961 Convention regarding the continuation of the present arrangements beyond 1974. The sponsors of the proposed amendments had therefore concluded that it was desirable to introduce into article 16 the contents of the second sentence of paragraph 3 of the annex to Council resolution 1196 (XLI).

48. The proposed amendment to article 16 would thus serve to reassure the members of the Board that they would be consulted on the appointment of the Secretary of INCB, whatever decision the Economic and Social Council might take with regard to the continuation beyond 1974 of the arrangements set forth in the annex to Council resolution 1196 (XLI). The proposed amendment would not in any way derogate from the powers of the Secretary-General or of the Council but it would serve to emphasize the independence of the Board.

49. Dr. ALAN (Turkey) said that his delegation fully supported the purpose of the proposed amendment but wished to strengthen its text. He therefore proposed that in the second sentence of article 16 the words “the Secretary of the Board” should be replaced by the words “the Secretary and staff of the Board” and that the concluding words “in consultation with the Board” should be replaced by the words “with the consent of the Board”.

50. Mr. VAILLE (France), speaking as a sponsor of the proposed joint amendment, said that he accepted the general idea embodied in the Turkish proposal.

51. Mr. BOCQUÉ (Belgium) strongly supported the Turkish proposal, which greatly improved the text of the proposed amendment to article 16.

52. Dr. CARVALLO (Venezuela) also supported the Turkish proposal.

53. Mr. KROG-MEYER (Denmark) asked what would happen, under the Turkish proposal, if the Board’s consent was not obtained.
54. Dr. ALAN (Turkey) replied that, if a candidate proposed by the Secretary-General for a vacant post in the Board secretariat was not accepted by the Board, the Secretary-General would simply have to propose another candidate.

55. Mr. DURRIEU (Argentina), speaking as one of the sponsors of the joint proposal concerning article 16, said that he preferred the text of that proposal to the amended text proposed by the Turkish representative, which might lead to a situation in which the Board would have neither a Secretary nor a staff.

56. Mr. VAILLE (France) said that that possibility was a purely hypothetical one. In practice, as was clear from experience with the operation of the 1925 Convention under the League of Nations, the Board and the Secretary-General would consult informally in order to reach agreement on the persons to be appointed; the procedure of consultation in writing would be initiated only after agreement was reached. The provisions of article 20 of the 1925 Convention, requiring that the Secretary-General should make appointments "on the nomination of the Board", had served to ensure the independence of that body. Under those provisions, the initiative had belonged to the Board; under the arrangement now proposed, the initiative would rest with the Secretary-General instead.

57. Mr. BARONA LOBATO (Mexico) asked the Deputy Legal Adviser to the Conference to explain how the provisions of Article 10 were applied to the staff of the Board. Mr. RATON (Deputy Legal Adviser to the Conference) said that, under paragraph 3 of the annex to Economic and Social Council resolution 1196 (XLII), the "members of the secretariat" of the Board were "appointed or assigned by the Secretary-General". Paragraph 2 of that same annex stated that the Board's secretariat constituted "an integral part of the Secretariat of the United Nations". While the Board secretariat was "bound to carry out the decisions of the Board", its members were under "the full administrative control of the Secretary-General". Members of the staff of the Board were thus subject to the same rules and regulations as staff members of the United Nations Secretariat.

58. Dr. POGADY (Czechoslovakia) agreed that a clarification of the legal position was necessary. His own delegation could not accept the proposed amendment to article 16, which would impair the proper performance of the functions of the Board and would tend to deprive the Commission on Narcotic Drugs of any influence over the Board.

59. Mr. RATON (Deputy Legal Adviser to the Conference) said that, under paragraph 3 of the annex to Economic and Social Council resolution 1196 (XLII), the Staff Rules of the United Nations Secretariat were applied to the staff of the Board. The relevant provisions of the 1961 Convention were, however, unduly brief—a shortcoming which had made necessary the adoption in 1967 of Council resolution 1196 (XLII), with its detailed annex. The purpose of the proposed amendment at present under discussion was to expand those provisions so as to cover the question of the appointment of the Secretary of the Board, which, if the amendment were adopted, would not be left entirely to the Secretary-General.

The meeting rose at 5.30 p.m.

FIFTH MEETING
Thursday, 9 March 1972, at 9.50 a.m.
Chairman: Dr. BÖLCS (Hungary)

Consideration of all amendments proposed to the Single Convention on Narcotic Drugs, 1961 (item 11 of the Conference agenda) (continued) (E/CONF.63/5 and addenda)

ARTICLE 10 (Terms of office and remuneration of members of the Board) (continued) (E/CONF.63/5, E/CONF.63/ C.2/L.1)

Paragraph 1
1. The CHAIRMAN invited the Committee to continue its consideration of article 10. He asked whether the Committee was ready to vote on the amendments proposed to the Single Convention on Narcotic Drugs, 1961, which had been the subject of discussion at the previous Board and the League of Nations. It was therefore by virtue of a special provision in the 1961 Convention that the United Nations Secretariat was applied to the staff of the Board. The relevant provisions of the 1961 Convention were, however, unduly brief—a shortcoming which had made necessary the adoption in 1967 of Council resolution 1196 (XLII), with its detailed annex. The purpose of the proposed amendment at present under discussion was to expand those provisions so as to cover the question of the appointment of the Secretary of the Board, which, if the amendment were adopted, would not be left entirely to the Secretary-General.

The meeting rose at 5.30 p.m.
Dr. Montero (Peru) said that at the 4th meeting the Committee had rejected the Mexican amendment that members should be eligible for re-election only twice but had not voted on the question of re-election as such. He therefore proposed that the Committee now vote on the question whether members should be eligible for re-election indefinitely or only once.

Mr. Aslan (Italy) asked whether the United Kingdom representative would be prepared to delete the second sentence of his amendment.

Mr. Barona Lobato (Mexico) said he agreed with the views expressed by the Peruvian representative. The Peruvian proposal, that members should be eligible for re-election once only, constituted a sub-amendment to the second sentence of the United Kingdom amendment and should be voted on first.

Mr. Vinuesa Salto (Spain) said that he agreed with the representatives of Peru and Mexico. After voting on the Peruvian sub-amendment, the Committee could then vote on the United Kingdom amendment.

Mr. Stewart (United Kingdom) said that he had been trying to incorporate in a simple text the principles on which the Committee seemed to be in agreement. He agreed with the representative of France that, in voting for his amendment, the Committee would only be voting for the principles set out in it. The Committee had, however, already accepted two of the principles in his amendment, namely that members should serve for five years and that members should be eligible for re-election. The latter principle had been implicitly accepted when the Committee had rejected the principle that eligibility for re-election should be limited to two re-elections.

The Peruvian representative was within his rights in putting forward his proposal, but he thought it would suffice if the Committee decided whether the right to re-election should or should not be limited. If it decided that it should not be limited, the question how many times a member be re-elected could not arise; if it decided that it should be limited, the permissible number of times would have to be considered. The vote on his own amendment would relate only to principles which had not already been accepted.

Mr. Miller (United States of America) said he supported the United Kingdom representative's statement.

Mr. Vaille (France) said he agreed with the Italian representative that the second sentence of the United Kingdom amendment should be deleted.

The Committee should vote first on the United Kingdom amendment, without the second sentence, and then on the Peruvian sub-amendment.

Mr. Olivieri (Argentina) said that the Committee should first vote on the principle whether or not there should be a limitation on eligibility for re-election, and then on the principle contained in the last sentence of the United Kingdom amendment.

Dr. Montero (Peru) said he agreed with the French representative with regard to the order of voting on the texts.

Mr. Stewart (United Kingdom) said he was quite prepared to agree to the deletion of the second sentence of his amendment, provided the Committee decided on the principle that members of the Board should be eligible for re-election without limitation.

Dr. Alan (Turkey) said that, since the Committee had already approved the first sentence of paragraph 1 as it appeared in document E/CONF.63/5, the first sentence of the United Kingdom amendment needed to be modified; the opening clause should be deleted and the following two words, "provided that", should be replaced by the word "however". The second sentence should be deleted and the rest of the text would remain unchanged.

Mr. Raton (Deputy Legal Adviser to the Conference) said that the Turkish representative was correct. As far as the order of voting was concerned, at the 4th meeting the Mexican proposal had been considered the amendment furthest removed in substance from the original text and the same was true of the Peruvian proposal at the present meeting.

Mr. Barona Lobato (Mexico) said that at the 4th meeting his amendment limiting to two times the eligibility of members of the Board for re-election had been rejected but no decision had been taken on the principle of re-election. He suggested that the Committee first vote on that principle, then on the Peruvian sub-amendment, and then on the United Kingdom amendment.

Mr. Vinuesa Salto (Spain) said he thought the Peruvian amendment should be voted on first and then the specific amendments contained in the United Kingdom text. He saw no need to vote on the principles.

Mr. Absolum (New Zealand) said that to vote now on the term of office and the question of re-eligibility would simply mean reaffirming decisions which had already been taken. The Committee should vote first on the Peruvian sub-amendment and then on the United Kingdom text. The confused discussion which had taken place could probably have been avoided by a stricter adherence to rule 34 (Proposals and amendments) of the rules of procedure of the Conference. It was unwise to vote on questions of principle unless the principles were clearly expressed in words.

The Chairman suggested that the Committee vote first on the second sentence of the United Kingdom amendment ("Members shall be eligible for re-election"), then on the Peruvian sub-amendment, and lastly on the United Kingdom amendment as a whole.

Mrs. Shilletto (Jamaica) said that she preferred the New Zealand representative's suggestion but, to avoid delay, would accept the Chairman's suggestion.

Mr. Mawhinney (Canada) said he also would accept the Chairman's suggestion, provided it was understood that the first and second votes would settle the principle concerning unlimited eligibility for re-election definitively.

The second sentence of the United Kingdom amendment (E/CONF.63/C.2/L.1) was approved by 38 votes to 1, with 13 abstentions.
28. Mr. BARONA LOBATO (Mexico), explaining his vote, said that he had abstained because the vote had not been taken in conformity with rule 46 of the rules of procedure (Voting on amendments).

29. Mr. RATON (Deputy Legal Adviser to the Conference) said that the text which the Committee was amending was that of the 1961 Convention, and the amendment on which the Committee had just voted was certainly the furthest removed in substance from that text.

30. The CHAIRMAN put to the vote the Peruvian sub-amendment, worded “Members shall be eligible for re-election over only”, to the United Kingdom amendment.

The Peruvian sub-amendment was rejected by 31 votes to 8, with 11 abstentions.

31. Mr. ASLAN (Italy), explaining his vote, said that he had voted against the Peruvian sub-amendment because he considered that the question had already been settled at the 4th meeting.

32. Mr. VAILLE (France) said he thought that the Committee should vote on the principle of renewal by halves, in order to meet the views of those who wished to have the membership of the Board renewed every two-and-a-half years.

33. Mr. GROS ESPIELL (Uruguay) said that the Committee should vote not on principles but on specific texts. His delegation’s vote would be on the two specific provisions contained in the United Kingdom amendment: first, that in the first election six members should be elected for three years and seven members for five years; and secondly, that the members whose term was to expire at the end of the above-mentioned initial periods of three and five years should be chosen by lot to be drawn by the Secretary-General immediately after the first election had been completed.

34. Mr. OLIVIERI (Argentina) said he endorsed the views expressed by the Uruguayan representative.

35. The CHAIRMAN invited the Committee to vote on the United Kingdom amendment.

The United Kingdom amendment (E/CONF.63/C.2/L.1) was approved by 42 votes to none, with 12 abstentions.

36. Mr. VINUESA SALTO (Spain), explaining his vote, said that, while his delegation could have accepted the remainder of the text, it had felt obliged to abstain because it objected to the idea of unlimited re-election to international bodies.

37. Mr. MAZOV (Union of Soviet Socialist Republics) said he noted that paragraph 3 of article 11 (Rules of procedure of the Board) was closely related to articles 9 and 10. In his delegation’s view, the increase in the membership of the Board to 13 would affect the number of members needed to form a quorum. He asked whether there were any proposals in that regard.

38. Dr. ALAN (Turkey), explaining his vote, said that his delegation had abstained because it did not regard the rotational system as satisfactory.

39. Mr. BARONA LOBATO (Mexico), explaining his vote, said that his delegation had abstained because it objected to the idea of unlimited re-election, which would make it difficult for the Board to operate as a democratic body expressing the views of the various countries comprising the international community.

40. Mr. GUILLLOT (Cuba) said he associated his delegation with the views expressed by the Mexican representative. It should be noted that the trend in most United Nations bodies was towards limiting the re-election of members.

41. Mr. OLIVIERI (Argentina), referring to the USSR representative’s remarks, proposed that the number of members of INCB required for a quorum be raised from seven to eight.

42. Mr. VAILLE (France) said he supported the Argentine proposal.

43. The CHAIRMAN said that the Committee had concluded its work on article 10 and would forward its amendments to that article to the Drafting Committee.

Paragraph 1 of article 10, as amended, was referred to the Drafting Committee.

ARTICLE 11 (Rules of procedure of the Board)

44. The CHAIRMAN asked whether the Committee wished to discuss the formal proposal made by Argentina with respect to article 11, paragraph 3.

45. Mr. VAILLE (France) said he thought that the Committee might decide at the present meeting that the proposed amendment to article 11, paragraph 3, would be a normal consequence of the amendments already made to articles 9 and 10.

46. Mr. BARONA LOBATO (Mexico) said he agreed that the proposed change in the number required to form a quorum a logical consequence of the action taken by the Committee and that members should deal with the matter, if only to enable it to submit it to the Drafting Committee along with the text of article 10.

47. Mr. MILLER (United States of America) said that, since paragraph 6 of article 14 (Measures by the Board to ensure the execution of provisions of the Convention) of the Convention provided that decisions of the Board should be taken by a two-thirds majority of the whole number of the Board, he would suggest that the number of members required to constitute a quorum be raised to nine rather than eight.

48. Mr. OLIVIERI (Argentina) said he supported the United States representative’s suggestion.

49. Mr. VAILLE (France) said he must point out that in one case the matter concerned a decision and in the other a quorum. However, he was in favour of raising the number of members required for a quorum to either eight or nine.

50. Mr. GROS ESPIELL (Uruguay) said he agreed that the question of increasing the number of members needed to form a quorum was a natural consequence of the Committee’s decision to increase the membership of the Board. However, the Committee was not at present competent to discuss that question, since it had been instructed by

1 The amended text of paragraph 1 of article 10, as approved by the Committee, was circulated under the symbol E/CONF.63/C.2/L.10.
the Conference to study certain articles only and therefore could not undertake the consideration of other articles. It should inform the plenary Conference that, as a result of the change in the membership of the Board, it would also be necessary to modify article 11, paragraph 3, and recommend that the article should be entrusted to the Committee for consideration.

51. Mr. ASLAN (Italy) said he endorsed the remarks of the French representative.

52. Dr. ALAN (Turkey), Mr. VINUESA SALTO (Spain), Mrs. LEE LUANE (Panama) and Mr. OLI-VIERI (Argentina) said they associated their delegations with the views expressed by the Uruguayan representative.

53. Mr. VAILLE (France) said he too agreed with the Uruguayan representative. Nevertheless, the plenary Conference had clearly decided the allocation of tasks according to general principles and had entrusted Committee II with the consideration of the composition and functions of the Board and not with the Board's terms of reference. The USSR representative had now pointed out the consequences following from the amendments to articles 9 and 10 and the Committee should take note of that fact. It should not, however, take any final decision but inform the plenary Conference of the problem which had arisen. If the Conference so wished, it could entrust the Committee with the task of dealing with the problem.

54. Mr. STEPCZYNSKI (International Narcotics Control Board) said it should be noted that not only article 1.1, paragraph 3, but also article 10, paragraph 4, would be affected by the amendments made to article 9.

55. With regard to article 14, paragraph 6, the reference to a two-thirds majority must be understood to mean that, even where there was a quorum, no decision could be taken unless the members who were absent had been consulted in writing.

56. The CHAIRMAN said that the problem would be brought to the notice of the General Committee.

ARTICLE 16 (Secretariat) (continued) (E/CONF.63/5, E/CONF.63/C.2/L.2)

57. Dr. ALAN (Turkey) said that his delegation's sub-amendment submitted at the 4th meeting and circulated as document E/CONF.63/C.2/L.2, was intended to amend the joint amendment to the second sentence of article 16 (E/CONF.63/5). The text of his delegation's amendment read: "However, the Secretary and the staff of the Board shall be appointed by the Secretary-General in agreement with the Board".

58. Mr. MILLER (United States of America) asked what was the legal position with reference to this subject.

59. Mr. RATON (Deputy Legal Adviser to the Conference) said that the secretariat had had to request legal advice from the Office of Legal Affairs at United Nations Headquarters in connexion with the amendment proposed to article 16, but no reply had yet been received. Meanwhile, he would draw the attention of members to Economic and Social Council resolution 1196 (XLII), entitled "Administrative arrangements to ensure the full technical independence of the International Narcotics Control Board". The annex to that resolution contained a section relating to the INCB secretariat, which stated in paragraph 2 that it would be an integral part of the Secretariat of the United Nations. If it was intended to change the provisions of article 16, it would obviously be necessary for the Office of Legal Affairs to give its opinion.

60. With regard to the sub-amendment proposed by the Turkish delegation, he had some doubts regarding the question of the appointment by the Secretary-General of all the staff of the Board conditional upon the agreement of the Board. The question of the Secretary of the Board was a separate matter. The amendment contained in the text of the joint proposals did not raise any legal problem.

61. Dr. MONTERO (Peru) said that the Secretary-General had a particular role under the Charter of the United Nations. Article 101, paragraph 1, of the Charter made it clear that the Secretary-General should appoint the staff of the secretariat. On the question of precedence, Article 103 of the Charter stated: "In the event of a conflict between the obligations of the Members of the United Nations under the present Charter and their obligations under any other international agreement, their obligations under the present Charter shall prevail". His delegation considered that the restriction contained in the Turkish sub-amendment was therefore unnecessary and could not support it.

62. Mr. GROS ESPIELL (Uruguay) said that the Turkish sub-amendment raised a number of legal problems which would have to be analysed thoroughly. In his delegation's view, the Committee should await the reply from the Office of Legal Affairs before proceeding to consider the matter.

63. The main problem was whether a body created by a convention drafted by a United Nations conference convened by the Economic and Social Council was independent of the staff of the Secretariat or part of that staff. The resolution read out by the Deputy Legal Adviser to the Conference had stated that the secretariat of INCB was an integral part of the Secretariat of the United Nations. His delegation therefore believed that the Turkish sub-amendment went far beyond what was allowed under Article 101 of the Charter. It was not possible to stipulate that the Secretary-General should act in agreement with the Board, since that would encroach on the competence conferred on him by Article 101. In a number of rulings, the United Nations Administrative Tribunal had interpreted Article 101 of the Charter and had found that the wording used in the Charter in accordance with rules laid down by the General Assembly did not constitute an absolute authorization for the Assembly to limit the competence of the Secretary-General. The matter involved rules which could determine the way in which the Secretary-General's functions were to be performed, but they could not deprive him of the discretionary right conferred on him by the Charter to appoint staff.

64. Given the legal nature of the bodies set up by the 1961 Convention, his delegation believed that the Committee would be violating the provisions of the Charter if it required the agreement of the Board for an appointment to be made by the Secretary-General. His delegation...
was therefore inclined to favour the text of the joint amendment.

65. Mr. MAZOV (Union of Soviet Socialist Republics) said that note should be taken of the provision incorporated in article 20 of the 1925 Convention as amended by the Protocol of 11 December 1946, under which the appointment of the Secretary required the approval of the Council. He formally proposed that the words "subject to the approval of the Council" be added at the end of the second sentence of article 16 as proposed in the joint amendment (E/CONF.63/5).

66. Mr. VAILLE (France) said he would suggest, first, that the Committee ask the Office of Legal Affairs of the United Nations Secretariat at Headquarters whether the Soviet proposal would be in conformity with the Charter, in particular in so far as it referred to the last paragraph of article 20 of the 1925 Convention, and secondly, that the Committee propose that the plenary Conference include a specific reference to the staffing of the Board in the Final Act of the Conference.

67. Mr. KANDEMIR (Turkey) said that his delegation, while awaiting a legal opinion from the Office of Legal Affairs, would be prepared to replace the words "in agreement with the Board" in its sub-amendment by the words "on the proposal of the Board".

68. Mr. VINUESA SALTO (Spain) said that his delegation was prepared to accept the Turkish proposal in principle, subject to the legal opinion awaited from Headquarters.

69. Mr. BARONA LOBATO (Mexico) said he hoped that the Secretariat could distribute the text of Economic and Social Council resolution 1196 (XLII) so that the Committee might have a clear idea of the Council's thinking on the question of the staffing of the Board.

70. He supported the observations by the Uruguayan representative concerning the rulings of the United Nations Administrative Tribunal with respect to the legal interpretation of Article 101 of the Charter.

71. The USSR proposal was an interesting one, but he would like an opportunity to study it in writing.

72. In principle, his delegation could not accept the latest sub-amendment proposed by the Turkish delegation and would prefer the text of article 16 as given in the text of the joint proposals.

73. Mr. GROS ESPIELL (Uruguay) said that his delegation would reserve its final opinion until advice was received from the Office of Legal Affairs, but hoped that it would be able to support the latest proposal by the Turkish delegation, which represented an improvement on its original sub-amendment.

74. Mr. BONDAREV (Byelorussian Soviet Socialist Republic) said that his delegation would support the amendment proposed by the USSR.

75. Mr. VAILLE (France) said that his delegation would be satisfied with a reference to the 1925 Convention and the 1946 Protocol, since experience showed that the system described in those instruments had worked well in practice. The exact details could be set out in the Final Act of the Conference.

76. Mr. ASLAN (Italy) said that his delegation recognized that some improvements had been made in the amended text of article 16, but felt that the Committee should proceed with caution and await the opinion from the Office of Legal Affairs before taking a final decision.

77. Mr. OLIVIERI (Argentina) said that the new Turkish proposal, while more flexible, still required the agreement of the Board and might therefore violate Article 101 of the Charter. It would undoubtedly be prudent to await the opinion of the Office of Legal Affairs.

78. Mr. STEWART (United Kingdom) said his delegation had been able to co-sponsor the original amendment proposed to article 16 because that amendment fully respected the spirit and principles of Economic and Social Council resolution 1196 (XLII), which had set out the administrative arrangements for ensuring the technical independence of the Board in carrying out its functions. He had been surprised, therefore, that one of the sponsors had subsequently supported the Turkish sub-amendment, which departed substantially from the original amendment by providing that the Secretary should be appointed "on the proposal of the Board". Conceivably, that could mean that the Board might nominate persons who were not even employed by the United Nations.

79. The USSR representative had attempted to solve that difficulty by suggesting the addition of the words "subject to the approval of the Council", but his delegation could not accept that proposal, since it also went beyond what was laid down in Council resolution 1196 (XLII). His delegation could not, indeed, at present support any of the proposed additional amendments to article 16 without studying the advisory opinion of the Office of Legal Affairs.

80. Mr. KOZLJUK (Ukrainian Soviet Socialist Republics) said that his delegation was concerned by what appeared to be a growing trend in the Committee to increase the independence of the Board and to convert it into a supra-national body. A situation in which the Board would become superior to the Council, whose members were plenipotentiary representatives of States—which were subjects of international law—was absolutely inadmissible. It therefore wished to associate itself with the amendment proposed by the USSR.

81. Mr. VINUESA SALTO (Spain) said he hoped that the Legal Adviser to the Conference would consult the Office of Legal Affairs about the latest sub-amendment proposed by the Turkish delegation, as well as about the USSR proposal.

82. Mr. RATON (Deputy Legal Adviser to the Conference) said he would submit all the amendments involved to the Office of Legal Affairs for its opinion.

83. Mr. VAILLE (France) proposed that, in connexion with article 16, the substance of Economic and Social Council resolution 1196 (XLII) be included in the Final Act of the Conference.

84. The CHAIRMAN said he would ask the Legal Adviser to the Conference to prepare a suitable text for that purpose.

The meeting rose at 12.40 p.m.
SIXTH MEETING

Thursday, 9 March 1972, at 3.30 p.m.

Chairman: Dr. BÖLCS (Hungary)

In the absence of the Chairman, Mr. Bugarin (Philippines), Vice-Chairman, took the Chair.

Consideration of all amendments proposed to the Single Convention on Narcotic Drugs, 1961 (item 11 of the Conference agenda) (continued) (E/CONF.63/5 and addenda)

ARTICLE 36 (Penal provisions) and ARTICLE 38 (Measures against the abuse of narcotic drugs) (E/CONF.63/5)

1. The CHAIRMAN said that the Committee would resume the consideration of article 16 when the Office of Legal Affairs at United Nations Headquarters had given the opinion which the Committee had asked for at its 5th meeting.

2. In the meantime, he invited the Committee to consider the joint amendments proposed to articles 36 and 38 (E/CONF.63/5).

3. Dr. MARTENS (Sweden) introduced, on behalf of the sponsors, the joint amendments proposed to articles 36 and 38. He recalled that Sweden had originally submitted, in accordance with article 47 (Amendments) of the 1961 Convention, an amendment to article 38 and a proposal for the introduction of a new sub-paragraph (b) to paragraph 1 of article 36, both of which now formed part of the joint proposals reproduced in document E/CONF.63/5. The Swedish proposal (E/CONF.63/2) had been favourably received by the Commission on Narcotic Drugs at its twenty-fourth session. Sweden and the other Nordic countries had also participated, at the first special session of the Commission in January 1970, in the introduction of similar provisions into the draft Protocol on Psychotropic Substances; those provisions were now included in the 1971 Convention on Psychotropic Substances, in article 20 (Measures against the abuse of psychotropic substances) and in paragraph 1 (b) of article 22 (Penal provisions).

4. The purpose of the proposed amendments was to strike a balance between law enforcement measures and remedial measures, a feature which was absent from all the narcotics control treaties concluded prior to 1971. That approach reflected the modern view regarding addiction and drug offences.

5. One strong argument in favour of the adoption of the proposed amendments was the need for parallelism between the two Conventions governing dependence-producing drugs, the 1961 Single Convention on Narcotic Drugs and the 1971 Convention on Psychotropic Substances. It was the need to ensure parallel treatment that had moved his own delegation, at the twenty-third session of the Commission on Narcotic Drugs, to urge that some of the more dangerous psychotropic substances should be placed on the schedules annexed to the 1961 Convention. That solution had not been adopted at the time and many of the present problems were due to the fact that the whole subject of dependence-producing drugs was governed by two separate Conventions. The proposed amendments would reduce the magnitude of those problems.

6. The wording of the proposed amendments was based on that of the corresponding provisions of the 1971 Convention. In paragraph 1 (b) of article 36, he stressed the use of the formula “the Parties may provide”, instead of the mandatory “shall provide”, to allow for the difficulties arising for certain countries from the provisions of their municipal law.

7. Mr. MILLER (United States of America) said that, despite their remarkable achievements in the struggle against the illicit drug traffic, the law enforcement agencies could not be expected to solve the drug problem alone. In the United States, it had been estimated in 1969 that there were about 315,000 heroin addicts. More recent observations had revealed that by 1971 the size of the problem had increased still further.

8. To the human suffering and economic loss involved in drug addiction must be added the consequences in respect of crime. An analysis of the cases of 1,800 arrested persons in six widely separated cities in the United States had shown that 24 per cent had been using heroin and that 17 per cent used heroin daily. At Santa Barbara, California, the police had isolated 100 known drug addicts, as an experiment; crime had then decreased by 55 per cent and by an even higher percentage for offences against property alone. Those observations clearly showed that a reduction in the extent of drug abuse would have the effect of reducing the crime rate.

9. United States experience had shown that it was totally unrealistic to expect any single authority or agency to deal with the multiple problems of drug abuse. In 1970, 319,000 persons had been arrested for drug-related offences, but the drug problem had still not abated. The problem was the combined responsibility of medicine, psychology, the law, education and social work. That was precisely the idea behind the amendments just introduced by the Swedish representative to article 38 and to paragraph 1 of article 36, amendments which his delegation whole-heartedly endorsed.

10. Dr. CAGLIOTTI (Argentina), speaking as one of the sponsors of the proposed amendments, said he supported the views expressed by the representatives of Sweden and the United States but proposed the introduction, at the appropriate place in the proposed text of article 38, paragraph 1, of the qualifying words “whether voluntary or compulsory”. The concept of compulsory treatment and other remedial measures was embodied in the new sub-paragraph (b) it was proposed to add to paragraph 1 of article 36, but it related only to drug addicts convicted of criminal offences. The purpose of his amendment to paragraph 1 of article 38 was to make it possible to impose compulsory treatment on drug addicts before they became delinquents. In that manner, preventive action could be taken before a drug

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1 See Official Records of the Economic and Social Council, Fifty-second Session, Supplement No. 2 (E/5082), annex VII.
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adict began using morphine-type drugs, or emigrated to another country. The importance of that last point was particularly evident in Argentina, which received every year many migrant workers from a number of neighbouring countries for periods of several months at a time. A further advantage would be to reduce the incidence of proselytism.

11. The 1961 Convention dealt mainly with problems connected with the supply of narcotic drugs and with the illicit traffic. The purpose of the proposed amendment to article 38 and the proposed introduction of the new article 14bis (Technical and financial assistance to promote more effective execution of provisions of the Convention) and the new paragraph 1 (b) of article 36 was to deal with problems connected with the demand for drugs. That demand originated in the propensity of certain individuals to drug addiction because of psychological factors and in socio-cultural causes affecting certain groups of persons. In the struggle against that demand, specialized assistance was essential and the epidemiology of drug addiction had to be considered, escalation and proselytism being particularly relevant. Observations made in his own country had shown that a drug addict initiated three to five other individuals annually in the use of drugs.

12. The need to make provision not only for voluntary but also for compulsory treatment was illustrated by experience in Argentina, which had shown that compulsory treatment in specialized centres produced better results than voluntary treatment. The latter types of treatment had led to recovery in only 16 to 20 per cent of the cases but a relapse into drug addiction had generally occurred after an average of four years. His delegation had accordingly reached the conclusion that the measures envisaged in paragraph 1 of article 38 should include legislation on urgent preventive measures to be imposed on drug addicts, such as committal to a suitable treatment institution.

13. Dr. ALAN (Turkey) said that, although drug addiction was not a social or public health problem in Turkey, his delegation warmly supported the proposed amendment, in the firm belief that prevention was better than cure. Moreover, his delegation agreed that it was essential to maintain a parallelism between the provisions of the 1961 Convention and those of the 1971 Convention. As for the contents of the proposed amendments, they conformed with the latest scientific findings and the most up-to-date technical knowledge.

14. Mr. STEWART (United Kingdom) said that, since the title of article 38 in document E/CONF.63/5 formed part of the proposed amendment to the 1961 Convention, it should be underlined.

15. The amendment in question had first been presented by the Swedish delegation at the twenty-fourth session of the Commission on Narcotic Drugs, when it had been generally welcomed by very many delegations. Essentially, it amounted to the incorporation in the 1961 Convention of the text which had been used in the 1971 Convention on Psychotropic Substances. It would bring the wording of the 1961 Convention up to date by reflecting the changes in thinking which had occurred over the last 11 years, namely, from a penal approach to a medical and social one.

16. Mr. PUNARO (Mexico) said that, in accordance with article 47 of the 1961 Convention, Sweden had circulated its proposed amendment to all the parties and in all the official languages. Consequently, the amendment would come into force 18 months after that action, unless an objection was lodged by a party. The same amendment was now being put forward in the Conference and he wondered, in the event of its being modified in the Committee, which of the two versions would prevail.

17. Mr. VAILLE (France) said that his delegation endorsed the amendment, which it had supported at the twenty-fourth session of the Commission on Narcotic Drugs and at the United Nations Conference for the adoption of a Protocol on Psychotropic Substances.

18. The answer to the point raised by the Mexican representative, was that, since under paragraph 1 of article 47, the Economic and Social Council was entitled to decide either that a conference should be called or that the parties should be asked whether they accepted the proposed amendment, and since the Council had, in fact, called a conference, the other option had lapsed.

19. Experience in the Commission on Narcotic Drugs and at the United Nations Conference for the adoption of a Protocol on Psychotropic Substances had shown that it was very difficult for delegations to reach an understanding, even when they all sought the same goal, since the problem was not identical in any two countries. But experience had also shown that action must be taken on all fronts. First of all, the number and kind of addicts had to be diagnosed, i.e., an epidemiological study had to be carried out. Secondly, once that diagnosis had been made, the causes of addiction had to be sought, and such causes were both individual and social. The third stage was the treatment of the addicts. All three of those processes were extremely difficult and complicated. Modern psychiatry was applicable to drug addicts but there were some special factors involved. Unlike other psychiatric cases, drug addicts were normally both liars and active proselytizers. Moreover, they were seldom anxious to be cured. Those facts greatly complicated the work of the psychiatrist. All in all, it was necessary to be realistic and to acknowledge that scientific research on addiction was both limited and very difficult and that much still remained to be done.

20. His delegation accepted the principle of the Argentine sub-amendment but thought that the wording should be left to the Drafting Committee.

21. Dr. POGADY (Czechoeslovakia) said he supported the proposed amendment to article 38.

22. Mr. de ARAUJO MESQUITA (Brazil) said that his delegation also supported the proposed amendment to article 38.

23. Mr. GUILLOT (Cuba) said that his delegation was able to support the Swedish amendment to article 38, since it did not infringe national sovereignty.

24. Mgr. FOUGERAT (Holy See) said that his delegation supported the Swedish amendment. As for the sub-amendment of the representative of Argentina, he agreed
with the principle but would have to examine the wording with some care.

25. While the text proposed by Sweden and the other sponsors was perfectly satisfactory in itself, he felt that there was still something missing in article 38. Everyone agreed that the approach to addiction should be preventive as well as curative, and that social factors were of great importance in that respect. Addiction often led to immorality but immorality also led to addiction. He would submit an amendment in writing to the secretariat relating to the social element in addiction.

26. Mr. VAILLE (France) said that, although he agreed with the suggestion by the representative of the Holy See, he thought it would be inappropriate to include such a passage in article 38 or, indeed, in any other single article. The best solution might be to insert it in the Final Act in the form of a resolution.

27. Mr. TZVETKOV (Bulgaria) said that his delegation was in favour of the Swedish amendment, which would help to improve rehabilitation work.

28. Mr. PUNARO (Mexico) said that his delegation would be able to support the proposed amendment to article 38 if a slight change were made in paragraph 3. The use of the word “shall” in that paragraph meant that the parties would contract an obligation which might put a strain on their budgetary resources but, if it were replaced by the word “may”, each country would be able to interpret the paragraph in the light of its particular circumstances and resources.

29. With regard to the proposed amendment to article 36, he suggested that paragraph 1 of the article should commence with the phrase “Subject to the constitutional limitations of each Party:” immediately following the title “Penal provisions”, so that that phrase governed all the subsequent paragraphs. He had also a specific sub-amendment to propose to paragraph 1(b) of the article, which he would submit to the secretariat in writing.

30. Mr. MAZOV (Union of Soviet Socialist Republics) said that the Swedish amendments to articles 36 and 38 were acceptable. The amendment to paragraph 1(b) of article 36 and the amendments to paragraph 2(b) of the same article, and also the amendments to article 38, were based on the corresponding provisions of the 1971 Vienna Convention on Psychotropic Substances, which the Soviet Union had supported.

31. Mr. HANAM (Singapore) said that he too fully supported the proposed amendments to articles 36 and 38. Although the drug problem in Singapore had not reached the proportions it had in some other countries, his Government was not complacent on the subject, since there had been definite signs of an escalation in the past 18 months, especially among young people, who constituted one half of the population.

32. Mr. KROG-MEYER (Denmark) said he agreed with earlier speakers that attempts to combat the drug problem were still in the initial stages and that the problem was not only medical, but social. It was therefore wise to amend the 1961 Convention along the lines of the 1971 Convention, so as to promote research into treatment, education, after-care and rehabilitation. It was also correct to call for co-operation and exchanges of experience, but not to provide for a co-ordinated programme, because of the complexity of the factors involved, which differed from region to region and even from country to country. He could not, therefore, support the Argentine sub-amendment, because compulsory measures might not be suitable for combating the programme in some countries; indeed, some psychiatrists had definitely decided that compulsion tended to hamper treatment.

33. With regard to the proposal of the representative of the Holy See, he did not think that such a declaratory text would fit into any article of the Convention; moreover, his country could not subscribe to what amounted to a condemnation of conditions allegedly causing drug abuse. Moral condemnation and loose references to pornography, which could not be properly defined, let alone regarded as a proven cause of drug addiction, were no substitute for sociological understanding.

34. Dr. CAGLIOTTI (Argentina), replying to criticisms of his delegation’s sub-amendments, said that countries must have an instrument whereby addicts could be cared for without being subjected to ordinary penalties. If the addicts volunteered for treatment, the socio-psychiatric sector should be called upon, but if they committed crimes against the community, the State could give them compulsory therapeutic assistance in penal institutions.

35. Mr. TANOE (Ivory Coast) said that he too fully supported the amendments to articles 36 and 38, which struck the necessary balance between law enforcement and therapeutic action. Although the Swedish amendments to article 38 did not specifically provide for assistance to developing countries, paragraph 3 could be interpreted as doing so.

36. Mr. BRAY (Australia) said that his delegation welcomed the proposed amendments to article 38, which struck the necessary balance between law enforcement and therapeutic action. Although he believed that the substance of the Argentine sub-amendment to paragraph 1 was covered by the phrase “take all practicable measures”, he would not object to its adoption if that was the wish of the Committee. His initial reaction to the proposal of the Holy See was that it had no place in the body of the Convention.

37. Miss SHILLETTO (Jamaica) said the Swedish amendments made full provision for research into international and national causes of abuse of drugs, and her delegation could therefore support them.

38. Mr. STJERNBERG (Sweden) said that his delegation intended to withdraw its original amendments. It was gratified by the response to its amendments as they appeared in document E/CONF.63/5.

39. Mr. SADEK (Egypt) said that he could fully support the Swedish amendments because addicts had been treated as patients in his country since the promulgation of a law to that effect in 1958.

40. Mr. MAWHINNEY (Canada) said the debate had shown that punitive measures alone would not suffice to combat the illicit use of narcotic drugs. Attempts to probe the basic causes of abuse and to achieve appropriate remedies should be co-ordinated at the international level. Canada had appointed a commission on the non-medical
use of drugs whose terms of reference included most of the elements of the Swedish amendments to article 38. An interim report on the social aspects and reasons for abuse of drugs had been published, as well as the first of three final reports, relating to the treatment of opiate and high-dose amphetamine addicts. Those and the remaining final reports would serve as a basis for policy decisions by the Canadian Government.

41. Mr. GUILLOT (Cuba), referring to the Argentine sub-amendments, said he could not accept any reference to compulsory measures, since every party to the Convention must be free to decide what action it wished to take to combat the abuse of drugs.

42. Mr. de ARAUJO MESQUITA (Brazil) said that he too could not support the Argentine sub-amendments, which seemed to imply that Governments were failing in their duty to give assistance to addicts, whereas the actual difficulty lay in the unwillingness of patients to receive treatment.

43. Mr. KOZLJUK (Ukrainian Soviet Socialist Republic) said that there seemed to be general support for the Swedish amendments. The various suggestions put forward during the debate could probably be dealt with by the Drafting Committee.

44. Mr. MILLER (United States of America), referring to the Argentine sub-amendments, said he could fully support any legislation which gave a discretionary opportunity for the treatment of addicts, rather than providing for routine sanctions. It was to be hoped that legislation could be devised in many countries for the appropriate handling of abusers of drugs before they became a problem to themselves and to society. Various experiments in that direction had been successfully made in the United States. On the other hand, he thought that the words “take all practicable measures” in paragraph 1 of article 38, as proposed, covered that point quite adequately; it might be left to the Drafting Committee to decide whether any further emphasis was needed.

45. He had not fully understood the purport of all the Mexican sub-amendments, but he could not agree that the word “may” should be substituted for “shall” in the first part of article 38, paragraph 3, since that amendment would completely destroy the force of the clause.

46. The representative of the Holy See was to be thanked for his moral guidance, but it should be borne in mind that there were many other causes of drug abuse than moral ones. There had been a considerable amount of research into the problem in the United States, and no one had yet reached a final solution. If the proposal of the Holy See were to be taken into account, the only place for it would be in a resolution in the Final Act.

47. Mgr. FOUGERAT (Holy See) said he could agree that his proposal should be included in a resolution rather than in the text of the Convention itself. His proposal did not deal solely with moral issues, but was based on the social conditions which led to the abuse of drugs.

48. Mr. VAILLE (France) said he could support the Mexican sub-amendments to article 36. With regard to article 38, he would draw attention to the extremely cautious wording of the Swedish amendment, which precluded any interference in the domestic laws of the countries concerned. Thus, the term “shall give special attention to and take all practicable measures for” in paragraph 1 did not entail binding obligations. Consequently, the Argentine sub-amendments also involved no interference with national legislation, since the words “voluntary or compulsory” applied only to treatment and depended on the first two phrases of the Swedish amendment. To make that point absolutely unequivocal, the Drafting Committee might consider inserting the phrase “as far as possible” after the first three words of paragraph 1.

49. Mr. PUNARO (Mexico) said that his proposed sub-amendments seemed to have been misunderstood by a number of representatives. He would therefore submit them in writing.

50. Mr. KROG-MEYER (Denmark) said he reserved his delegation’s position concerning the inclusion of the proposal of the representative of the Holy See in the Final Act.

The meeting rose at 5.30 p.m.

SEVENTH MEETING
Friday, 10 March 1972, at 9.55 a.m.
Chairman: Dr. BŐLCS (Hungary)

Consideration of all amendments proposed to the Single Convention on Narcotic Drugs, 1961 (item 11 of the Conference agenda) (continued) (E/CONF.63/5 and addenda)

ARTICLE 38 (Measures against the abuse of narcotic drugs) (continued) (E/CONF.63/5, E/CONF.63/C.2/L.6, E/CONF.63/C.2/L.7)

1. Mr. ROSENNE (Israel) said that in general his delegation was prepared to support the joint amendments (E/CONF.63/5) and appreciated the great efforts which had been made by the sponsors to bring the 1961 Convention up to date.

2. His own country was in a special position, for it was not a producing country, and hardly a consuming country, but it was an involuntary transit country and, moreover, one which stood in a special relationship with its immediate neighbours. That would require a proper statement of the appropriate general legal régime, a matter to which he would revert later.

3. His delegation had considerable sympathy with the points of view both of Mexico and of the United States of America (6th meeting), but was still not convinced of the wisdom of using categorical imperatives if the end product was to be merely the setting-up of unattainable ideals. On the other hand, it saw no advantage in weakening article 38 to the point where it would amount to nothing.

4. His delegation was also not convinced that the two points of departure of the sponsors and the delegation
of Mexico were really as incompatible as they might appear to be at first sight; it hoped, therefore, that matters would not be forced to a premature vote. If, however, it proved impossible to reach a compromise, his delegation would prefer the text of the joint proposals and would hope that appropriate advice and assistance would be made readily and economically available to those in need of it.

5. His delegation fully endorsed the valuable proposal made at the 6th meeting by the representative of the Holy See, since it fully realized that drug addiction represented a moral problem which was as elusive and difficult to define as any of the great moral problems faced by mankind. While in full sympathy with those who laid stress on the medical and clinical aspects, and on the more general social problems connected with the drug problem, his delegation did not believe that article 38, however improved it might be as a result of the present deliberations, should be the sole pronouncement of the Conference on those less material and objective matters. Therefore, in principle, it was glad to support the suggestion that an appropriate resolution be adopted by the Conference and incorporated in its Final Act.

6. Mr. BRAY (Australia) said that in paragraph 3 of the joint amendment to article 38 the words “The Parties shall assist persons...” implied a degree of compulsion, whereas the Mexican sub-amendment (E/CONF.63/C.2/L.7) reduced the element of compulsion by saying “shall endeavour to assist”. His own delegation felt that a suitable compromise might be to use the wording at the beginning of paragraph 1 and to state at the beginning of paragraph 3, that “The Parties shall take all practicable measures to assist...”.

7. Mr. ABSOLUM (New Zealand) said that he could support that proposal.

8. Mr. GROS ESPIELL (Uruguay) said that his delegation supported the proposal made at the 6th meeting by the representative of the Holy See, but felt that it might be more appropriately incorporated in a special resolution to be adopted by the Conference in plenary and included in the Final Act.

9. His delegation could support the Argentine sub-amendment to paragraph 1 (E/CONF.63/C.2/L.6), since it did not change, but rather clarified, the meaning of the original joint amendment.

10. He did not think that the sub-amendment submitted by Mexico was in substance essentially different from the original text, since it was obvious that the Parties could only assist the persons in question within the limits of their available resources.

11. Dr. MÄRTENS (Sweden) said that his delegation could not see why the text for article 38 of the amended 1961 Convention should be any different from the text used in article 20 of the 1971 Vienna Convention on Psychotropic Substances. He therefore questioned the proposed Mexican sub-amendment to paragraph 3 of article 38, although he was prepared to support the sub-amendment proposed by Australia.

12. With regard to the proposal put forward by the representative of the Holy See at the 6th meeting, his delegation felt that it might possibly be included in the Final Act, but reserved its right to comment on it in the plenary Conference.

13. Mr. STEWART (United Kingdom) said that his delegation was still not convinced that any new compelling reasons had been advanced for changing the text for article 38 proposed in document E/CONF.63/5. In particular, the addition of the words “whether voluntary or compulsory” in paragraph 1 neither added to nor subtracted from the essential meaning of that paragraph. The text of the joint amendment had been modelled on the one adopted at the United Nations Conference for the adoption of a Protocol on Psychotropic Substances, which had not so far given rise to any difficulties of interpretation.

14. With regard to the Mexican sub-amendment, as the Swedish representative had pointed out, the text proposed in the joint amendment followed exactly the text of the 1971 Convention and it too did not give rise to any difficulties of interpretation. In order to achieve unanimity in the Committee, however, he would be prepared to consider some slight adjustment such as that proposed by Australia. He hoped, therefore, that the Mexican representative would be willing either to withdraw his amendment or to accept the amendment proposed by Australia.

15. Mr. BARONA LOBATO (Mexico) said that his delegation would be satisfied if paragraph 3 included some such wording as the phrase “take all practicable measures”, which had been used in paragraph 1, since it was obvious that no country could assume responsibilities which called for more resources than those available to it.

16. With regard to the observation made by the Swedish representative, he did not think that the parallel with the 1971 Convention on Psychotropic Substances was really pertinent, since no international instrument was so sacrosanct that slight amendments to it could not be introduced in the future.

17. Mr. VAILLE (France), formally proposed that the discussion be closed and a vote be taken on article 38, paragraph by paragraph.

18. Mr. ABSOLUM (New Zealand) said he supported the motion for the closure of the debate, because he felt that there was no wide measure of agreement in the Committee. The Mexican representative had in fact said that the wording suggested by the Australian representative would be acceptable to him and two of the sponsors of the original joint amendment had indicated that they also were prepared to accept that formulation.

The motion for the closure of the debate was adopted by 17 votes to 5, with 33 abstentions.

19. The CHAIRMAN invited the Committee to vote first on the Argentine sub-amendments to paragraph 1 and then on paragraph 1 as a whole.

20. Dr. ALAN (Turkey), speaking on a point of order, said he would like to be certain of the exact wording of the Argentine sub-amendment in Spanish before the Committee voted on it. The French version read: “de caractère obligatoire ou non”, whereas the proposal submitted orally by the Argentine representative at the 6th meeting had been to insert the words “, whether voluntary or compulsory”.
21. Mr. VAILLE (France) said he would vote for the Argentine sub-amendment, leaving it to the Drafting Committee to explain the exact meaning of "voluntary" and "compulsory". The Argentine sub-amendment did not in any way detract from the provision in the joint amendment to paragraph 1 that the parties should "take all practicable measures". The question whether treatment should be voluntary or compulsory was the subject of debate between psychiatrists and doctors. While at the outset compulsion was often necessary, voluntary treatment appeared to have been successful in some countries, particularly the United States.

22. Mr. OLIVIERI (Argentina) said that the wording of the Spanish version of the sub-amendment was "sean estas de carácter voluntario o obligatorio.".

23. Mr. GROSS (United States of America) said he was prepared to vote for the Argentine sub-amendment, on the understanding that the Drafting Committee would decide whether it in fact added emphasis to the words "take all practicable measures".

24. Mr. STEWART (United Kingdom) said that to him, as a layman, the Argentine sub-amendment was meaningless. The key word in paragraph 1 was "practicable" and he could not see how a Government could take practicable measures which might be voluntary or compulsory. If a Government took a measure, it was a positive act and the question of will could not enter into it. He would, however, accept the opinion of the lawyers on the Drafting Committee if they assured him that the sub-amendment added something to the original text. In the meantime, he would either vote against the sub-amendment or abstain.

25. The CHAIRMAN said that, in his view, the sub-amendment was intended to refer to the compulsory or voluntary treatment of patients.

26. Miss SHILLETTO (Jamaica) said she endorsed the remarks of the United Kingdom representative. If the sub-amendment was intended to refer to treatment, the words "whether compulsory or voluntary" should be placed after the word "treatment".

27. Mr. MAZOV (Union of Soviet Socialist Republics) said that the sub-amendment was not entirely clear. Even if applied to treatment, the word "compulsory" was ambiguous. In the Soviet Union, a court order was required before compulsory treatment could be given to an offender whose offences were of psychiatric origin; perhaps the position was different in Argentina. For that reason, he would abstain when the sub-amendment was put to the vote.

28. Dr. CAGLIOTTI (Argentina) said that his only intention in proposing the sub-amendment had been to make the text of paragraph 1 clearer and more dynamic. As a psychiatrist, he did not consider that the United Kingdom representative had put forward any valid technical argument against his sub-amendment. The amendment proposed in document E/CONF.65/3 spoke of "all practicable measures for... early identification, treatment, education, after-care, rehabilitation and social reintegration". The reason why he had placed the words "whether voluntary or compulsory" after the word "measures" was that they would then apply either to part or to the whole range of measures as applicable in individual countries.

29. Mr. GUILLOT (Cuba) said that, juridically speaking, the words "all practicable measures" covered any kind of treatment or stage of treatment practised in countries in accordance with the patient's requirements. There was no question of compulsory treatment; that was a matter for the domestic law of States and the decision must be based on the patient's condition. The Argentine sub-amendment only complicated an otherwise explicit paragraph. He would vote against it, because he considered that the expression "all practical measures" covered all measures, whether voluntary or compulsory, as determined by the psychiatrist in each particular instance.

30. Mr. MIETTINEN (Finland) said he did not think that compulsory treatment should be mentioned in the 1961 Convention, since the choice between different treatment measures was made only at the national level. It was an important point for Finland, which was, in principle, opposed to compulsory treatment.

31. Mr. MAWHINNEY (Canada) said he appreciated the reasons underlying the Argentine proposal, but as a trained lawyer, he was unable to see how the clause as at present worded in the Convention failed to accommodate the Argentinian position. In the English version, at least, it fully covered the type of programmes the Argentine or any other Government might deem appropriate for combating the scourge of drug abuse. He would abstain in the vote.

32. Mr. KROG-MEYER (Denmark) said that, in his view, the Argentine sub-amendment did add something to the text, in that it stressed compulsory treatment; voluntary treatment would not be stressed in a treaty. As psychiatrists were increasingly opposed to compulsory treatment, he would vote against the sub-amendment.

33. Mr. SCHNEKENBURGER (Federal Republic of Germany) said he appreciated the Argentine representative's motives but was still doubtful whether his sub-amendment would achieve his purpose. As a lawyer, and irrespective of where the words "whether voluntary or compulsory" were placed, he shared the view of the United Kingdom representative. The text as proposed by the sponsors of the joint amendments was quite clear. The words "measures" meant action by the State and in that context the expression "voluntary or compulsory" was meaningless. If it were placed after the word "treatment", it would create other problems; it would leave open the question why treatment but not the other measures should be voluntary or compulsory. He doubted whether the lawyers on the Drafting Committee would be able to solve the problem and he would therefore probably have to abstain in the vote on the sub-amendment.

34. Mr. ABSOLUM (New Zealand) said that his delegation intended to vote against the Argentine proposal, not because of any lack of sympathy, but for the reasons given by the Swedish representative. He felt that the present wording was sufficiently broad to cover all systems. In addition, there was a slight logical difficulty in the English text, since the element of will suggested by the Argentine sub-amendment could not be associated...
with measures as such, but only with the persons against whom those measures were applied. A further point was that the sub-amendment tended to give a slight emphasis to compulsory as opposed to voluntary measures.

35. Miss IMBACH (Switzerland) said that her delegation supported the remarks of the United Kingdom representative. The fact that her delegation was opposed to the Argentine proposal did not mean that it disagreed with the substance of the sub-amendment. In her delegation’s view, however, the sub-amendment was unnecessary, since it was already included in the words “all practicable measures”. All delegations agreed with the principle of the article that all States should take measures at the national level against drug abuse, but international law should relate to principles and leave it to States to draft the necessary national law.

36. Mr. BRAY (Australia) said that, in his delegation’s view, the sub-amendment added nothing to the text proposed, which stated that the parties should “take all practicable measures”. However, his delegation would raise no objection if the majority of members wished to include the words in the Argentine sub-amendment. It would abstain in the vote and leave the decision to the Drafting Committee.

37. Mr. OLIVIERI (Argentina) said he thought that his delegation’s proposal had not been properly understood. The idea of compulsion or imposition was already implicit in the proposed text of article 36, paragraph 2(b), and had been put forward for no other reason than the fact that it was used in practice. Under his own country’s domestic law, compulsory treatment of drug addicts or other persons requiring treatment was possible if they constituted a danger to themselves or to society. Such treatment could even be carried out as a precautionary measure. It was important to recognize the need for compulsory treatment on an international scale in order to make it possible to act jointly against a world-wide malady. His delegation had based its sub-amendment on epidemiological considerations, and if that point was taken into account, its position would be more easily understood.

38. Mr. ASLAN (Italy) said that his delegation could support the Argentine sub-amendment.

39. Mr. ROSENNE (Israel) said that the difficulty facing the Committee was due primarily to the fact that many delegations believed that all the processes mentioned in paragraph 1 were either compulsory or voluntary, depending on the meaning of those words, or on the legislation already in force in each State. The text of the joint amendment was intended to state that, and did so. Many delegations were therefore hesitant to accept the Argentine sub-amendment, since they considered that what the Argentine representative wanted was already contained in the paragraph. The difficulty could perhaps be overcome by a clear and agreed interpretative statement which would be included in the summary record of the meeting and would express what he believed to be the consensus in the Committee. He appealed to the Argentine representative not to press his sub-amendment to the vote, since the debate had now clarified the issue.

40. Dr. CAGLIOTTI (Argentina) said that his delegation, in a desire to facilitate the Committee’s work, would withdraw its sub-amendment (E/CONF.63/C.2/L.6).

41. The CHAIRMAN invited the Committee to vote, paragraph by paragraph, on the text of article 38 as it appeared in the joint proposals (E/CONF.63/5) and on the Mexican sub-amendment to paragraph 3 (E/CONF.63/C.2/L.7).

Paragraph 1 was approved by 54 votes to none, with 2 abstentions.

Paragraph 2 was approved by 57 votes to none.

42. The CHAIRMAN invited the Committee to vote on the Mexican sub-amendment to paragraph 3.

43. Mr. BARONA LOBATO (Mexico), said that the Australian representative had submitted an oral sub-amendment to paragraph 3, but he thought the Committee should vote first on his own delegation’s sub-amendment.

44. Mr. KROG-MEYER (Denmark) said that in his delegation’s opinion, the Australian proposal, to insert the words “take all practicable measures to” before the word “assist”, was more removed from the original text of the joint amendment and should therefore be voted on first.

45. Mr. BRAY (Australia) said that, as he understood it, his delegation’s amendment had been presented as a sub-amendment to the Mexican proposal. In that case, he submitted that it had priority in the order of voting.

46. Mr. RATON (Deputy Legal Adviser to the Conference) said that in his view, the Committee should vote first on the Australian sub-amendment.

The Australian sub-amendment to paragraph 3 was adopted by 45 votes to none, with 15 abstentions.

47. Mr. BARONA LOBATO (Mexico), explaining his vote, said that his delegation had voted for the Australian sub-amendment in a spirit of compromise, although it considered that its own proposal was the farthest removed from the original text.

48. Mr. BRAY (Australia) said that his delegation should draw the attention of the Drafting Committee to the fact that his delegation’s sub-amendment had been intended to bring the beginning of paragraph 3 into line with the beginning of paragraph 1. The translation should present no difficulty—contrary to what had been suggested in the course of the debate—since the same words had evidently been rendered satisfactorily in relation to paragraph 1.

49. Mr. GUILLOT (Cuba), explaining his vote, said that he had abstained owing to a misunderstanding. If he had had a correct Spanish translation of the Australian oral sub-amendment, he would have voted in favour of it.

50. Mr. RATON (Deputy Legal Adviser to the Conference) said that under the rules of procedure of the Conference it was not possible to amend the result of the vote, but the Cuban representative’s explanation would be noted in the summary record of the meeting.

51. Mr. OLIVIERI (Argentina) and Mr. VINUESA SALTO (Spain), speaking in explanation of vote, said that their delegations had voted on the understanding that the phrase “adoptarán todas las medidas posibles”
was a correct translation into Spanish of the Australian proposal.

Paragraph 3, as amended, was approved by 54 votes to none.

52. The CHAIRMAN invited the Committee to vote on article 38 as a whole, as amended, including the title.

Article 38 as a whole, as amended, was approved by 56 votes to none and referred to the Drafting Committee.

The meeting rose at 12.45 p.m.

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1 The text of article 38, as approved by the Committee, was subsequently circulated under the symbol E/CONF.63/C.2/L.10.

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EIGHTH MEETING

Friday, 10 March 1972, at 2.45 p.m.

Chairman: Dr. BOLCS (Hungary)

Consideration of all amendments proposed to the Single Convention on Narcotic Drugs, 1961 (item 11 of the Conference agenda) (continued) (E/CONF.63/5 and addenda)

ARTICLE 38 (Measures against the abuse of narcotic drugs) (continued)

1. The CHAIRMAN said that the Argentine representative wished to make a statement in connexion with article 38, which had been approved at the 7th meeting.

2. Dr. CAGLIOTTI (Argentina) said that his delegation had withdrawn its amendment (E/CONF.63/C.2/L.6), in order to facilitate the work of the Conference and because it was in full agreement with the Swedish amendment incorporated in the joint proposals (E/CONF.63/5), on which a consensus had been reached.

3. Nevertheless, the Argentine delegation wished to have it placed on record that, in its view, no medical, social or legal argument had been adduced to invalidate its proposal to include in article 38 a specific reference to a trend in practical implementation. Indeed, during the short time that the Conference had been in session, there had already been proof of the need for compulsory measures in solving the world-wide problem of drug abuse.


4. The CHAIRMAN invited the Committee to consider the text of article 14bis which it was proposed to add to the 1961 Convention, as reproduced in the joint proposals (E/CONF.63/5), together with the amendments submitted by Turkey (E/CONF.63/C.2/L.3) and Cuba (E/CONF.63/C.2/L.5).

5. Mr. KANDEMIR (Turkey) said that the amendment proposed by his delegation did not affect the substance of the proposed article 14bis but was merely an amendment of form, designed to bring it closer to Economic and Social Council resolution 1559 (XLIX), entitled "Concerted United Nations action against drug abuse and establishment of a United Nations fund for drug-abuse control". In order to be more specific, the text proposed by Turkey contained references to article 2 (Substances under control) and article 35 (Action against the illicit traffic) of the 1961 Convention.

6. With regard to the Cuban amendment, the provision that the Board had to make its recommendations with the approval of the Commission on Narcotic Drugs was impracticable, because the Commission only met every two years; that meant that the implementation of the Board's recommendations might be considerably delayed.

7. Mr. MILLER (United States of America), introducing, on behalf of the sponsors of the joint proposals, the draft of the new article 14bis, said that the text reflected the new sophistication with which the international community was approaching drug abuse control: no individual country was now expected to operate without external co-operation, and there was a growing awareness of the social and economic realities affecting drug abuse. The Economic and Social Council had therefore set up a United Nations Fund for Drug Abuse Control to promote concerted international action. Some might regard the new article as superfluous, since INCB already made recommendations without being specifically authorized to do so; but the sponsors of the proposal had thought that the Board's prestige would be enhanced by providing statutorily for recommendations to be made not only to the Economic and Social Council, but also to the appropriate organizations and authorities. It would thus be made clear that the Board was not only a supervisory body, but could make direct appeals for technical and financial assistance.

8. Dr. POGADY (Czechoslovakia) said that the text of the joint proposal gave the Board very wide competence in the matter of assistance and that the financial implications of such a proposal were unforeseeable. Moreover, it was not clear how the Board would choose the countries to which assistance should be given. The possibilities provided by the existing procedures were completely inadequate, and it would be undesirable to adopt any measure that might lead to an increase in the United Nations budget.

9. Mr. KOZLJUK (Ukrainian Soviet Socialist Republic) said that he too had serious misgivings about the financial implications of the proposed article 14bis. Moreover, the text referred to "consultation with the Government concerned", in the singular; and to recommendations "that technical and financial assistance be provided to countries", in the plural; that clearly entailed a violation of national sovereignty if the countries concerned did not request assistance. His delegation was strongly in favour of assistance to the developing countries, but it should be provided through the established procedure in accordance with existing practice, i.e. after appropriate examination and approval by the Economic and Social Council.
10. The Cuban amendment, on the other hand, proposed a logical solution without any additional financial implications, and his delegation would vote for it.

11. Dr. MONTERO (Peru) said he could support the proposal for technical and financial assistance to countries which would otherwise be unable to carry out their obligations under the 1961 Convention. Unfortunately, Peru was a leading coca leaf producer, and the cocaine manufactured from that raw material led to widespread addiction in some countries. In addition, a disastrously large proportion of the rural population of Peru and Bolivia were addicted to coca leaf chewing. The revolutionary Government of Peru had in the past two years launched a series of campaigns for the advancement of the rural population, but much still remained to be done, and there was a danger that the campaigns might peter out through lack of funds. The proposal, if adopted, would contribute positively to the reduction of the production and consumption of drugs throughout the world.

12. Mr. KANDEMIR (Turkey) said he could not agree with the Ukrainian representative that the amendment proposed by his delegation in any way affected national sovereignty. It specified that the Board would act with the agreement of the Government concerned, and the existing United Nations technical assistance machinery would be used. His delegation's intentions had merely been to clarify the text of the proposed new article.

13. Mr. MILLER (United States of America) said that his delegation would have no difficulty in accepting the Turkish amendment, which was probably more explicit than the original joint proposal and contained no possible connotation of infringement of sovereignty.

14. Mr. VAILE (France) said he could support the Turkish amendment for the reason just given by the United States representative and because it had no financial implications, since the initiative for rendering assistance would rest, not with the Board, but with the competent authorities and agencies. On the other hand, the motivations for the Board's recommendations could be valuable to the authorities and agencies in their choice of forms of technical and financial assistance.

15. Mr. KROG-MEYER (Denmark), said that he too could support the Turkish amendment, which eliminated all possibility of infringement of sovereignty by referring to the agreement of the Governments concerned. He preferred it to the Cuban amendment.

16. Mr. STEWART (United Kingdom) said that his delegation had hesitated before becoming a sponsor of the original proposal, because at first sight it did lend itself to interpretations similar to those expressed by the Czechoslovak and Ukrainian representatives, and to the fear that pressure groups might urge the Board to make certain recommendations. But it should be borne in mind that there was nothing to prevent any individual or private body from recommending economic or social assistance, although such recommendations might not have the same weight as those of international authorities. As the United States representative had pointed out, no new right was being conferred on the Board, which was a specialized body and could help the competent authorities to make rational decisions. In the circumstances, it was wise to put trust in the pragmatism and common sense of the Board and of the authorities. His delegation had therefore agreed to sponsor the joint proposal, although the wording was not precisely what it would have chosen.

17. The Turkish delegation had now drafted an excellent text, which should eliminate some of the understandable misgivings expressed by the Ukrainian representative. The United Kingdom delegation would support the Turkish amendment.

18. Mr. GUILLOT (Cuba) said he could not support either the original joint proposal or the Turkish amendment, because both would have the effect of giving the Board unlimited powers at the expense of national sovereignty.

19. Mr. PUNARO (Mexico) said that a comparison of the Turkish and Cuban amendments showed that the Cuban text adhered more closely to the traditional precept that United Nations technical assistance was never granted without a request from the country concerned. Secondly, the Cuban amendment correctly reflected the co-ordinated functions of the Commission on Narcotic Drugs, on which Governments were represented, and of the Board, whose members served in their individual capacity; that hierarchical interconnexion, which was described in articles 5 (The international control organs) and 8 (Functions of the Commission) of the 1961 Convention, was clearly brought out in the Cuban text. Thirdly, the Cuban amendment was easier to understand than the Turkish and avoided unnecessary repetition and cross references; indeed, the reference to article 2 was inappropriate, since Committee II was not competent to deal with that article.

20. Mr. MAZOV (Union of Soviet Socialist Republics) said he noted that two of the sponsors of the original joint proposal had admitted that the text lent itself to different interpretations and was liable to give rise to misgivings. Indeed, it was hard to understand why the Board should enter into consultations with one Government concerning assistance to be rendered to several countries. The sources of financing of assistance were also not clearly specified; the United States representative had referred vaguely to the existing procedures and to the United Nations Fund for Drug Abuse Control, but no figures had been given for the Fund, and experience had shown that voluntary funds did not provide steady annual assistance.

21. The Turkish amendment avoided some of the errors of the original proposal and substantially coincided with the Cuban amendment. The only difference between the two texts was that the latter specified the link between the Commission on Narcotic Drugs and the Board; as the Mexican representative had pointed out, the Commission was composed of government representatives, while the members of the Board served in their individual capacity. Accordingly, his delegation would vote for the Cuban amendment, which stressed the role of the Commission in rendering assistance.

22. Dr. CARVALLO (Venezuela) said he supported the Turkish proposal but would suggest that the words
"technical and financial assistance" be replaced by some such wording as "technical or financial assistance, or both.",

23. Mr. MILLER (United States of America) said that there was nothing in the 1961 Convention to indicate that the Commission on Narcotic Drugs had a sort of power of veto over the functions of the Board and he was opposed to the suggestion, which appeared to be made by the Mexican representative, that such a power should be introduced. Apart from the question of the independence of the Board in the exercise of its discretionary functions, it should be remembered that the Commission only met once every two years, whereas the Board met at least twice a year. It would be most inappropriate for the Board to have to wait possibly 18 or 20 months in order to reach a decision on a recommendation to extend technical assistance to a Government at its own request. Such a system would be completely unworkable.

24. Since the 1961 Convention was not a financial treaty, nothing could be said at present regarding the sources of funds that would be available for the technical assistance envisaged. The provisions of article 14bis should be couched in flexible terms; the manner in which they would be carried out would depend on the resources made available by Governments from time to time, as needs arose and in response to requests by the developing countries.

25. Mr. BARONA LOBATO (Mexico) said that he had never used the word "veto"; he had simply supported the wording of the Cuban proposal because it strengthened the relationship between the Board and the Commission on Narcotic Drugs. As for the Economic and Social Council's decision that the Commission's meetings should be biennial, his own Government had strongly advocated annual meetings. The fact that the Council had unfortunately taken that decision was not, however, a valid ground for empowering the Board to take action in the matters under discussion without the Commission's knowledge.

26. Mr. KOZLJUK (Ukrainian Soviet Socialist Republic) said that his remarks on the subject of the respect due to State sovereignty had been made with reference to the proposed amendment in document E/CONF.63/5. He had not been referring to the Turkish amendment.

27. Mr. VINUESA SALTO (Spain) said he supported the Turkish proposal because it reconciled the need to extend assistance to developing countries in carrying out their obligations under the 1961 Convention with the respect due to national sovereignty. There was a mistake in the Spanish translation of the Turkish proposal: the words "en consulta" should be corrected to read "de acuerdo".

28. Mr. GOMEZ (Colombia) said that he agreed with all the remarks of the Spanish representative.

29. Dr. CAGLIOTTI (Argentina), speaking as a sponsor of the initial joint proposal for article 14bis, said that he could accept the suggestion made by the Venezuelan representative.

30. He could not accept, however, the Turkish amendment. In the first place, since a working group of Committee I was at present considering article 14, it would seem premature to make specific reference to paragraphs 1 and 2 of that article in article 14bis. Moreover, he had serious doubts regarding the possible implications of the introduction into the concluding phrase of a reference to articles 2 and 35.

31. Mr. KANDEMIR (Turkey) said that the working group referred to by the Argentine representative, the Chairman of which was the head of the Turkish delegation, would of course take into account any decision that might emerge from the present discussion. As for the reference to articles 2 and 35 in the concluding phrase, there should be no objection to it, since article 14bis covered technical and financial assistance to promote the more effective execution of all the provisions of the 1961 Convention.

32. Dr. CAGLIOTTI (Argentina) said that in that case he saw no reason to make specific reference to articles 2, 35 and 38.

33. Mr. ABSOLUM (New Zealand) said he supported the Turkish amendment, which introduced greater precision into the text and made it clear that no infringement of sovereignty was involved.

34. Mr. VAILLE (France) said he wished to ask the Cuban representative whether he would be prepared to delete from his amendment the words "and with the approval of the Commission". Those words would subordinate the Board to a United Nations organ, a proposition which conflicted with the provisions of the 1961 Convention. If they were omitted, the idea would still remain of enabling the Board to make a recommendation to the competent United Nations authorities "at the request of the Party concerned", an idea which had the full support of his delegation.

35. Mr. MAZOV (Union of Soviet Socialist Republics) said that he entirely disagreed with the suggestion that the Board had independent powers of action. The Charter of the United Nations had conferred certain powers on the Economic and Social Council, of which the Commission on Narcotic Drugs was a subordinate body. The French representative's approach was inconsistent with the principles of modern international law embodied in the Charter.

36. Mr. VAILLE (France) said that the Board was not being established now and it had not been established by the Charter; it had been established by the 1961 Convention as an independent body to replace the Permanent Central Opium Board set up by the 1925 Convention. It was the States parties to the 1961 Convention, and not the States parties to the Charter, which had accepted the provisions of that Convention. A relationship had been established in 1925 between the original Permanent Central Opium Board and the League of Nations Advisory Committee on Traffic in Opium. Under the Protocol signed at Lake Success, New York, on 11 December 1946, that connexion had been retained with the United Nations Commission on Narcotic Drugs, but at no time had there been any question of subordinating the Board to intergovernmental bodies, either of the League of Nations or of the United Nations. The Board was a body entrusted with the application of the narcotics treaties, which had endowed it with semi-judicial powers.
37. In that connexion, he would like to draw attention to the statement made by the representative of the Board at the 710th meeting of the Commission on Narcotic Drugs, reproduced in the report on its twenty-fourth session. It should be noted that the Board’s representative on that occasion was an eminent professor of international law.

38. Mr. GUILLOT (Cuba) said that he could not agree to the deletion of the words read out by the French representative.

39. Dr. CAGLIOTTI (Argentina) asked whether the Committee was entitled to vote on the Turkish amendment despite the presence of the words, “paragraphs 1 and 2”, after the words “measures set forth in article 14”.

40. Mr. RATON (Deputy Legal Adviser to the Conference) said it was quite permissible; any discrepancies that might result from such references would be removed by the Drafting Committee.

41. Mr. BARONA LOBATO (Mexico) formally proposed the deletion of the words “and with the approval of the Commission” from the text of the Cuban amendment.

42. Mr. MENDOUGA (Observer for Cameroon), speaking at the invitation of the Chairman, suggested that the opposing viewpoints might be reconciled if those words were replaced by some such formula as: “and after consulting the Commission” (“et après avis de la Commission”).

43. Mr. BARONA LOBATO (Mexico) said that he could not accept the suggested formula and maintained his amendment.

44. The CHAIRMAN put to the vote the Mexican amendment to delete from the Cuban amendment the phrase “and with the approval of the Commission”.

The Mexican amendment was rejected by 28 votes to 11, with 12 abstentions.

45. The CHAIRMAN invited the Committee to vote on the text of article 14bis as contained in the amendment submitted by Turkey (E/CONF.63/C.2/L.3).

The text of article 14bis (E/CONF.63/C.2/L.3) was approved by 39 votes to 10, with 3 abstentions and referred to the Drafting Committee.

46. Mr. BARONA LOBATO (Mexico), explaining his vote, said that, as between the Turkish and Cuban amendments, he would have preferred the Cuban amendment if his own sub-amendment had been adopted. He found the Turkish text unfortunate in that it contained a reference to article 2, with regard to which no decision had yet been taken, and gave powers to the Board which were not in accordance with the law of treaties.


47. The CHAIRMAN invited the Committee to consider the French draft resolution relating to article 16 (E/CONF.63/C.2/L.9).

50. Mr. VAILLE (France), introducing his delegation’s draft resolution, said that the 1961 Convention consisted of a number of parts in addition to the articles proper. There was the Final Act, the preamble and a number of resolutions. It was in that context that the representative of the Holy See had already put forward a proposal and it was within the same context that he was introducing his delegation’s draft resolution.

51. There was no question of the draft resolution prejudging any issue concerning proposed amendments to article 16, or the outcome of the legal consultations in progress with the Office of Legal Affairs at United Nations Headquarters. The Drafting Committee could make any modifications to the draft resolution necessitated by amendments which were subsequently adopted.

52. The draft resolution was based on Economic and Social Council resolution 1196 (XLII), but was in a much simplified form. The reference to that resolution in the preambular paragraph was quite sufficient to fill the gaps. While that resolution listed a number of conventions in force, in addition to the 1961 Convention, his own draft resolution referred simply to “the earlier conventions still in force”.

53. The three operative paragraphs reproduced the first three paragraphs of the current administrative regulations, contained in the annex to Council resolution 1196 (XLII). Consequently, there was nothing new about the draft resolution in that respect.

54. Mr. OLIVIERI (Argentina) said that he warmly supported the proposal made by the representative of the Holy See at the 6th meeting and agreed that it should be included in the preamble or in the Final Act.

55. Mr. GROS ESPIELL (Uruguay) said that his delegation fully agreed with the principles set forth in draft resolution E/CONF.63/C.2/L.9. The representative of France had rightly said that it would not prejudice the issue of the amendments to article 16 or the results of the legal consultations. The other objection, that the Committee might not be competent, appeared to be well-founded. Committee II was empowered to discuss amendments to those articles which had been allocated to it by the plenary Conference, but although document E/CONF.63/C.2/L.9 was duly headed “Article 16”, it was neither an amendment nor a text, but a draft resolution concerning a problem raised by article 16.

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1 See Official Records of the Economic and Social Council, Fifty-second Session, Supplement No. 2 (E/5082), annex VIII.
2 The text of article 14bis, as approved by the Committee, was subsequently circulated under the symbol E/CONF.63/C.2/L.10.

* Resumed from the 5th meeting.
56. The representative of Mexico had stated that he had voted against the text proposed by Turkey for article 14bis because it was contrary to the law of treaties. His own delegation had voted in favour of that text because it considered it to be strictly in accordance with international law. International law regulated not only the relations between two or more States but also the relations between a State and an international organization and relations between two or more international organizations.

57. Mr. VAILLE (France) said that the question of the Committee's competence was not important in the case of article 16, but could well be of importance with respect to other articles yet to be considered. He was pleased, therefore, that the question had been raised at such an early stage and hoped the General Committee would give a ruling on the point.

The meeting rose at 5.30 p.m.

NINTH MEETING
Monday, 13 March 1972, at 9.50 a.m.
Chairman: Dr. BÖLCS (Hungary)

Consideration of all amendments proposed to the Single Convention on Narcotic Drugs, 1961 (item 11 of the Conference agenda) (continued) (E/CONF.63/5 and addenda)


1. Mr. RATON (Deputy Legal Adviser to the Conference) said that an official legal opinion to the following effect had now been received from the Legal Council of the United Nations Secretariat regarding the questions raised the previous week (4th and 5th meetings) relating to the appointment of the Secretary and the staff of the Board.

2. The Office of Legal Affairs assumed that the proposals would still maintain the secretariat of the Board, including the Secretary himself, as part of the United Nations Secretariat. With regard to the Secretary's appointment, the provision for the Board's agreement rather than the present provision for consultation would be objectionable. A quick and possibly incomplete search had revealed no precedent either for limiting the selection by the Secretary-General to one person nominated by another organ or for requiring confirmation of any appointment by the Secretary-General, except to a limited number of high posts, in which case confirmation or approval was by a principal organ of the United Nations. In the opinion of the Office of Legal Affairs, any such precedent would be an unfortunate and undesirable derogation from the purpose of Articles 97 and 101 of the Charter of the United Nations. Moreover, whatever provision a competent organ of the United Nations might adopt concerning the appointment of members of the Secretariat, it would not be proper for parties to a treaty to seek to impose any restriction with regard to appointments by the Secretary-General to a United Nations Secretariat post. If some amendment of the provision relating to the appointment of the Secretary was insisted upon, then confirmation by the Economic and Social Council of the Secretary-General's selection made in consultation with the Board would be acceptable, although the present arrangement was preferable.

3. As for the Board's staff generally, even consultation, if extended beyond the Secretary to all recruitment of staff, might derogate from the independence of the Secretariat under Article 100 of the Charter.

4. Article 20 of the 1925 Convention and the 1946 Protocol constituted a borderline case which would be inconsistent with the Charter if the Board's secretariat was defined explicitly as part of the United Nations Secretariat. The understanding of the Office of Legal Affairs was that the Secretary-General's functions under that article were acknowledged as being of a special nature and subject to arrangements concerning the Board and the Economic and Social Council which would be indisputably improper for United Nations Secretariat appointments.

5. That was the legal opinion. Therefore, the text of the joint proposal concerning article 16 (E/CONF.63/5) did not raise any difficulties from a legal point of view. The USSR sub-amendment (E/CONF.63/C.2/L.4) was also acceptable, although it might be a little cumbersome.

6. The Turkish amendment (E/CONF.63/C.2/L.2) gave rise to objections, because Economic and Social Council resolution 1196 (XLII) stated that the secretariat of the Board was part of the United Nations Secretariat. The Turkish proposal represented either too much or too little: too much if the Secretary of the Board was regarded as an integral part of the United Nations Secretariat, and too little if the Committee thought that the Secretary of the Board should be administratively independent. If the Committee wished the Secretary of the Board to be part of the United Nations Secretariat, then the independence of the Secretariat, as defined in Article 100 of the Charter, must be preserved and the power of the Secretary-General as chief administrative officer of the Organization protected. Articles 97 and 101 of the Charter also dealt with that matter. If the secretariat of the Board were made an independent body, then it would no longer come under the United Nations Secretariat and inter alia benefit from the 1946 Convention on the Privileges and Immunities of the United Nations. New agreements would have to be drawn up with the States concerned. In view of the small size of the secretariat of the Board it was questionable whether such efforts would be worth while.

7. Mr. KANDEMIR (Turkey), thanking the Deputy Legal Adviser to the Conference for the information he had just given the Committee, said his delegation had not been surprised by the reply, since United Nations Headquarters was in a way both judge and party in the
case. His Government had always been convinced that its amendment was legally sound and that it took account of other conventions adopted since 1925.

8. In order to remove any doubt regarding the staff of the secretariat of the Board, the Turkish delegation now proposed that its own amendment be amended to read: “In particular, the Secretary and senior officials shall be appointed by the Secretary-General on the proposal of the Board.” He would leave it to the Drafting Committee to decide the appropriate term for the expression “senior officials”. In that way, the independence of the Board would be preserved and his delegation’s amendment would not conflict with the provisions of Articles 97 and 101 of the Charter.

9. Mr. VAILLE (France) said that, as his delegation had already said in particular at the 4th meeting, it was in favour of any provision which would ensure the de facto independence of the Board and it would therefore support the Turkish amendments to the joint proposal, if they were in accordance with the Charter.

10. Mr. BEVANS (United States of America) said that his delegation supported the text of the joint proposal. The new text of the Turkish amendment still referred to the staff of the Board and his delegation was therefore opposed to it. It was also opposed to the USSR sub-amendment. Apart from legal considerations, he felt that those amendments derogated from the authority of the Secretary-General of the United Nations and that it would be impractical for the Secretary-General to have every appointment by him confirmed by the Economic and Social Council.

11. Dr. CARVALLO (Venezuela) said that his delegation supported the Turkish amendment and sub-amendment.

12. With regard to the Spanish version of the amendment (E/CONF.63/C.2/L.2), his delegation saw no point in the words “En particular”.

13. Mr. STEWART (United Kingdom) said that in submitting the original joint proposal, his delegation and the other sponsors had been scrupulous to maintain the system set out in Economic and Social Council resolution 1196 (XLI) and its annex, which gave permanence to the principle that the Board should be consulted regarding the appointment of its Secretary. Nothing had been said during the Committee’s discussion to make the sponsors feel that their position was anything but completely logical. While his delegation could appreciate the motives underlying the USSR sub-amendment to provide that an area seemingly within the control of the Economic and Social Council should not be taken out of it, from a practical standpoint it seemed that, whatever arrangements the Council might make to maintain the technical independence of the Board, as required by paragraph 2 of article 9 (Composition of the Board) of the 1961 Convention, it could not but ensure that the Board would be consulted by the Secretary-General prior to the appointment of the Secretary of the Board. In embodying in the text of the treaty the requirement for consultation between the Secretary-General and the Board with regard to the appointment of the Secretary, the sponsors did not feel that they were in any way endangering the role of the Economic and Social Council in that particular field.

14. His delegation felt that the Turkish amendment (E/CONF.63/C.2/L.2) envisaged a return to the system enunciated by the 1925 Convention. If the Committee wished to revert to that system, it should be sure that the reversion was designed to rectify some omission or disadvantage. However, there had been nothing to indicate that the arrangements implemented under the relevant Council resolution had been unsatisfactory so far as the Board was concerned or that they had in any way endangered its technical independence. His delegation was therefore unable to support the Turkish amendment.

15. The amendment contained in the joint proposals was logical and followed the arrangements which had operated satisfactorily under the Economic and Social Council resolution. His delegation therefore commended it to the attention of the Committee.

16. His delegation would vote against both the USSR and the Turkish amendments.

17. Mr. MAZOV (Union of Soviet Socialist Republics) said that the amendment submitted by his delegation was valid both from the point of view of the Charter and in the light of the reply which had been received from the Office of Legal Affairs. When his delegation had submitted its amendment, the United Kingdom representative had said that it was unacceptable in view of paragraph 3 of Economic and Social Council resolution 1196 (XLI). However, as had been pointed out by the French representative, the resolutions and decisions of the Economic and Social Council were in the nature of recommendations to Member States and specialized agencies.

18. The USSR delegation had referred to the 1925 Convention and the 1946 Protocol. It was not by chance that the 1946 Protocol had adopted a certain procedure for the appointment of the secretariat with the agreement of the Economic and Social Council. The Legal Adviser to the Conference had said that his delegation’s proposal was an original solution of the question dealt with in article 20 of the 1925 Convention. In his delegation’s view, that was a correct assessment of the situation. With regard to the United States representative’s remarks, he would point out that the USSR sub-amendment merely limited the Secretary-General’s prerogatives with respect to the appointment of the Secretary by making it subject to confirmation by the Council. His delegation’s amendment was in conformity with the spirit of the Charter; no delegation could vote for an amendment that would be inconsistent with the Charter. His delegation would vote against the text of the joint proposal and against the Turkish amendment.

19. Mr. GROS ESPIELL (Uruguay) said his delegation felt that there was nothing in the USSR sub-amendment which was contrary to the provisions of the Charter and that it could well be adopted from a legal standpoint. However, his delegation could not vote for it, since it saw no reason which would justify the requirement that the appointment of the Secretary should be subject to confirmation by the Council.

20. With regard to the Turkish amendment and the oral sub-amendment, thereto, his delegation had no
objection to the idea that the Secretary should be appointed on the proposal of the Board. Such a solution was not incompatible with the Charter and had the advantage of ensuring greater independence for a technical body and enabling it to function more efficiently. However, his delegation was not convinced that the staff of the Board should also be appointed on the proposal of the Board. It saw no practical advantage in such a solution.

21. In the administrative operation of the United Nations, a general system of delegation of functions had been formed by the Secretary-General in the appointment of all United Nations officials. Such a general system of delegation of functions by the Secretary-General would also make it possible for the officials of the Board to be appointed by the Secretary of the Board. That could be done by adjusting the internal arrangements of the United Nations relating to the delegation of functions.

22. His delegation was opposed to the USSR sub-amendment and was unable to vote for the Turkish amendment in its present form. It maintained its support of the original text of the joint proposal.

23. Mr. ABSOLUM (New Zealand) said that the basic objective of the original text of the joint proposal and of the other amendments was that any appointment should enjoy the support of the Board. The original joint proposal met that objective, from the standpoint both of the Charter and of the relevant Economic and Social Council resolution. It seemed inconceivable that, given the provision for consultation, the Secretary-General would appoint a Secretary to whom the Board might have some objection. In such a case, there was no need for the other amendments. In his delegation's view, the Turkish or the USSR amendment would give rise to substantial legal and administrative difficulties.

24. Mr. DURRIEU (Argentina) said that, if it was desired to strengthen the powers of the Board, the limit which was legally acceptable was represented by the idea underlying the joint proposal, of which his delegation was one of the sponsors. That proposal provided for the Secretary of the Board to be nominated by the Secretary-General, in consultation with the Board. In essence, the two Turkish amendments were the same, since they continued to require the formal agreement of the parties to the decision, which would constitute a violation of Article 101 of the Charter.

25. Mr. BRAY (Australia) said that, in his delegation's view, the joint proposal was reasonable and consistent with the pertinent Economic and Social Council resolution. His delegation endorsed the views of the New Zealand representative regarding the objective of that proposal, namely, that the Secretary of the Board should enjoy the confidence of the Board. His own views had been further strengthened by the information given by the Deputy Legal Adviser to the Conference and the statements of other delegations. His delegation would vote in favour of the text of the joint proposal and against the Turkish and USSR amendments.

26. Mr. MAWHINNEY (Canada) said he associated his delegation with the remarks of the Australian and New Zealand representatives. According to the opinion received from the Office of Legal Affairs, it seemed clear that the Turkish proposal presented some legal difficulties. While the USSR sub-amendment seemed satisfactory from a legal standpoint, his delegation had some doubts regarding its merits; it considered that the original text of the joint proposal constituted the most practical way of dealing with the matter. He questioned, however, whether from the point of view of legal drafting, the words "in particular" were appropriate, perhaps the Drafting Committee could consider the point.

27. Mr. KANDEMIR (Turkey) said that he agreed with the Venezuelan representative that the words "En particular", used in the Spanish version of the Turkish amendment (E/CONF.63/C.2/L.2), were out of place. They certainly did not seem to be an accurate translation of the word "Toutefois" in the French text, and should be deleted.

28. The Turkish delegation had considered the Venezuelan representative's remarks concerning the question of staff and had decided to delete that word from its amendment, which would now read: "The Secretary of the Board shall be appointed by the Secretary-General on the proposal of the Board". He hoped the revised amendment would attract the support of the Committee.

29. Mr. BARONA LOBATO (Mexico) said that, following the explanation given by the Deputy Legal Adviser to the Conference, his delegation was prepared to accept the text of the joint proposal for article 16, provided that the words "in particular" were replaced by the word "However", and that the words "in consultation with the Board" were replaced by the words "on the proposal of the Board", as proposed by Turkey.

30. With regard to the USSR proposal, he did not think that it violated the Charter in any way, but, since it might give rise to administrative difficulties in practice, he could not support it.

31. Mr. BONDAREV (Byelorussian Soviet Socialist Republic) said that his delegation fully supported the USSR sub-amendment (E/CONF.63/C.2/L.4), but would have to vote against the Turkish proposal.

32. Dr. POGADY (Czechoslovakia) said that his delegation would also support the USSR amendment.

33. Mr. MAZOV (Union of Soviet Socialist Republics) said that his delegation could accept the following wording for the Turkish proposal: "The Secretary of the Board shall be appointed by the Secretary-General on the proposal of the Board and subject to the approval of the Council".

34. Mr. KANDEMIR (Turkey) said that his delegation would have to ask for a separate vote on the two parts of that proposal.

35. Mr. VINUESA SALTO (Spain), on a point of order, said that a vote should first be taken on the USSR amendment, since it was further removed from the original joint proposal than the Turkish amendment.


The Soviet amendment was rejected by 26 votes to 13, with 16 abstentions.
37. The CHAIRMAN put the Turkish amendment (E/CONF.63/C.2/L.2), as orally amended, to the vote. The Turkish amendment was rejected by 23 votes to 9, with 23 abstentions.

The amended text of article 16 (E/CONF.63/5) was approved by 41 votes to 8, with 7 abstentions and referred to the Drafting Committee.

38. Mr. OLIVIERI (Argentina), explaining his vote, said that he had voted in favour of the text of the original joint proposal on the understanding that in the Spanish version the words “En particular” in the second sentence would be replaced by the words “No obstante”.

39. Mr. VIENNOIS (France) asked whether the General Committee would deal with the problems raised by his delegation's draft resolution concerning article 16 (E/CONF.63/C.2/L.9).

40. Mr. RATON (Deputy Legal Adviser to the Conference) said that the General Committee would meet in the near future and would then decide on the procedure to be followed to deal with the French draft resolution.

ARTICLE 36 (Penal provisions) (continued*) (E/CONF.63/5, E/CONF.63/C.2/L.8)

Paragraph 1

41. The CHAIRMAN invited the Committee to consider the joint proposal concerning article 36 contained in document E/CONF.63/5, and the amendment proposed by Mexico to paragraph 1 of that article (E/CONF.63/C.2/L.8).

42. Mr. BARONA LOBATO (Mexico) said that article 36 was a very important provision and had given rise to much discussion at the time of the adoption of the 1961 Convention. The history of all countries had shown the necessity of protecting the individual against a possible abuse of power by the executive, police and judicial authorities. The need for such safeguards was clearly reflected in the Latin maxims *nullum crimen sine lege, nulla poena sine lege,* and *nulla poena sine judicio.*

43. In dealing with drug offences, there were three possible courses. Either the court could declare that the offender was a common criminal and punish him as such; or, while judging him guilty of drug abuse, it could commit him to some appropriate institution for treatment and rehabilitation instead of sending him to prison; or, it could decide that his offence was serious enough to warrant a term of imprisonment but could couple such a sentence with suitable treatment and after-care.

44. The amendment submitted by his delegation, by replacing the words “as an alternative to” in the sub-paragraph (b) it was proposed to add to paragraph 1 by the words “without prejudice to”, was designed to draw a clear distinction between those three possible courses and enable States to adjust their treatment of drug abusers to their own domestic law. Furthermore, by prefacing the two sub-paragraphs (a) and (b) with the words “Subject to its constitutional limitations”, it preserved that respect for national sovereignty which had been so strongly emphasized during the adoption of the 1961 Convention.

45. Mr. BARONA LOBATO (Mexico) said that paragraph 1 (b) did not refer only to drug abusers who might have become addicts out of mere curiosity, but also to addicts who might be guilty of the various serious crimes referred to in paragraph 1 (a). Traffickers who represented a danger to society should obviously be sent to prison, where they could receive treatment if necessary. The three possible courses mentioned by him should therefore be borne in mind and each country should adapt them to its own domestic law.

46. Mr. DURRIEU (Argentina) said that the amendment proposed by Mexico changed to a substantial degree the principle incorporated in sub-paragraph (b) of paragraph 1 in the joint amendment, of which his delegation was a co-sponsor.

47. The Mexican representative was forgetting, in the maxims he had enunciated, that of *nulla poena sine culpa*, which was also one of the bases of modern liberal penal law. It was necessary that States, instead of imposing penalties, should be able to prescribe measures of rehabilitation and assistance to delinquent drug addicts, if such a course were preferable. The element of sanction and that of rehabilitation must be estimated for each particular case, where crimes connected with drug abuse were concerned.

48. Mr. MAWHINNEY (Canada) said that his delegation would have great difficulty in endorsing the Mexican proposal as a whole, although it could accept the amendment to paragraph 1 which made both sub-paragraphs (a) and (b) follow the introductory proviso “Subject to its constitutional limitations”.

49. Sub-paragraph (b), as drafted in the original joint proposal, did not have a mandatory character; on the contrary, the words “the Parties may provide” gave every State full discretion in dealing with drug offenders. In its present form, sub-paragraph (b) provided for an alternative to sub-paragraph (a) and an addition to it, but he feared that the words “without prejudice to”, proposed by the Mexican delegation, might confuse the meaning.

50. Mr. WARNANT (Belgium) said that his delegation was in favour of the text of the joint proposal, the more so as it reproduced the text of article 22, paragraph 1 (b), of the Convention on Psychotropic Substances. With regard to the Mexican proposal, while a reference to constitutional limitations was justified in paragraph 1 (a), that was not the case in paragraph 1 (b).

51. Mr. VIENNOIS (France) said he agreed with that view. His delegation would support the text of the joint
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proposal as it stood, unless further amendments were submitted which really improved it. Paragraph 1(b) contained two fundamental ideas, namely, that parties might provide, as an alternative to conviction or punishment or in addition to punishment, that abusers of narcotic drugs who had committed punishable offences intentionally, and more particularly serious offences, should undergo measures of treatment, education, after-care, rehabilitation and social reintegration in conformity with paragraph 1 of article 38. That provision was not mandatory, and he thought it should prove satisfactory to the representative of Mexico.

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52. Mr. VINUESA SALTO (Spain) said he agreed with the text of the joint proposal in principle, but would like to submit an amendment which he felt would improve it. It was to delete the words “either as an alternative to conviction or punishment or in addition to punishment” and replace them by the words “without prejudice to the provisions of their domestic laws and regulations”. In that way, the reference to up-to-date methods of dealing with the problem, which the sponsors of the original amendment had had in mind, would still be retained. He believed there was general agreement that it was a problem which could not be solved solely through sanctions. His sub-amendment, bearing in mind the reference to constitutional limitations in paragraph 1(a), drew attention to them again, thus making it possible to determine, under a country’s domestic laws and regulations, whether an individual was guilty or innocent and, if guilty, whether he should be punished or undergo other measures, or punished and subjected to treatment, and so on. The text of the original joint proposal was, in his view, unduly complicated.

53. Mr. STEWART (United Kingdom) said that the very long list of items mentioned in paragraph 1(a) might have caused difficulties for some delegations, but the meaning of the paragraph was very simple. Subject to its constitutional limitations, each party was required to treat as a punishable offence any action, when committed intentionally, which was contrary to a law or regulation adopted in pursuance of its obligations under the 1961 Convention, and to ensure that serious offences were liable to adequate punishment, particularly by imprisonment or other penalty of deprivation of liberty.

54. The sponsors of the original proposal, having put forward the amendment to article 38, which obliged parties to take all practicable measures for the prevention of the abuse of narcotic drugs and for the early identification, treatment, education, after-care, rehabilitation and social reintegration of the persons involved, decided that, in order to make it possible for the parties to take those practicable measures, their mandatory obligation in article 36, paragraph 1, should be diluted. Paragraph 1(b) as proposed by the sponsors, merely provided that, notwithstanding sub-paragraph (a) a party might decide to deal with a person who was a drug abuser and had committed a punishable offence by making him undergo any of the measures listed as an alternative to conviction or punishment or in addition to punishment. The concept behind paragraph 1(b) was therefore relatively simple. The sub-paragraph was permissive, not mandatory. If a party wished to introduce categories of abusers or offenders into the implementation of its treaty obligations, it could do so under paragraph 1(b) of article 36.

55. Nothing that the representative of Mexico had said had convinced him that the wording of paragraph 1(b) of the joint proposal in any way limited the discretion of parties to deal as they saw fit with offenders who were also drug abusers, and he did not think that the Mexican wording improved the text in any way. His delegation would vote in favour of the text of the initial joint proposal.

56. Mr. HOOGWATER (Netherlands) said that the text of the joint proposal appeared to him to be a little confusing. Paragraph 1(b) seemed unnecessary, since the phrase “Subject to its constitutional limitations”, in paragraph 1(a), automatically entitled parties to take the measures listed in paragraph 1(b). He felt it was dangerous to elaborate one possibility and not others.

57. Mr. STJERNBERG (Sweden) said he agreed with those speakers who had supported the original joint proposal and thought it would be unwise to depart from the text of article 22, paragraph 2(b), of the Convention on Psychotropic Substances. The text of the original joint proposal covered all three possibilities mentioned by the Mexican representative.

58. Mrs. OLSEN de FIGUERAS (Costa Rica) said that, after listening to the representatives of Argentina and Sweden, she was satisfied that the original joint proposal covered the point which she wished to make in her sub-amendment and accordingly withdrew it.

59. Mr. TANOÉ (Ivory Coast) said that the original text of the joint proposal was acceptable to him. The solution of the problem of drug addiction was not to be found in penal sanctions alone. The Mexican amendment was brief and did not contradict the original text; perhaps, therefore, the sponsors of the original joint proposal might be able to incorporate it in their text.

60. Mr. GROS ESPIELL (Uruguay) said that, to understand the international legal meaning of the proposed paragraph 1(b), it had to be related to paragraph 1(a), which stated that “serious offences shall be liable to adequate punishment, particularly by imprisonment or other penalties of deprivation of liberty”. The only reservation concerned constitutional limitations. Paragraph 1(b) would not add anything to what the parties might do with regard to drug abusers who had committed serious offences; if it did not exist, they could, under their domestic law, subject them to punishment, or to other measures, or to both. What paragraph 1(b) did was to draw attention to the fact that it was advisable, in the event of punishment, to take other measures as well.

61. In his view, the Spanish oral amendment clarified the text of paragraph 1(b), and, since the Spanish version of the original joint proposal was confusing, he was prepared to support the Spanish amendment.

62. Mr. BARONA LOBATO (Mexico) said that he too could accept the Spanish amendment and accordingly withdrew his own amendment to paragraph 1(b), the spirit of which was identical with that underlying the Spanish text.
Mr. SCHNEKENBURGER (Federal Republic of Germany), referring to the first part of the Mexican amendment to insert the words “Subject to its constitutional limitations” at the beginning of sub-paragraphs (a) and (b) of paragraph 1, said there was a fundamental difference between article 36, paragraph 1 (a), and the new text proposed for article 36, paragraph 1 (b). The phrase “Subject to its constitutional limitations” was certainly justifiable in paragraph 1 (a), because it made certain offences a crime under national law which was punishable in the manner described. The wording there was mandatory, but the wording of paragraph 1 (b) was not. Moreover, the latter referred to paragraph 1 of article 38, and nobody had suggested inserting the words “Subject to its constitutional limitations” in article 38. He felt that the first part of the Mexican sub-amendment was not only unnecessary but even dangerous.

The Spanish amendment to the proposed sub-paragraph (b) was short but he did not think it was clear. Lawyers would certainly find it difficult to interpret. In paragraph 1 (b), it confused the aim of the paragraph. The sponsors of the original joint proposal had wished to draw attention to the fact that punishment alone was no longer regarded as adequate to deal with the drug problem and that it was necessary to resort to other and more modern measures. It gave States which wished to do so the possibility of applying the practical measures referred to in article 38. The original joint proposal expressed that idea clearly.

The meeting rose at 12.35 p.m.

TENTH MEETING

Monday, 13 March 1972, at 2.50 p.m.
Chairman: Dr. BOLCS (Hungary)

Consideration of all amendments proposed to the Single Convention on Narcotic Drugs, 1961 (item 11 of the Conference agenda) (continued) (E/CONF.63/5 and addenda)

ARTICLE 36 (Penal provisions) (continued) (E/CONF.63/5, E/CONF.63/C.2/L.8)

Paragraph 1 (continued)

1. The CHAIRMAN invited the Committee to continue its consideration of the joint proposal concerning article 36 (E/CONF.63/5) together with the Mexican amendment (E/CONF.63/C.2/L.8) and the Spanish oral amendment submitted at the 9th meeting, relating to paragraph 1 of the article.

2. Mr. MAWHINNEY (Canada) said that, like the representatives of Belgium and the Federal Republic of Germany (9th meeting), he could not support the Mexican amendment to insert the words “Subject to its constitutional limitations” at the beginning of sub-paragraphs (a) and (b), because those words were only appropriate to sub-paragraph (a); their application to sub-paragraph (b), which was optional, was meaningless and confusing.

3. Miss IMBACH (Switzerland) said she agreed with the Canadian representative concerning the Mexican amendment. She did not think that the Spanish oral amendment clarified the text of sub-paragraph (b), although it did not introduce any substantive change.

4. Mr. BEVANS (United States of America) said that, although the Mexican and Spanish amendments had contributed to a fuller understanding of the new sub-paragraph (b) it was proposed to add to paragraph 1 by eliciting a number of views, he did not consider that they were necessary, since the sub-paragraph was based on article 20 of the 1971 Convention on Psychotropic Substances, which had been signed by 27 countries and had already been ratified by one. It would be undesirable to use differing texts as between the two Conventions.

5. Mr. WARNANT (Belgium) said he agreed with the previous speaker concerning the need to align the text with that of the 1971 Convention, particularly since all members of the Committee seemed to be agreed on the substance of sub-paragraph (b).

6. Dr. CORRÊA da CUNHA (Brazil) said that there was a general tendency to treat addicts as patients needing special social treatment and sympathy. But addicts differed from such patients as sufferers from tuberculosis or leprosy, whose sickness had been imposed on them against their will. In fact, addicts and the ways of dealing with them could be divided roughly into three groups: those who had been compelled to take drugs—they should be treated, not punished; those who had become addicted without participating in the traffic—they must be treated as a matter of urgency; and addicts who were also traffickers—they must be both treated and punished. Those considerations were clearly stated in the original text of the joint proposal, which his delegation supported.

7. Mr. ASLAN (Italy) said that the proposed text of sub-paragraph (b) in document E/CONF.63/5 was flexible enough to leave parties a free choice of disciplinary measures against drug abusers. Nevertheless, his delegation was prepared to examine any proposal which would clarify the text, provided it conformed with the spirit and form of the original joint proposal.

8. Mgr. FOUGERAT (Holy See) said that sub-paragraph (b) did not make it absolutely clear whether the persons concerned were those who had committed offences and been judged guilty, with extenuating circumstances, or were regarded as medical patients in the full sense of the term. It might therefore be wise to replace the words “that such abusers undergo measures...” by “that such abusers are subjected to measures...”, so as to strike a balance between the responsibilities and rights of the courts and respect for personal freedom, and to stress the important aspect of voluntary social rehabilitation.

9. Mr. VINUESA SALTO (Spain) said that his delegation had withdrawn its amendment in favour of a text which would be introduced by the Colombian representative.
10. Mr. GOMEZ (Colombia) said that the main objective of sub-paragraph (b) was threefold, to provide for the sentencing and punishing of abusers, to subject them to treatment with a view to rehabilitation, and to provide for a combination of those two approaches. His delegation accordingly proposed that the sub-paragraph be redrafted to read:

Notwithstanding the preceding sub-paragraph, when abusers of narcotic drugs have committed such offences, without prejudice to the provisions of their domestic law, the Parties may choose either:

(i) To convict or punish them; or
(ii) To provide that they undergo measures of treatment, education, aftercare, rehabilitation and social integration; or
(iii) To combine both (i) and (ii).

11. Mr. ABSOLUM (New Zealand) said that his delegation would support the original text of the joint proposal for sub-paragraph (b). Legal texts normally contained both mandatory and permissive clauses; sub-paragraph (a) was mandatory, and (b) was permissive. There was no question of precluding the right of any Government to punish offenders and no question of conflict with domestic legislation. He could not agree with the Netherlands (9th meeting) and other representatives that the clause was redundant, since it set out alternatives to punishment in dealing with drug abusers.

12. At first sight, the Colombian amendment seemed to add little to the original text of the joint proposal.

13. Mr. BARONA LOBATO (Mexico), Mr. ALVA-REZ-CALDERON (Peru) and Mr. DURRIEU (Argentina) said they supported the Colombian proposal, which clarified the text of the original joint proposal without changing its spirit in any way. They did not consider that strict alignment with the 1971 Convention was absolutely necessary.

14. Mr. HOOGWATER (Netherlands) said that the arguments put forward had strengthened his opinion that sub-paragraph (b) was redundant, since it did not confer any additional rights on the parties. The opening phrase of sub-paragraph (a), “Subject to its constitutional limitations” in itself made sub-paragraph (b) unnecessary, since in that sub-paragraph the parties were given the option of providing for various measures.

15. In some countries, the mere possession of certain drugs, such as marijuana, automatically entailed legal proceedings, whereas other countries did not go so far. In the Netherlands, for example, there were considerable doubts whether legislation which made possession of marijuana a punishable offence was desirable, since it was well known that some schoolmasters and university teachers did not report cases of possession of drugs, in order that their pupils should not have criminal records; it was now generally felt that the law should be amended in order to secure the information which was so badly needed.

16. Under sub-paragraph (a), every country, subject to its constitutional limitations, was free to seek sensible policies to combat drug abuse, but the optional provisions of sub-paragraph (b) merely led to confusion and misunderstanding. Unless the Legal Adviser to the Conference could tell the Committee that sub-paragraph (b) was necessary, he would conclude that it was inappropriate to include it in a legal text.

17. Miss SHILLETTO (Jamaica) said that the purpose of sub-paragraph (b) was to strike a balance between penalization and compassionate measures. The existing joint proposal seemed to stress the compassionate side of the question and she could therefore support it. Although the Colombian amendment did not alter the spirit of the original text, she preferred the wording of the latter.

18. Dr. CARVALLO (Venezuela) said that he would not vote in favour of sub-paragraph (b) in document E/CONF.63/5, because it was ambiguous and repetitive. He would support the Colombian amendment but would like an explanation of the words “conviction or punishment”. Since conviction was not always followed by punishment, it might be better to speak of “conviction and/or punishment”.

19. Mr. GOMEZ (Colombia), referring to the Netherlands representative’s comments, said that for the Latin-American countries the amendment in document E/CONF.63/5 would involve constitutional reform; it would disrupt the system and create other problems.

20. Referring to the Venezuelan representative’s comments, he said that under some systems of law conviction included punishment, whereas under others conviction and punishment were separate issues. The wording in question had accordingly been used in order to avoid any confusion.

21. Mr. VIENNOIS (France) moved the closure of the debate.

22. The CHAIRMAN said that, in accordance with rule 31 of the rules of procedure of the Conference, two representatives could speak against the motion.

23. Mr. HOOGWATER (Netherlands) said he opposed the motion. It was essential before any voting took place to clarify the meaning of the term “constitution”, which had different implications in European from what it had in Latin American countries. In the present case, the use of the term would necessitate constitutional changes for some Latin American countries.

24. Mr. BRAY (Australia) said he also opposed the motion. He had the impression from the discussion that representatives had not fully understood one another and that amendments, such as the Colombian amendment, had been prompted by constitutional difficulties. The text in document E/CONF.63/5 presented no constitutional difficulties for Australia, but might present difficulties in the countries whose delegations had put forward the new proposal. It would be helpful if those difficulties could be explained in greater detail.

25. Mr. RATON (Deputy Legal Adviser to the Conference), replying to the Netherlands representative’s question concerning sub-paragraph (a), said that, as far as he was aware, the matter depended on each country’s constitution. In some countries, international law was considered to be above the constitution; in others, the reverse was the case. The Netherlands representative had rightly said that in most Latin American countries the proposed paragraph 1 would entail an amendment of the
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constitution, whereas in some European countries none would be necessary.

26. Mr. HOOGWATER (Netherlands), speaking on a point of order, said that in view of the reply of the Deputy Legal Adviser to the Conference, he wished, before the voting began, to propose that in sub-paragraph (a) of paragraph 1 the words "constitutional limitations" be replaced by the words "national legislation".

The motion for closure of the debate was adopted by 19 votes to 8, with 32 abstentions.

27. The CHAIRMAN said he would now invite the Committee to vote on the three amendments.

28. Dr. ALAN (Turkey), explaining his vote prior to the voting, said his delegation believed that there should be a parallel between the 1961 Convention and the 1971 Convention. For that reason, and also because, although he was favourably disposed to the Colombian amendment, there had not been time to study it, his delegation would vote in favour of the proposal contained in document E/CONF.63/5.

29. He would like to hear from the Legal Adviser to the Conference whether the Netherlands amendment was in order, since it had been submitted at the time of the vote on the closure.

30. Mr. RATON (Deputy Legal Adviser to the Conference) said he could see no objection to the Netherlands amendment to the Mexican amendment, as it had been submitted before the voting started.

31. Mr. VIEYTE (Uruguay), explaining his vote prior to the voting, said that his delegation would vote against the Mexican amendment because it extended the constitutional reservation in sub-paragraph (a) to sub-paragraph (b), whereas the two sub-paragraphs dealt with entirely different cases. His delegation would vote for the Colombian amendment, because it clarified sub-paragraph (b) without changing its meaning.

32. Contrary to what the Netherlands representative had said, there was no conflict between the constitutional laws of Latin American and European countries. The Deputy Legal Adviser to the Conference had explained that the issue was the relative status of constitutional law and international law. In some of the few European countries that had constitutions, international treaties took precedence over the constitution, but in Latin American countries international treaties had a lower status than national law. The situation was the same in Latin American countries as in the United States of America, most European countries and many African and Asian countries.

33. Mr. HOOGWATER (Netherlands), explaining his vote, said that he had voted against the motion for the closure of the debate because he agreed with the Netherlands representative on the need for clarification of the meaning of the term "constitution".

34. He would vote in favour of the Netherlands amendment, because it raised a valid question: to whom did "constitutional limitations" apply? It was more appropriate to speak of "national legislation", because some countries, including Israel, had no written constitution. If the Netherlands amendment was a sub-amendment to the Mexican amendment and therefore applied to the whole of paragraph 1, he would vote for them both.

35. He would abstain on the Colombian amendment at the present stage; it was largely a drafting question and that aspect should be examined by the Drafting Committee.

36. Mr. ABSOLUM (New Zealand) said that there was no substantive difference between the Colombian amendment and the initial joint proposal. He would vote for the latter, because the Colombian amendment was repetitive and its permissive provisions contradicted the mandatory provisions of sub-paragraph (a).

37. Dr. ALAN (Turkey), explaining his vote prior to the voting, said his delegation believed that there should be a parallel between the 1961 Convention and the 1971 Convention. For that reason, and also because, although he was favourably disposed to the Colombian amendment, there had not been time to study it, his delegation would vote in favour of the proposal contained in document E/CONF.63/5.

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33. Mr. HOOGWATER (Netherlands), explaining his vote, said that he had voted against the motion for the closure of the debate because he agreed with the Netherlands representative on the need for clarification of the meaning of the term "constitution".

34. Mr. ROSENNE (Israel), speaking in explanation of vote, said that he had not voted in favour of the motion for the closure of the debate because he agreed with the Netherlands representative on the need for clarification of the meaning of the term "constitution".

35. He would vote in favour of the Netherlands amendment, because it raised a valid question: to whom did "constitutional limitations" apply? It was more appropriate to speak of "national legislation", because some countries, including Israel, had no written constitution. If the Netherlands amendment was a sub-amendment to the Mexican amendment and therefore applied to the whole of paragraph 1, he would vote for them both.

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38. Mr. HOOGWATER (Netherlands), explaining his vote, said that he had voted against the motion for the closure of the debate because he agreed with the Netherlands representative on the need for clarification of the meaning of the term "constitution".

39. Mr. MAZOV (Union of Soviet Socialist Republics), explaining his vote prior to the voting, said that his delegation would abstain in the vote on the joint proposal, because it was not acceptable to a number of delegations. He was inclined to support the Colombian amendment, but, like the Turkish representative, had had no time to study it; he reserved the right to state his position in the plenary Conference.

40. The Netherlands representative had raised the complicated question of the precedence of international over domestic law and the reverse, which was beyond the Committee's competence. The Netherlands amendment only confused the issue and he would vote against it.

41. Mr. BRAY (Australia), explaining his vote prior to the voting, said that he was unable to support the Netherlands amendment. He did not agree with the views of the representative of Israel; the amendment would entirely change the meaning of sub-paragraph (a) by making it optional instead of compulsory for parties to carry out the provisions of that paragraph. The Mexican amendment to sub-paragraph (b) was redundant, because that sub-paragraph was already permissive.

42. He would have liked to hear more about the difficulties of some delegations concerning the joint proposal. In the circumstances, he would vote for that proposal and abstain on the Colombian amendment.

43. Mr. VIENNOIS (France), explaining his vote prior to the voting, said that he would vote in favour of the joint proposal, which he preferred to the Colombian text, for the reasons already stated by the New Zealand representative.

44. Mr. WARNANT (Belgium), explaining his vote prior to the voting, said that he also would vote in favour
of the joint proposal. The amendment proposed by the Colombian representative was not an improvement; among other disadvantages, it was likely to be interpreted differently from the corresponding text in the 1971 Convention, although its purpose was the same.

45. He would also vote against the Netherlands sub-amendment; if the provisions of article 36, paragraph 1, were to be made subject to the national legislation of each country, they would become totally ineffectual. The proviso "Subject to its constitutional limitations" was, on the other hand, perfectly acceptable.

46. Mr. STEWART (United Kingdom), explaining his vote prior to the voting, said that, although he sympathized with the desire of a number of Spanish-speaking delegations to overcome certain language difficulties, he would stand by the joint proposal for article 36 in document E/CONF.63/5, since his delegation was one of its sponsors; in fact, he had been a little surprised to hear the Colombian oral amendment supported by another of the sponsors.

47. He would vote against the Netherlands amendment. His delegation favoured the retention of the proviso in the text of the joint proposal for article 36, which meant that a party to the 1961 Convention accepted the obligation to bring its national legislation into line with that Convention, subject only to its constitutional limitations. The 1961 Convention had been in force for seven years and his own country, which had ratified it, had not experienced any difficulty in amending its national legislation accordingly.

48. Mr. MAWHINNEY (Canada), explaining his vote prior to the voting, said that, although he sympathized with the desire of a number of Spanish-speaking delegations to overcome certain language difficulties, he would stand by the joint proposal for article 36 in document E/CONF.63/5, since his delegation was one of its sponsors; in fact, he had been a little surprised to hear the Colombian oral amendment supported by another of the sponsors.

49. Mr. GOMEZ (Colombia), explaining his vote prior to the voting, said that his delegation was not one of the sponsors ... in its general statement at the 3rd plenary meeting of the Conference Spain was anxious to use all possible means, and in particular all modern methods, in the struggle against drug abuse. His delegation had therefore no objection to the substance of the joint proposal in document E/CONF.63/5. Since, however, Spain had not been one of the sponsors and had not participated in the drafting of the proposed sub-paragraph (b), his delegation did not feel bound by its wording, particularly as it was imperfect. A number of other Spanish-speaking delegations had already pointed that out. It was for that reason that he had voted in favour of the Colombian oral amendment. He therefore reserved his delegation's right to raise the question of drafting in the Drafting Committee, of which it was a member, and if necessary in the plenary Conference.

52. His delegation could not accept the argument that the text of the 1971 Convention was in some way sacrosanct. The present Conference was a conference of plenipotentiaries and was completely free to depart from the 1971 text whenever it felt that it could improve it.

53. Mr. DURRIEU (Argentina), explaining his vote said that his delegation had voted in favour of the Colombian oral amendment but would also vote in favour of the joint proposal, of which it was one of the sponsors. There was no inconsistency in that attitude, since the Colombian oral amendment had simply repeated that proposal, merely improving the drafting in the interests of clarity.

54. Mr. GOMEZ (Colombia), explaining his vote, said that he had voted in favour of the text which he had introduced for ... and Argentina. There was no difference in substance between that text and the one contained in document E/CONF.63/5.

55. Mr. BARONA LOBATO (Mexico), explaining his vote, said that his delegation's amendment had been intended to serve a constructive purpose. It was an expression of the steadfast adherence of his country to the principle of respect for the sovereign rights of States, proclaimed by Juarez over a century ago.

56. He had voted in favour of the Colombian oral amendment, because, without affecting the substance of the joint proposal in document E/CONF.63/5, it introduced greater clarity into the wording.

57. Mr. ROSENNE (Israel) said he had noticed a discrepancy between the English and French texts; the French words "Sous réserve de ses dispositions constitutionnelles" did not have the same meaning as the English words "Subject to its constitutional limitations". The Drafting Committee should deal with that problem.

58. Mr. VINUESA SALTO (Spain), explaining his vote before the voting, said that, although he was not opposed to the substance of paragraph 1 (b) as contained in the joint proposals, he would have to abstain from voting because of the lack of clarity of the wording.

59. The CHAIRMAN put to the vote the joint proposal (E/CONF.63/5) to insert a new sub-paragraph (b) in paragraph 1 of article 36, with the consequential drafting change that the present paragraph 1 would become paragraph 1 (a).
Paragraph 1 of article 36, as contained in the joint proposals (E/CONF.63/5), was approved by 42 votes to none, with 15 abstentions.

The meeting rose at 5.35 p.m.

ELEVENTH MEETING
Tuesday, 14 March 1972, at 9.55 a.m.
Chairman: Dr. BÖLCS (Hungary)

Consideration of all amendments proposed to the Single Convention on Narcotic Drugs, 1961 (item 11 of the Conference agenda) (continued) (E/CONF.63/5 and addenda)

ARTICLE 36 (Penal provisions) (concluded) (E/CONF.63/5)

Paragraph 2

1. The CHAIRMAN invited the Committee to consider the text of paragraph 2 of article 36 contained in the joint proposals (E/CONF.63/5).

2. Mr. BEVANS (United States of America) said that the new text proposed for paragraph 2 (b) was much stronger than that of paragraph 2 (b) in the 1961 Convention. The basic objective was the same as that of the 1970 Convention to Suppress Unlawful Seizure of Aircraft,¹ namely, that the offender should not be able to find a haven from justice anywhere in the world. Sub-sub-paragraphs (i), (ii) and (iii) of the proposed sub-paragraph (b) were based on the precedent of article 8 of that Convention, which had been signed and ratified by many countries. Sub-sub-paragraph (iv) reproduced a provision in paragraph 2 (b) of article 36 of the Single Convention on Narcotic Drugs in force. The introductory proviso at the beginning of the paragraph 2 at present in force was designed to guarantee the existing rights of parties with regard to extradition.

3. Mr. ABDO GHANEM (Lebanon) said that in his view sub-sub-paragraphs (i) and (iv) of paragraph 2 (b) were contradictory. It should not be possible for a request for extradition made in accordance with sub-sub-paragraph (i) to be denied on the ground that the offence was not sufficiently serious. Such a proviso would inevitably cause disputes.

4. Dr. POGADY (Czechoslovakia) said that Czechoslovakia's obligations under the 1961 Convention were covered by article 72 of the Czechoslovak Penal Code. Doctors and psychiatrists determined how a drug addict who had committed an offence should be treated. His delegation had no particular objection to the revised text proposed in document E/CONF.63/5, but was perfectly satisfied with the article 36 at present in force.

5. Mr. GUILLOT (Cuba) said that the new text proposed for paragraph 2 (b) was much more categorical than that of paragraph 2 (b) of the 1961 Convention in force. All offences enumerated in paragraph 1 and paragraph 2 (a) (ii) would be automatically included as an extraditable offence in any existing or future extradition treaty between parties.

6. Cuba was opposed to the proposal, because it considered that real control of the situation depended not on the enforcement of extradition procedures but on the efficient operation of internal measures by each State and the strict fulfilment by Governments of all their obligations under the provisions to be applied in the field of international trade in narcotic drugs. It was well known that the United States was only too ready to use a charge of narcotic drug offences as a weapon against its political opponents and the provisions regarding extradition in the new text of article 36 would, if adopted, strengthen its hand for that purpose. The rules to which the United States had referred at the end of its memorandum respecting its proposed amendments to the 1961 Convention (E/CONF.63/2), were unacceptable to Cuba, since they infringed its sovereign prerogatives.

7. Cuba was a party to the 1961 Convention and had adhered strictly to its provisions. To illustrate his point, he would quote two cases in which United States nationals had been tried and sentenced by Cuban courts for narcotic drug offences committed in Cuba in violation of the Cuban Code of Social Defence. In the first case, the offenders had been arrested in a boat in Cuban territorial waters carrying two tons of marijuana illicitly, for sale in the United States. In the second case, 100 kilograms of marijuana had been found in a United States registered aircraft which had flown from Miami and landed in Cuba. There had been no export permit for the marijuana, which the occupants of the plane had stated was for delivery to friends in the United States. Articles 36 and 39 of the 1961 Convention laid down the procedure which had been followed by Cuba. There could, in any case, be no question of the Extradition Treaty signed by Cuba and the United States in 1904 applying, since its operation had been suspended with the breaking-off of diplomatic relations between the two countries.

8. His delegation considered that it would be extremely dangerous to make the 1961 Convention the legal basis for extradition, since extradition was sometimes requested in connexion with political events. A request for extradition in connexion with narcotics offences implied distrust of the justice of another State. On a number of occasions, experts in the codification of international law had decided that extradition was not a suitable topic for codification. For instance, the International Law Commission had considered that, with respect to extradition, it was better to rely on bilateral treaties.

9. For the reasons he had indicated, and since sub-sub-paragraphs (i), (ii) and (iii) of paragraph 2 (b) reproduced the text of article 8 of the 1970 Convention to Suppress Unlawful Seizure of Aircraft, he would vote against the joint amendment, originally submitted by the United States.
States at the twenty-fourth session of the Commission on Narcotic Drugs.  

10. Mr. CHOPRA (India) said he considered the provisions in the 1961 Convention in force satisfactory. Hijacking aircraft was a more serious crime than offences relating to narcotic drugs. India preferred to rely on bilateral extradition treaties.

11. Mr. GROS ESPIELL (Uruguay) said he considered that the extradition procedure described in the proposed new paragraph 2 (b) (ii), (iii) and (iv) constituted a positive advance in the fight against narcotic drug offenders.

12. With regard to paragraph 2 (b) (i), it had been alleged that the regulation of extradition by multilateral treaty was exceptional. In Latin America, however, it was traditional, and Latin America’s experience showed that the system could be advantageous. There was no likelihood that the establishment of such a system to fight against crime would be used for the extradition of political opponents of any régime, because under international law political offences were not extraditable. That was specifically provided in the Latin American multilateral extradition treaties.

13. The provision in the first sentence of the proposed paragraph 2 (b) (i) would not be difficult to implement in practice if the parties to the 1940 Latin American Treaty, for instance, or to bilateral extradition treaties, authorized the inclusion in their original texts of the provisions of paragraph 1 and paragraph 2 (a) (ii) of the amended text of article 36 of the 1961 Convention. The second sentence of paragraph 2 (b) (i) imposed an obligation on parties to include such offences as extraditable offences in future extradition treaties concluded between them. It was clear from the wording of the present paragraph 2 (b) of article 36 of the 1961 Convention that the new proposals marked an important step forward. The aspirations to which that paragraph referred would now become legal obligations with immediate effect.

14. Mr. DURRIEU (Argentina) said his delegation supported any measures which would facilitate the application of penal sanctions to drug offenders. The new provisions would do so; their scope was broad.

15. The proposed new paragraph 2 (b) was of vital importance, although he would have preferred to exclude the clause in sub-sub-paragraph (iv). In his view, any distinction based on the seriousness of the offence was inadvisable. All drug offences were a serious threat to public health and safety, and accordingly all the offences listed in paragraph 1 of article 36 should fall under the extradition rule. In any case, it was difficult to decide what constituted a serious offence, since any evaluation was bound to be subjective. In order, however, to encourage a wide measure of agreement on the desirability of extradition, his delegation had co-sponsored the amendment as a whole.

16. Dr. HOLZ (Venezuela) said that Venezuela was not one of the sponsors of the amendment, but supported the proposal because it considered the text proposed for paragraph 2 of article 36 to be necessary to strengthen international action against drug offenders and in the interest of public health generally. He fully agreed with the legal arguments put forward by the representative of Uruguay.

17. U WIN HLAING (Burma) said he thought the provisions of sub-sub-paragraphs (i), (ii) and (iii) of paragraph 2 (b) would be difficult to apply. Paragraph 2 (b) of the 1961 Convention, as it stood, met Burma’s needs satisfactorily.

18. Mr. STEWART (United Kingdom) said he welcomed the changes that the United States had introduced to its original proposals. It was right that trivial offences should be excluded from extradition, as proposed in paragraph 2 (b) (iv) of the new text. Unfortunately, some delegations were against that proposal, even though it had the advantage of preventing countries, in the case of a minor offence involving narcotics, from using extradition as a cloak for some other purpose.

19. With regard to paragraph 2 (b) (ii), his delegation was able to support the proposal, although in practice it would not take advantage of the option provided. It was able to reconcile that apparently contradictory position because of the introductory phrase of paragraph 2, and because no further obligation was imposed on the United Kingdom by that wording. Paragraph 2 (b) (i), (iii) and (iv) presented no difficulties for the United Kingdom.

20. Mr. AL-ADHAMI (Iraq) said that his delegation did not consider any changes were needed in article 36 of the 1961 Convention and it would vote against the proposed amendments.

21. Mr. ABSOLUM (New Zealand) said that in general he supported the proposed amendments, which were a sensible attempt to fill the gaps in the existing legal machinery for dealing with narcotics offences. His main criticism was that the various sub-sub-paragraphs were too repetitive; the text could be simplified by amalgamating the exemption clauses. One solution would be to place sub-sub-paragraph (iv) at the beginning of sub-paragraph (b).

22. Mr. ROSENNE (Israel) said his delegation supported the proposed amendments and would vote in favour of them. Those new provisions represented an important step in the development of the “multilateralisation” of the modern international law of extradition, which was necessary in the light of the development of the resourcefulness of modern criminals. The introductory phrase of paragraph 2 of article 36, which protected domestic aspects as determined by individual States, was a valuable safeguard.

23. With regard to paragraph 2 (b) (i) and (ii), he would suggest that the Drafting Committee give attention to the position of the relationship between international conventions and domestic law in the case of extradition. In particular, the phrase “shall be deemed to be” was a legal fiction and caused major difficulties of interpretation and application; it might be clear to common lawyers, but it was far from clear to lawyers of other legal systems.

24. With regard to the word “existing” in paragraph 2 (b) (i), he suggested that the intention of the
sponsors was not to tie the provision to a fixed point in time, and that a less ambiguous wording should be used.

25. Attention had already been drawn to the lack of concordance between the French and English versions of the introductory part of paragraph 2; there was also what was probably a typographical error in the layout.

26. With reference to paragraph 2 (b) (ii), since the new instrument would in itself have the force of a treaty, the hypothesis of the non-existence of a treaty therefore fell to the ground. He did not think that the option granted under that paragraph involved any great principle of justice and was afraid that it would enable criminals to go free. The problem of extradition treaties was that they were vulnerable to conflicting national laws that often enabled astute lawyers to free their criminal clients. The 1969 Vienna Convention on the Law of Treaties would be a useful reference document for the Drafting Committee. What was needed was a short simple clause which would state that, subject to domestic law, the offences enumerated in paragraph 1 and paragraph 2 (a) (ii) of article 36 should be recognized as extraditable offences, notwithstanding other treaties.

27. In his view, the purpose of paragraph 2 (b) (iv) would be achieved either under the provisions of extradition treaties, or by the domestic law on extradition, which usually indicated by the size of the penalty which offences were serious enough to be extraditable. As proposed, sub-paragraph (b) introduced an element of subjectivity, which was undesirable and might allow criminals to escape.

28. In any event, his delegation would accept whatever version the Drafting Committee produced.

29. Mr. KOENTARSO (Indonesia) said that, since his country was increasingly preoccupied by the narcotics problem and was in favour of improving control measures—subject to respect for national sovereignty—his delegation would vote in favour of the amendments proposed to paragraph 2 of article 36.

30. Mr. MAZOV (Union of Soviet Socialist Republics) said that his delegation took a pessimistic view of the likelihood of achieving any substantial improvement in the international control of narcotics offences, because of the wide differences in domestic law and official policies. It was dangerous to seek an analogy with the Convention on Psychotropic Substances, since the attempt had already caused members of the Committee to reach contradictory positions. His delegation thought the question had not been studied thoroughly enough and could not support the proposed amendments. It would abstain from the vote on paragraph 2.

31. Mr. VIENNOIS (France) said that as a sponsor of the joint proposal, his delegation fully supported the new text for paragraph 2. Nevertheless, he fully agreed with the comment of the representative of Argentina on the subject of the saving clause in sub-sub-paragraph (iv), which could very well be deleted. Extradition treaties would themselves provide for any exceptions that were needed, and the introduction of a subjective element would weaken the instrument.

32. Mr. HOOGWATER (Netherlands) said his delegation supported the joint proposal, which struck a good balance. The Committee was, of course, considering a compromise text, which had been amended on the basis of changes proposed by the United Kingdom, and such texts always raised difficulties.

33. He considered the remarks by the representative of Israel to be matters of substance rather than of form, and most valid.

34. Mr. ABDU GHANEM (Lebanon) said he thought it would be better to establish an arbitration procedure for determining whether extradition was justified than to leave the matter to the discretion of individual States.

35. Mr. GROS ESPIELL (Uruguay) said he supported the views of the representative of Israel on paragraph 2 (b) (ii); the provision was contradictory and difficult to interpret.

36. Paragraph 2 (b) (iv) was too vague and should be improved. As an alternative to leaving the matter to be decided by the domestic authorities, he suggested that the amended 1961 Convention should itself give an interpretation of the word “serious”. That procedure had worked well for the Latin American countries in the case of one of their multilateral treaties.

37. He also agreed with the representative of Israel that the drafting needed to be improved in various places. The introductions to paragraphs 1 and 2 differed substantially in the Spanish version, although the wording in the English version was almost identical. There were also places where the French version was at variance with the others. Altogether, the text should be made much simpler.

38. Mr. WARNANT (Belgium) said that, under Belgian law, extradition was only possible by virtue of bilateral treaties concluded on a basis of reciprocity. Most of such treaties contained a list of extraditable offences, but the more recent ones did not always refer to the illicit traffic in narcotic drugs. Theoretically, those treaties could be supplemented, but since that would be a long and difficult process, his delegation would be glad to support the proposed paragraph 2 (b) (ii) and (iii).

39. With respect to the first clause in sub-sub-paragraph (iv), however, he did not think that it could apply in the absence of a bilateral treaty between the two parties concerned, while with respect to the second clause, if a bilateral treaty did exist, he did not think that a party would be entitled to refuse extradition except under the provisions of the treaty itself. Since that second clause might conceivably create difficulties, he recommended that it be deleted.

40. Mrs. OLSEN de FIGUERAS (Costa Rica) said that the United Kingdom representative, while agreeing with the substance of paragraph 2 (b), had expressed certain reservations; she considered that those reservations were pertinent and evidenced the interest of the
United Kingdom in the matter; she hoped, however, that in future he would bear in mind the necessity of reservations being intended to strengthen the relevant texts and not to create confusion and unnecessary problems.

41. Her delegation supported the proposed text of paragraph 2(b) as a whole, and in particular sub-sub-paragraph (iv), which provided an ample safeguard against the abuse of extradition in political cases. Nevertheless, since all countries were concerned with providing a healthy environment for the development of their young people, who represented their greatest national resource, it should be made impossible for drug traffickers to find a refuge in any part of the world on political pretexts.

42. Mr. GUILLOT (Cuba) said that he wished to assure the representative of Costa Rica that the Revolutionary Government of Cuba did not offer any refuge to drug traffickers, but on the contrary was prepared to invoke the full force of its laws against any person who attempted to misuse its territory in that way. In the opinion of his delegation, the best solution to the problem was the conclusion of bilateral treaties on a basis of strict equality and reciprocity.

43. Mr. TANOE (Ivory Coast) said that his delegation was prepared to accept the text proposed by the sponsors of the joint proposals for paragraph 2(b), provided the principle of national sovereignty was duly respected and that care was taken not to abuse the right of extradition for political purposes. It still felt that the juridical basis for extradition was to be found in bilateral treaties concluded in accordance with the principle of full reciprocity.

44. Dr. ALAN (Turkey) said that, since the various aspects of the problem of extradition were still being studied by the relevant ministries of his Government, his delegation would have to reserve its position on the proposed paragraph 2(b) and abstain from voting on it.

45. Mr. AUBE (International Criminal Police Organization) said that during its 25 years' fight against the illicit traffic in narcotic drugs, his Organization had always regarded the principle of extradition as fundamental, since it offered the only practical means of prosecuting and punishing those criminals who succeeded in escaping from the jurisdiction of their country of origin. In 1970 alone, for example, thanks to extradition, ICPO/INTERPOL's 18 member countries had made arrests in no less than 2,200 cases. It was his Organization's policy, therefore, to encourage both bilateral and multilateral treaties on extradition and to urge those countries which were not parties to such treaties to enact appropriate national laws.

46. His Organization favoured the attempt in the proposed amendments to article 36 to strengthen the links between countries, with a view to making extradition more effective; those amendments were fully in accordance with a number of resolutions adopted by ICPO/INTERPOL, especially with regard to the necessary distinction between drug offenders who were guilty of criminal offences and those who were merely victims of the drug habit. The adoption of those amendments would, by improving the machinery of extradition, arm the international community more effectively in its fight against the illicit traffic.

47. Mr. CHOPRA (India) said he must point out, with respect to sub-sub-paragraph (iv), that unless the definitions of the offences concerned were identical in the two countries in question, it would be difficult to carry out the procedure for extradition.

48. Mr. BARONA LOBATO (Mexico) said that his delegation wished to state for the record that it had never been opposed to international co-operation in the world-wide fight against narcotics traffickers, whose activities were directed mainly against young people.

49. In its present form, however, he considered the proposed text for paragraph 2(b) unacceptable, since, first, it limited the sovereignty of States by restricting their power and freedom to conclude extradition treaties; it was contrary to his country's constitutional provisions, and neither the Senate nor the President could accept it.

50. Secondly, the changes proposed by Uruguay would modify his country's existing bilateral treaties with other countries, without the consent of the latter.

51. Thirdly, by introducing a kind of multilateral extradition treaty to cover cases of illicit traffic, those amendments would modify the traditional régime, which was based on the principle of reciprocity.

52. Since he fully shared the doubts expressed by the representative of Israel and certain other countries, he would abstain from voting on those amendments.

53. Mr. BRAY (Australia) said that his delegation supported the text of the joint proposal for paragraph 2(b) in its present form. In matters of extradition, most States took pains to safeguard the rights of the individual and, as the Netherlands representative had said, in order to be acceptable, any text would have to be broadly drafted and carefully balanced. The proposed text did show some lack of precision, but it nevertheless offered a possibility for meeting the needs of the greatest number of States.

54. He supported the suggestion of the representative of Israel that paragraph 2(b) should be carefully examined with a view to possible redrafting. His country had so far relied on bilateral extradition treaties and arrangements. It was possible that a multilateral treaty could be used, but his delegation had doubts as to whether its Government would be prepared to assume an obligation, as distinct from an option, to accept such a treaty as the basis for extradition. Any alternative text for paragraph 2(b)(ii) would have to be studied with particular attention.

55. Some criticism had been directed against the words "sufficiently serious" in sub-sub-paragraph (iv), which attempted to allow for any disparity in the views of the two parties with respect to the gravity of an offence. His delegation felt that that concept should be retained, but was prepared to consider any suggestions for an alternative wording.

56. Mr. VAILLE (France) asked that the vote on paragraph 2(b) be taken sub-sub-paragraph by sub-sub-paragraph.

It was so agreed.
Paragraph 2 (b) (i) was approved by 40 votes to 3, with 15 abstentions.

Paragraph 2 (b) (ii) was approved by 40 votes to 3, with 13 abstentions.

Paragraph 2 (b) (iii) was approved by 41 votes to 1, with 14 abstentions.

Paragraph 2 (b) (iv) was approved by 38 votes to 4, with 17 abstentions.

Paragraph 2, as a whole, as contained in the text of the joint proposals (E/CONF.63/5), was approved by 38 votes to 3, with 15 abstentions.

The text of article 36, as amended, was referred to the Drafting Committee.

The meeting rose at 12.20 p.m.

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**TWELFTH MEETING**

*Wednesday, 15 March 1972, at 10.25 a.m.*

*Chairman: Dr. BÖLCs (Hungary)*

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**Organization of work**

1. The CHAIRMAN said that the Conference had just decided, at its 4th plenary meeting, that Committee II should deal with the amendment proposed to article 2, paragraph 4, submitted by 12 countries (E/CONF.63/L.2), with the question of the amendment of article 11, paragraph 3, and of article 14, paragraph 6, consequent on the amendments to article 9 approved by the Committee at its 4th meeting, which had been considered by the General Committee, and with the draft resolution submitted by France in connexion with article 16 (E/CONF.63/C.2/L.9).

2. He suggested that the Committee begin by discussing article 11, paragraph 3.

   *It was so decided.*

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**Consideration of all amendments proposed to the Single Convention on Narcotic Drugs, 1961 (item 11 of the Conference agenda) (continued) (E/CONF.63/5 and addenda)**

**ARTICLE 11 (Rules of procedure of the Board) (concluded*)**

**Paragraph 3**

3. The CHAIRMAN recalled that paragraph 3 of article 11 of the 1961 Convention stated: “The quorum necessary at meetings of the Board shall consist of seven members”.

4. Mr. DURRIEU (Argentina) proposed that, in view of the increase in the membership of the Board to 13, in accordance with the amended text of paragraph 1 of article 9 (E/CONF.63/C.2/L.10), the quorum be increased to eight members.

5. Mr. ZAFERA (Madagascar), Mr. ASLAN (Italy) and Dr. ALAN (Turkey) supported that proposal.

   *The Argentine proposal was adopted by 38 votes to none, with 10 abstentions.*

   *Paragraph 3 of article 11, as amended, was approved and referred to the Drafting Committee.*

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**ARTICLE 14 (Measures by the Board to ensure the execution of provisions of the Convention)**

**Paragraph 6**

6. The CHAIRMAN invited the Committee to discuss the question of amending article 14, paragraph 6, of the 1961 Convention, which stated: “Decisions of the Board under this article shall be taken by a two-thirds majority of the whole number of the Board”.

7. Mr. MILLER (United States of America) said that he saw no reason to amend that paragraph, since its provisions would not be affected by the increase in the quorum to eight members. The words “the whole number of the Board” did not refer to members present and voting, since it was always possible to take a decision by mail.

8. Mr. MAWHINNEY (Canada) pointed out that paragraph 4 of article 10 (Terms of office and remuneration of members of the Board) provided that a recommendations for the dismissal of a member of the Board should be made by an affirmative vote of eight members. Since the membership of the Board had now been increased from 11 to 13, perhaps a similar increase should also be made in the number of members required for a recommendation for dismissal.

9. Mr. WATANABE (Japan) said that he agreed fully with the suggestion made by the Canadian representative. He proposed that article 10, paragraph 4, be re-examined with a view to replacing the word “eight” by the word “nine”, a figure which would better correspond to a two-thirds majority of the new membership of the Board.

10. Dr. ALAN (Turkey) and Mr. ASLAN (Italy) said they agreed with the United States representative that any change in article 14, paragraph 6, would be superfluous.

11. Mr. STEPCZYNSKI (International Narcotics Control Board) said that in his opinion no change would be necessary in article 14, paragraph 6, since the two-thirds majority rule would still be applicable.

12. The question with regard to article 10, paragraph 4, was more difficult, as the authors of that provision had obviously wished to specify the number “eight”. Since

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* The text of article 36, as approved, was substantially circulated under the symbol E/CONF.63/C.2/L.10/Add.1.

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1 The text of paragraph 3 of article 11, as approved by the Committee, was subsequently circulated under the symbol E/CONF.63/C.2/L.10/Add.2.
the quorum had now been increased from seven to eight members, the Conference would have to decide whether a corresponding change should be made in that article.

13. Mr. RATON (Deputy Legal Adviser to the Conference) said that the two-thirds majority rule in article 14, paragraph 6, was in no way affected by the amendment to article 11, paragraph 3, concerning the quorum.

14. With regard to article 10, paragraph 4, he doubted whether it would be necessary to increase the number of members required for a recommendation for dismissal, although the point was one which might formally be submitted to the Board.

15. Mr. HOOGWATER (Netherlands) said he was inclined to agree with the Deputy Legal Adviser to the Conference that it was unnecessary to amend article 10, paragraph 4.

16. Mr. DURRIEU (Argentina) said that, in view of the seriousness of a recommendation for dismissal, he supported the proposal of the Japanese representative that the Committee consider increasing the number of members required for such a recommendation. It seemed to him that a two-thirds majority vote should be required for a decision of such importance.

17. Mr. RATON (Deputy Legal Adviser to the Conference) said that the two-thirds majority rule applied only to article 16, paragraph 6. It was reasonable to assume that, if the authors of article 10, paragraph 4, had wished to make a recommendation for dismissal dependent on a two-thirds majority, they would have said so explicitly instead of referring to “eight members”.

18. Dr. ALAN (Turkey), on a point of order, said he questioned whether the Committee was competent to deal with article 10, since it had not been assigned to it by the plenary Conference.

19. The CHAIRMAN suggested that the Committee submit a formal proposal to the plenary Conference that it be authorized to deal with article 10, paragraph 4.

20. Mr. DURRIEU (Argentina) formally proposed that the Chairman’s suggestion be submitted to the plenary Conference.

21. Mr. MALIK (India), Dr. HOLZ (Venezuela) and Mr. AL-ADHAMI (Iraq) supported that proposal.

22. The French draft resolution (E/CONF.63/C.2/L.9) was approved by 32 votes to none, with 13 abstentions.

23. The CHAIRMAN invited the Committee to resume consideration of draft resolution E/CONF.63/C.2/L.9 relating to article 16, which the representative of France had submitted at the 8th meeting.

24. He said that, if no one wished to comment on the draft resolution, he would put it to the vote.

** Resumed from the 9th meeting.

The Argentine proposal was adopted by 4 votes to none, with 10 abstentions.

25. Dr. ALAN (Turkey) and Dr. HOLZ (Venezuela), explaining their votes, said they had abstained in the vote, not because the draft resolution was unacceptable to them but because no decision on article 16 had yet been taken by the plenary Conference.

ARTICLE 2 (Substances under control) (E/CONF.63/L.2)

Paragraph 4

26. The CHAIRMAN invited the representative of Austria to introduce the amendment (E/CONF.63/L.2) to article 2, paragraph 4, submitted by Austria, Belgium, the Federal Republic of Germany, Italy, the Netherlands, New Zealand, Norway, Spain, Sweden, Switzerland, Togo and Turkey.

27. Mr. BURESCH (Austria) said that Austria, which had harmonized its domestic legislation with the provisions of the 1961 Convention and in some respects gone even further, was not a party to that Convention because of the difficulties it would have in implementing subparagraph (b) of article 34 (Measures of supervision and inspection). Consultations with other delegations had shown that many countries experienced difficulties in implementing it. The 12 sponsors of the amendment had submitted it with a view to overcoming those difficulties.

28. Austria did not consider it feasible to keep records of every individual acquisition and disposal of preparations listed in schedule III. Preparations of high therapeutic value containing small quantities of codeine and its derivatives were widely used everywhere for medical purposes. In the strict sense of the wording of article 34 (b), every bottle of cough syrup containing even a small quantity of codeine dispensed by a hospital nurse would have to be registered and the records preserved for a period of not less than two years. To do that would require very costly administrative machinery and, since it was unlikely that any significant quantities of the pure substances listed in schedule II would be recovered from the preparations listed in schedule III, comprehensive control of the latter did not seem necessary.

29. The sponsors of the amendment therefore considered that it would be appropriate to add to the exemptions listed in article 2, paragraph 4, preparations in schedule III which were covered by article 34 (b) as regards retailers, scientists, scientific institutions and hospitals. However, they believed it was important to restrict such exemption to institutions and persons whose individual disposals of the preparations in question were very small.

30. The amendment did not affect the substance of the Convention, nor did it change in any way the actual situation existing among retailers, scientists, scientific institutions and hospitals which were not in a position to carry out the formalities imposed on them, on a strict interpretation of the wording of article 34 (b), by the 1961 Convention. For constitutional reasons, Austria was bound to apply a strict interpretation and could not adhere to the Convention unless the text of article 2, paragraph 4, was amended in the manner proposed by the
sponsors. It considered that the amendment was in no way controversial.

31. Mr. MILLER (United States of America) said that in his view the proposed amendment was highly controversial. Many of the compounds listed in schedule III were far from harmless, although their potential for abuse was less than that of drugs included in schedule I. They were used extensively by drug abusers in the United States, which had taken strong measures to limit their sale, and was convinced that controls, including record-keeping controls at the pharmacy level, were necessary in respect of preparations in schedule III. It would serve no purpose for the United States to strengthen its own controls if its citizens were able to purchase those preparations freely as tourists in other countries. He was accordingly opposed to the changes proposed in document E/CONF.63/L.2, since they would weaken the 1961 Convention.

32. Mr. DURRIEU (Argentina) said he supported the view expressed by the representative of the United States.

33. Mr. BRAY (Australia) said that, while he had been impressed by the Austrian representative's arguments, he felt that the difficulties experienced by Austria and some other countries arose from a too literal interpretation of the provisions of the Convention. The existing practices in many countries with regard to recording the use of the preparations concerned were probably adequate and, in his view, nothing should be done to discourage those practices; the amendment might have just that effect. Australia's legislation imposed and would continue to impose on the categories of persons and institutions mentioned in the proposed amendment the responsibility of accounting for the preparations in question.

34. The other aspect of the question was that Austria, in the light of the interpretation placed by its authorities on the provisions of article 34 (b), found it difficult to become a party to the 1961 Convention. The Committee had to consider whether it was desirable or not to make the provisions less strict in order to have a larger number of accessions. While he would prefer to see article 2, paragraph 4, unchanged, he was not so strongly opposed to the amendment that he would vote against it.

35. Mr. ABSOLUM (New Zealand) said that his delegation had sponsored the amendment because it agreed with the Austrian representative that it would remove administrative difficulties which seemed to serve little or no purpose in most countries.

36. With regard to the objections raised by the United States representative, it seemed to him that the problem there was purely domestic. The United States could deal with it by applying more severe restrictions.

37. Mr. MAWHINNEY (Canada) said that Canada was to a large extent able to conform to the provisions of the 1961 Convention relating to schedule III preparations, but there were administrative difficulties in applying them in toto. In his view, the amendment clarified the Convention and brought it into line with the requirements and capacity of most countries to apply controls in that field.

38. While appreciating the acute problems caused by the abuse of the preparations in question in the United States, he was inclined to think that it was a domestic problem. Under article 39 (Application of stricter national control measures than those required by this Convention) of the 1961 Convention, a State party could always take stricter measures to control any of the drugs covered by it. On balance, Canada considered that the amendment constituted a reasonable revision of the Convention and would support it.

39. He had, however, one slight difficulty in that article 34 (b) referred to "traders", whereas the amendment used the word "retailers".

40. Mr. HOOGWATER (Netherlands) said that the Netherlands had no difficulty in complying with the existing text of article 2, paragraph 4, of the 1961 Convention, but was not fully convinced that all the measures called for were absolutely necessary. The Netherlands had sponsored the amendment because it would make wider acceptance of the Convention possible. The efficiency of any international instrument depended not only on its content but also on the number of contracting parties.

41. Mr. BURESCH (Austria) said that the professional ethics of pharmacists could be relied upon to prevent sales of preparations to tourists who did not need them on medical grounds. The amendment was particularly important for scientists, scientific institutions and hospitals, and they also had a professional ethical code.

42. The reason why the word "trader" had not been used in the amendment was that it had been felt desirable to restrict the group of persons exempted to retailers; wholesalers would not be exempted.

43. Dr. ALAN (Turkey) said his delegation had sponsored the amendment because it would enormously reduce the amount of administrative work required to be carried out by the categories of persons and institutions referred to. The problems mentioned by the United States could be dealt with under article 39 of the 1961 Convention. Turkey had no experience of preparations listed in schedule III being the subject of illicit international traffic.

44. Dr. W. P. STEYN (South Africa) said that, as a pharmacologist, he did not consider that preparations in schedule III should be subject to international control; it was a matter for domestic legislation. He could not, therefore, support the amendment under consideration.

45. Mr. MILLER (United States of America) said that the United States had in many instances exercised its right under article 39 of the 1961 Convention. He did not believe that there was no abuse of preparations listed in schedule III in other countries; in any case, the situation would not remain that way. Several States of the United States had enacted strong measures with respect to codeine-containing cough mixtures, but they were useless if buyers could purchase them freely in another State of the Federation. The same applied at the international level. If the treaty obligations under the 1961 Convention were weakened, United States citizens would be able to purchase those preparations in other countries. While he believed in the integrity of pharmacists in general, he certainly knew of exceptions in the United States.
The exceptions would increase if pharmacists were not required to keep records. He would therefore vote against the amendment.

46. Mr. ASLAN (Italy) said that his delegation supported the Austrian proposal. Each country had the means of solving its problems at the national level and the reference to article 39 of the 1961 Convention was therefore very appropriate. He agreed with the Canadian representative that the proposed text would not weaken the Convention.

47. Mr. BRAY (Australia) said he thought that the amendment would substantially affect the 1961 Convention, and his delegation agreed with the views expressed by the United States representative. While the problems which the United States was facing at present might be peculiar in their intensity to that country, other countries might be confronted with a similar situation some time in the future.

48. It was essential not to lose sight of the fact that all countries were trying to reduce the domestic appetite for the abuse of drugs which stimulated the illicit international traffic in drugs, against which the Convention was primarily aimed. But while the Committee should do nothing which might facilitate access to drugs, he realized that a balance must be struck between the desire for stricter control and the practicability of enabling the largest number of States to become parties to the Convention. His delegation would therefore abstain in the vote.

49. Mr. MAZOV (Union of Soviet Socialist Republics) said that in his country the distribution of preparations containing codeine and morphine was strictly regulated and a doctor's prescription was necessary in order to obtain them. That regulation was in line with the provisions of article 39 of the 1961 Convention. His delegation had taken note of the various statements which had been made and of the explanation given by the Austrian representative. However, it believed that the system of control should be adapted to the conditions prevailing in the country concerned. His delegation would therefore abstain in the vote.

50. Mrs. LEE LUANE (Panama) said that her delegation supported the proposed amendment. While it might be true that a medical prescription was required for patients to obtain preparations containing codeine, it must not be forgotten that addicts often visited a number of physicians and were thus able to obtain several prescriptions.

51. Mr. GUILLOT (Cuba) said that his delegation would participate in the vote on the proposed amendment. In his country, strict measures of control were applied to preparations in schedule III. Under article 39 of the 1961 Convention, all countries had the possibility of applying stricter measures if they thought them necessary.

The amendment to paragraph 4 of article 2 (E/CONF.63/L.2) was approved by 14 votes to 6, with 30 abstentions.

Paragraph 4 of article 2, as amended, was referred to the Drafting Committee.

52. The CHAIRMAN invited the Committee to consider the amendment proposed by Afghanistan to the sixth paragraph of the preamble to the 1961 Convention (E/CONF.63/L.1). During the discussion at the 4th plenary meeting of the Conference, the representative of Afghanistan had replaced the word "repression" by the word "suppression" in his amendment.

53. Mr. GHAUS (Afghanistan) said that almost all the provisions of the 1961 Convention were directed to opium-producing countries, requesting them to apply stricter control measures in order to make it possible to combat the illicit traffic in narcotic drugs more effectively. The great majority of the producing countries were developing nations and found it difficult to carry out the necessary enforcement measures. There was therefore an acute need for adequate assistance from the international community and United Nations organs.

54. The assistance referred to in the amendment proposed by his delegation would certainly improve the situation in the producing countries, in particular in those where opium poppy cultivation had been banned. States in the latter category were in greater need of assistance because the ban on the production of opium severely affected those regions whose economy had been based on opium poppy cultivation.

55. The illicit traffic referred to in his delegation's amendment was that defined in paragraph 2(1) of article 1 of the 1961 Convention.

56. Mr. HAWKES (United Kingdom), said that no one could disagree with the substance of the Afghan amendment. However, he thought that it would be unusual to have an amendment of that kind included in the preamble. The point of the amendment could perhaps be conveyed in a different way, as for example through a resolution expressing the hope that adequate resources would be made available to provide assistance in the fight against the illicit traffic to countries requesting it. He therefore asked the Afghan representative whether he would consider a short resolution containing that point and related to article 14 bis. In any event, he would point out that the substance of the Afghan amendment was already included in the 1961 Convention.

57. Mr. MAWHINNEY (Canada) said that delegations could hardly disagree with the purpose of the Afghan proposal. However, one of the amendments approved (8th meeting) by a considerable majority had been that contained in article 14 bis, which recognized the need to provide assistance, on the recommendation of the Board, to States parties in fulfilling their obligations under the 1961 Convention. In his delegation's view, such a procedure would be preferable. Perhaps it would not be superfluous to reaffirm the need to provide assistance to those countries which must absorb much of the burden of carrying out the obligations under the Convention.

58. His delegation had serious doubts about the merits of revising the preamble to the 1961 Convention, since
the preamble recognized the evil, the need to combat it and the need for co-ordinated action to that end. The means of combating the evil should not be stated in a preamble, which was designed to set forth general principles and the motivations of the States parties. Admittedly, the Afghan proposal dealt with an important aspect of the problem, but his delegation considered that the use of the words “in particular” was inappropriate, since the measure in question was not the only aspect of the problem. It would therefore be obliged to abstain in the vote.

59. Mr. WATANABE (Japan) said that his delegation also fully supported the idea expressed in the Afghan proposal. However, his delegation had some doubts whether the preamble was an appropriate place for re-confirming the idea embodied—as had been pointed out by other speakers—in article 14 bis. His delegation therefore associated itself with the views expressed by the Canadian and United Kingdom representatives.

60. Mr. HOOGWATER (Netherlands) said that his delegation sympathized with the purpose of the Afghan amendment and would vote in favour of it, though it agreed with the United Kingdom representative that it might have been better to express the idea of the amendment in a resolution. He asked the Afghan representative to consider the United Kingdom representative’s suggestion.

61. Mr. GUILLOT (Cuba) said that his delegation would participate in the vote on the Afghan amendment. Since the preamble of international agreements always recapitulated the subject matter of the various articles in the instrument concerned, once the text of all the articles of a convention had been drafted, members were then entitled to formulate the preamble.

62. Mr. BRAY (Australia) said that members could hardly disagree with the aims of the Afghan amendment. What the Committee had already done was ample evidence of the attitude of the countries represented on it to that particular problem. His delegation strongly supported the concept of assistance to countries which found it difficult to meet the obligations set out in the 1961 Convention, but did not think that the Afghan amendment was in its appropriate place in the preamble. A preamble generally set out the motivations of the parties which drew up the particular agreement. In the present instance, the preamble would be unbalanced if the Afghan amendment were included in it. General Assembly resolution 2719 (XXV) entitled “Technical assistance in the field of drug abuse control” and Economic and Social Council resolution 1559 (XLIV) entitled “Concerted United Nations action against drug abuse and establishment of a United Nations fund for drug-abuse control” showed that the point covered in the Afghan amendment could be appropriately dealt with by a resolution of that type. He therefore appealed to the Afghan representative to consider the alternative of a resolution by the Conference.

The meeting rose at 12.35 p.m.
7. Mr. AL-ADHAMI (Iraq) said that the preamble had to reflect the basic ideas of the Convention. Since those ideas included the need to extend technical assistance, governed by the new article 14 bis, it was appropriate to insert the additional clause in the sixth paragraph of the preamble, as proposed by Afghanistan.

8. In order to emphasize, however, the fact that technical assistance was required by the developing countries for the purpose of fulfilling their obligations under the 1961 Convention, he proposed that the words “and that, in particular, suppression of the illicit traffic requires” be replaced by the words “and that the fulfilment by the developing countries of their obligations under the Convention requires”—in the French version, “et que l’accomplissement par les pays en voie de développement de leurs obligations découlant de la Convention exige”.

9. Mr. DURRIEU (Argentina) said that, although his delegation fully agreed with the contents of the Afghan amendment, it felt that the preamble should not be amended. The preamble served to express the general philosophy of the Convention and its balance would be upset if the proposed new paragraph were introduced. His delegation would gladly support a draft resolution on the same subject if the sponsor decided to introduce one.

10. Mr. PINEDA PAVON (Venezuela) said he strongly supported the inclusion in the preamble itself of the contents of the Afghan amendment. The duty to extend assistance, both technical and financial, to the developing countries had been accepted in the United Nations as an international obligation. That obligation was particularly relevant in the present case, because there were a considerable number of developing countries among the producers of narcotic substances.

11. Mr. KOZLJUK (Ukrainian Soviet Socialist Republic) said that the idea contained in the Afghan amendment was more suitable for a resolution than for a paragraph of the preamble. Put in the form of a resolution, it would usefully supplement article 14 bis, which had already been approved by the Committee.

12. Dr. ALAN (Turkey) said he hoped the Afghan representative would accept the sub-amendment proposed by Iraq, which improved the wording by placing the emphasis on technical assistance in carrying out the obligations imposed on developing countries parties to the 1961 Convention. With or without the Iraqi amendment, however, his delegation would support the Afghan amendment, either in the form of a preambular paragraph or of a draft resolution.

13. Mr. ZAFERA (Madagascar) said that it was essential to extend assistance to the developing countries, in order to be able to campaign effectively against drug abuse. He therefore supported the idea embodied in the Afghan amendment, but shared the view that it ought to be put in the form of a draft resolution. The sub-amendment by Iraq improved the wording.

14. Mr. GHAUS (Afghanistan) said he welcomed the delegation of the Ivory Coast as a co-sponsor of his delegation’s amendment to the preamble, and accepted the sub-amendment proposed by Iraq as an improvement to the wording. Although the introduction into the Convention of a new article 14 bis made it even more appropriate to enunciate the principle of assistance to developing countries in the preamble, in order to speed up proceedings, he would withdraw his amendment and reintroduce it in the form of a draft resolution at a later meeting.

15. Mr. MILLER (United States of America) said he hoped that the draft resolution when submitted would receive unanimous support. With regard to the change in the wording suggested by the Iraqi delegation, he wished to reserve his delegation’s position on the English version. The wording to be used should not give the impression that countries could be excused from carrying out their obligations if they did not receive assistance.

16. Mr. HAWKES (United Kingdom) said he endorsed the remarks of the United States representative.

17. The CHAIRMAN said he noted that the Afghan amendment to the preamble (E/CONF.63/L.1) had now been withdrawn and that the subject-matter would be incorporated in a draft resolution to be submitted to the Committee at a later meeting.

The meeting rose at 3.35 p.m.

1 The draft resolution of Afghanistan and the Ivory Coast was subsequently circulated under the symbol E/CONF.63/L.7.

FORTTEENTH MEETING

Thursday, 16 March 1972, at 9.45 a.m.

Chairman: Mr. BOLCS (Hungary)

Consideration of all amendments proposed to the Single Convention on Narcotic Drugs, 1961 (item 11 of the Conference agenda) (continued) (E/CONF.63/5 and addenda)

ARTICLE 10 (Terms of office and remuneration of members of the Board) (concluded*)

Paragraph 4

1. The CHAIRMAN informed the Committee that the Conference, at its 5th plenary meeting, had entrusted Committee II with the task of considering any consequential amendments it might be necessary to make to article 10, paragraph 4, of the 1961 Convention in the light of earlier decisions. He therefore asked the Committee to consider whether it was appropriate to make any amendment to paragraph 4 of article 10 following the increase in the membership of the Board to 13, in accordance with the amended text of article 9, paragraph 1 (E/CONF.63/C.2/L.10).

2. Mr. VAILLE (France) said the question had already been discussed at the Committee’s 12th meeting during

* Resumed from the 5th meeting.
the discussion concerning article 14, paragraph 6. He now proposed that the number of members required for a recommendation of dismissal be increased from eight to nine.

3. Mr. WARNANT (Belgium) said that he supported the French proposal. His delegation believed that the authors of the 1961 Convention had appreciated the seriousness of a recommendation to dismiss a member of the Board and that a majority of the membership of the Board was therefore essential to approve such a recommendation.

4. Mr. MAWHINNEY (Canada) said that his delegation endorsed the views of the Belgian and French representatives. The intention of the authors of the 1961 Convention had clearly been that a sizeable majority should be required for the adoption of such a serious measure. His delegation therefore agreed that the number required should be increased from eight to nine.

5. Mr. WATANABE (Japan) and Dr. CAGLIOTTI (Argentina) supported the French proposal.

The French amendment to paragraph 4 of article 10 was approved by 41 votes to none, with 1 abstention.

Paragraph 4 of article 10, as amended, was referred to the Drafting Committee.

ARTICLE 22 (Special provision applicable to cultivation) (E/CONF.63/5)

6. The CHAIRMAN said that the Conference, at its 5th plenary meeting, had also decided that Committee II should consider the joint proposal to amend article 22 (E/CONF.63/5), and he accordingly invited members to take up that proposal.

7. Mr. MILLER (United States of America) said that the proposed amendment which consisted of adding to the text of article 22 at present in force the phrase "and seize and destroy illicit cultivation", was self-explanatory; it was a natural consequence of the decision a State party to the 1961 Convention might make to prohibit the cultivation of the coca bush or the cannabis plant. His delegation considered that such a provision had been mistakenly omitted from the 1961 Convention, probably because many representatives had felt that those plants were covered by article 37 (Seizure and confiscation). However, that article did not include the natural plants themselves. His delegation believed that, whenever a party decided to prohibit the cultivation of those plants in order to protect the public health and welfare, it was not sufficient merely to make a proclamation to that effect but that such measures should be followed by positive action such as the seizure and destruction of illicit cultivation. Many countries undoubtedly already provided for such action under their national legislation, and it was the belief of the sponsors of the amendment that the provisions of article 22 would be applied in a practical manner.

8. Mr. BARONA LOBATO (Mexico) said that, in principle, his delegation was not opposed to the proposed amendment, because Mexican legislation had for many years contained provisions which in fact had led to the seizure and destruction of illicit cultivation. It thought, however, that there was a need for more stringent measures. At the twenty-fourth session of the Commission on Narcotic Drugs, he had announced that Mexican legislation had made considerable progress with respect to measures to control illicit cultivation by providing for offenders to be deprived of their right to any land used for such cultivation. His delegation was prepared to draft a sub-amendment along those lines, if members thought that such a provision would be appropriate.

9. Mr. PRAWIROJUSANTO (Indonesia) said that his Government seized and destroyed the illicit cultivation of the coca bush and cannabis plant. His delegation therefore fully supported the joint proposal.

10. Mr. ABSOLUM (New Zealand) said that, while his delegation fully supported the intention of the sponsors, it wondered whether the amendment was not a little too sweeping. His country had found it useful, where illicit cultivation had been discovered, to use the crops for scientific or experimental purposes rather than merely to destroy them. His delegation therefore proposed that the joint amendment be replaced by the phrase "and seize illicit cultivation either for destruction or for conversion to lawful purposes".

11. Mr. WATANABE (Japan) said that his delegation had no objection in principle to the joint proposal, in the understanding that the party concerned would be acting in conformity with the amended article if it seized and destroyed illicit cultivation only in accordance with the procedures laid down by its domestic law.

12. Dr. CAGLIOTTI (Argentina) suggested that it would be useful to add at the end of the paragraph the words "as well as plants and bushes of these species that grow wild".

13. Dr. ALAN (Turkey) said he supported the New Zealand sub-amendment, since it reflected the way Turkey applied the provisions of article 22. In Turkey, illicit cultivation of cannabis was seized and destroyed but seized opium was not destroyed. All narcotic drugs coming under the State monopoly and seized opium was transferred to State bodies to be used for lawful purposes. The situation was not the same in other countries, however, and his delegation thought that the parties concerned should decide what to do with the products seized. A treaty should be sufficiently flexible to allow the contracting parties a choice of means of action. The New Zealand sub-amendment would provide that possibility.

14. Mr. VAILLE (France) said that his delegation could accept the New Zealand sub-amendment. In France, cannabis was seized and illicit cultivation was often used for scientific purposes. In fact, his country had sent cannabis to the United Nations Laboratory for scientific purposes.

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1 The text of paragraph 4 of article 10, as approved by the Committee, was subsequently circulated under the symbol E/CONF.63/C.2/L.10/Add.3.

2 Commission on Narcotic Drugs, twenty-fourth session, "Summary records or minutes of the six hundred and eighty-sixth to seven hundred and third meetings" (E/CN.7/SR. or Min. 686-703, vol. I), 689th meeting.
15. His delegation was unable to accept the Argentine proposal, because it would be practically impossible to destroy all the coca bush and cannabis plants that grew in forests and other areas. The joint proposal was sufficient in itself.

16. Dr. POGADY (Czechoslovakia) said it should be pointed out that the French version of the amendment differed from the English version. His delegation preferred the English version, which was more precise, since it referred to cultivation. It had no objection to the principle set forth in article 22.

17. Mr. MAWHINNEY (Canada) said that the joint amendment raised no problem for his delegation. Only a limited amount of cannabis was grown in Canada and that was for scientific purposes. Under Canadian narcotics control legislation, the Minister responsible had full authority to destroy any illicit cultivation. Canada would therefore be in a position to implement article 22 if it was amended as proposed.

18. With regard to the New Zealand representative's sub-amendment, every State party must of course reserve the right to take whatever measures it deemed appropriate and his delegation had no objection in principle to the idea contained in the amendment. It thought, however, that the point was probably already covered in article 22 as at present in force, but wondered whether a prohibited crop would still be regarded as such within the meaning of article 22 if a Government deemed an illicit crop to be licit. In any event, his delegation could support the joint proposal.

19. Mr. SADEK (Egypt) said that in his country there was no legal cultivation of the plants in question and if any illicit cultivation was discovered, it was seized and destroyed.

20. Mr. OLIVIERI (Argentina) said he noticed that the French version of the joint amendment in document E/CONF.63/5 spoke of "quantités illicitement produites" whereas the Spanish version spoke of "cultivo ilicito" and did not mention production.

21. Mr. VAILLE (France) said that the English and Spanish versions differed from the French version, which read "les quantités illicitement produites..." In order to make the text quite clear, he suggested that the words "et récoltées" be inserted after the word "produites"—in the English text, the words "and crops" would be inserted after the word "cultivation". All three versions should refer to any illicit cultivation and crops of the plants concerned. The decision as to which term to use should be left to the Drafting Committee, since delicate legal questions were involved.

22. Dr. ALAN (Turkey) said he thought the New Zealand sub-amendment was preferable, since it left it to States parties to dispose of the crops seized as they thought appropriate.

23. Mr. GUILLOT (Cuba) said that in his country foreign trade was a State monopoly and the Ministry of Public Health was responsible for the importation and sale of narcotic drugs. Cuban legislation had therefore been drafted in conformity with the provisions of the 1961 Convention and the Ministry of Public Health co-operated with the Ministry of the Interior in controlling the use of narcotic drugs and seizing illicit cultivation.

24. Mr. BARONA LOBATO (Mexico) said he noticed that the Spanish version was closer to the original English version. His delegation thought that the proposed amendment should use the terms defined in article 1, paragraph 1, of the Convention and make a distinction between cultivation and production, which was the result of cultivation.

25. U PYI SOE (Burma) said that his delegation agreed with the purpose of the joint proposal. Burma had ratified the 1961 Convention and was trying to apply it to the best of its ability. In his country, opium cultivation was totally prohibited, but there were some border areas where the law could not be enforced because of communications difficulties. His delegation felt that the aim of the proposed amendment was sufficiently covered by the article 22 in force, since the words "prohibit cultivation" meant that such cultivation was prohibited by domestic law. The seizure and destruction of illicit cultivation were consequential executive measures taken to implement the law. Furthermore, the implied meaning of seizure and destruction was already contained in article 22 and did not have to be made explicit, as was done in the proposed amendment. His delegation would therefore abstain in the vote on the joint proposal.

26. Mr. MAZOV (Union of Soviet Socialist Republics) said that the practice followed in his country corresponded to some extent to that in New Zealand and Turkey. Whenever illicit cultivation of plants was discovered, the State seized the plants and thereafter the question of illicit traffic did not arise. His delegation supported the idea in the New Zealand sub-amendment concerning the possibility of using such plants for lawful purposes and would vote in favour of it.

27. Mr. WARNANT (Belgium) said that his country was in favour of the joint proposal.

28. Mr. ZAFERA (Madagascar) said that his delegation was in favour of the joint proposal. There were severe penalties in his country for the illicit cultivation of cannabis. His delegation was not in favour of the New Zealand sub-amendment, which could open the door to abuse by promoting illicit cultivation of the plants in question.

29. Mr. PUNARO (Mexico) said the New Zealand sub-amendment should be rejected, because there were no medical purposes for which plants such as marijuana could be used. Furthermore, it would have the result of encouraging illicit traffic, since the surplus production of the cannabis plant or opium poppy would be diverted into such traffic.

30. Mr. BRAY (Australia) said that in principle his delegation supported the joint amendment to article 22. It would, however, be prepared to support the New Zealand sub-amendment, as further amended by the French representative.

31. With regard to the statement by the Mexican representative, he could not see how the confiscation of plants by government authorities could possibly lead to
an increase in the consumption of narcotic drugs by addicts, since presumably the plants in question would be either destroyed or used for legitimate purposes.

32. With regard to the Argentine suggestion, since paragraph 2 of article 28 (Control of cannabis) provided that the Convention should not apply to the cultivation of the cannabis plant exclusively for industrial or horticultural purposes, he would suggest that, first, the Committee give careful consideration to the practicability of obliging all parties to destroy all cannabis plants which grew wild in forests or in inaccessible areas, and secondly, that it bear in mind other consequential amendments which might have to be made.

33. Dr. CAGLIOTTI (Argentina) said that, because of the danger that cannabis represented for Argentina due to its prevalence in a wild state in neighbouring countries, his delegation would continue to press its proposal for the insertion in article 22 of the words "including plants and bushes of these species that grow wild". The French proposal to replace the word "cultivation" by the words "cultivation and crops" would hardly meet the case, since the word "crop" did not appear in the list of definitions in article 1, paragraph 1, of the 1961 Convention and presumably had a different meaning from the word "production". With a full exchange of information, supported by technical and financial assistance as provided for in article 14 bis, as already approved by the Committee (E/CONF.63/C.2/L.10), it should be possible for bordering countries to provide proper measures of control.

34. Mr. ABSOLUM (New Zealand) said that the amendment proposed by the French representative to the New Zealand sub-amendment would be acceptable to his delegation.

35. He could not agree that his own delegation's proposal would open the door to the diversion of cannabis into the illicit traffic; on the contrary, the Australian representative had pointed out, the fact that any confiscated drugs would be controlled by the State offered sufficient safeguards against such a possibility.

36. The Canadian representative had argued that, once the products of illicit cultivation were seized, they lost their illicit associations and became licit, but in his opinion that was a mere play on words, since otherwise there would be no need for the words "and seize and destroy illicit cultivation". The choice of action open to Governments was certainly limited by the inclusion of the word "destroy".

37. He sympathized with the view advanced by the Argentine delegation and suggested that its difficulty might be met by the following wording: "... and, as far as possible, any species of bushes found by the domestic authorities to be growing wild".

38. Mr. VAILLE (France), with regard to the New Zealand suggestion that confiscated drugs could be used for scientific purposes, said that the Académie de pharmacie of his own country had made use of marijuana seizures in experiments for determining the active principle in cannabis. If the courts were to convict offenders of illegal possession of dangerous plants, such expert knowledge was obviously necessary.

39. In his opinion, there was no contradiction between the amendments proposed in article 22 and the provisions of article 28; article 28 was still valid, although the Drafting Committee should give careful attention to both articles.

40. With regard to the observations made by the Argentine representative, he still felt that the latter's apprehensions should be allayed by the use of the words "cultivation and crops", although in his own opinion the word "production" covered everything.

41. Dr. MONTERO (Peru) said that his delegation supported the joint amendments to article 22, although it agreed that it should be possible for Governments to use confiscated narcotic plants for scientific purposes, as suggested by the New Zealand and French representatives.

42. Mr. STEWART (United Kingdom) said that article 22 categorically referred to cultivation. Cultivation could hardly include plants that grew wild in the natural state. Consequently, article 22 could not apply to such plants. If the New Zealand sub-amendment were adopted, there would be a direct conflict between article 22 and paragraph 2 of article 26 (The coca bush and coca leaves).

43. There appeared to be general agreement that countries which prohibited illicit cultivation should be encouraged to destroy the plants they seized, although they might also be permitted to use them for legitimate purposes. He proposed, therefore, the inclusion in article 22 of a second sentence, to read: "A Party prohibiting the cultivation of the opium poppy or the cannabis plant shall take all possible measures to seize any plants illicitly cultivated and to destroy them, unless required for governmental or scientific purposes".

44. Dr. CAGLIOTTI (Argentina) said that the United Kingdom representative had made a useful proposal which his delegation could support, provided it was made perfectly clear that the words "seize" and "destroy" also referred to any plants found growing wild.

45. He could support the New Zealand proposal, since his own Government used cannabis seizures for scientific studies for determining the active principle of the drug.

46. He could also accept the French proposal to replace the word "cultivation" by the words "cultivation and crops", although it would be necessary to define exactly what was meant by "crops".

47. Mr. JIMÉNEZ HERNÁNDEZ (Spain) said that his delegation could support the New Zealand proposal, as well as the Argentine proposal to include a reference to the necessity of destroying any wild plants which might be diverted to the illicit traffic.

48. Mr. MILLER (United States of America) said that his delegation could support the New Zealand proposal, as well as the Argentine proposal to include a reference to the necessity of destroying any wild plants which might be diverted to the illicit traffic.

49. He could also support the United Kingdom proposal, which, besides providing for the destruction of illicit cultivation, made it possible for Governments to use plants for legitimate and scientific purposes.

50. While sympathetic to the views expressed by the Argentine representative, he felt that article 22 referred solely to cultivated crops and that plants growing wild had no place in that article. Marijuana grew wild in his own country—in some cases over areas as large as
Mr. SCHNEKENBURGER (Federal Republic of Germany) said that, although his Government was a sponsor of the joint proposals, he could accept the United Kingdom's suggested text, since it reflected the views expressed in the Committee, in so far as they could be incorporated in the basic system established by the 1961 Convention.

52. One point which might be added to the United Kingdom's text related to wild plants and he suggested the wording "As far as possible, wild plants shall also be uprooted or destroyed". He was aware that article 22 dealt with cultivation, but felt it was in keeping with the spirit of article 26 to make that addition. He did not think it necessary to insert the words "and crops" after the word cultivation, particularly as it would involve an amendment to the list of definitions in article 1.

53. Mr. VAILLE (France) suggested that, in order to make matters easier for the Drafting Committee, the Committee should vote separately on each of the substantive issues raised by the United Kingdom representative. Should the Committee admit that the products in question might be used for scientific purposes? Should it permit the use of opium for governmental purposes? Should wild cannabis and opium poppy crops be subject to the provisions of article 22?

54. He understood the point made by the representative of Argentina to have been that a wild plant which could be used for the illicit traffic should be treated in the same way as if it had been cultivated. In principle, he was right. On the other hand, he agreed with the United States representative that ecological problems had to be borne in mind. Furthermore, it would be necessary to define a "wild plant".

55. He thought the word "crop" might be replaced by the word "production", which was defined in article 1.

56. Mr. ABSOLUM (New Zealand) said that the United Kingdom representative had made a valid point about the conflict between articles 22 and 26. If he was not prepared to make a formal proposal, the New Zealand delegation was ready to take over his informal text and withdraw its own sub-amendment.

57. Mr. TANOE (Ivory Coast) said that the text suggested by the United Kingdom representative was acceptable to his delegation, though it would like the meaning of the expression "for governmental purposes" to be formulated more precisely.

58. Mr. BARONA LOBATO (Mexico) said he found some difficulty, in the text proposed by the United Kingdom representative, with the word "seize". In his country, seizure was the outcome of a judgment. The word "apprehend" would cover the case where the police had just learnt that illicit cultivation was taking place.

59. It was his understanding that the expression "for governmental purposes" meant that the opium poppy or cannabis which had been seized by the authorities could be used to increase government stocks.

60. He was inclined to support the United Kingdom text, subject to certain clarifications, because it was consistent and in harmony with the provisions of sub-paragraph (c) of article 4 (General obligations) and article 33 (Possession of drugs) of the Convention. He also considered that, where wild plants were in a similar position to cultivated plants, they should be treated in the same way. The inclusion of an additional sentence to that effect in article 22 would establish a balance between article 22 and article 26.

61. Mr. ABDO GHANEM (Lebanon) said there was no State which could say that there was not a single area in its territory where illicit cultivation did not occur but, unless it seized and destroyed all that cultivation, it would be violating the provisions of article 22 as it would be amended if the joint proposal was adopted. For that reason, the original joint amendment was not acceptable to his delegation.

62. Mrs. LEE LUANE (Panama) said that she could support the amendment proposed, since the only plant, among those referred to, growing wild in Panama was cannabis and Panamanian legislation prohibited its cultivation. There was no scientific use for marijuana and any cannabis found was destroyed. Countries requiring cannabis for scientific purposes could approach the competent authorities in a country where it grew wild.

63. Mr. WATANABE (Japan) said he fully supported the suggestion by the United Kingdom representative.

64. Mr. OLIVIERI (Argentina) said that he wished to propose the following text for article 22:

When conditions in the country or a territory of a Party are such that, in its opinion, prohibition of the cultivation of the opium poppy, the coca bush or the cannabis plant is the most suitable measure for protecting public health and preventing the diversion of drugs into the illicit traffic, the Party concerned shall prohibit cultivation and seize, confiscate and/or destroy all the illicit cultivation or harvest derived therefrom, as well as plants or bushes which grow wild and, in the case of opium and cannabis, can be used for the illicit traffic, unless they are required for medical or scientific purposes.

65. Mr. DAZOCLANCLOUNON (Dahomey) said that neither the opium poppy nor cannabis were cultivated in Dahomey and cannabis seized on the illicit market was destroyed immediately.

66. He would support the text suggested by the United Kingdom representative, but still thought that the destruction of cannabis for non-medical and non-scientific purposes should be enforced effectively.

67. Mr. MAZOV (Union of Soviet Socialist Republics) asked whether the words "A Party" at the beginning of the text suggested by the United Kingdom representative meant countries which prohibited cultivation generally or those which prohibited cultivation for illicit purposes only.

68. Mr. CHAWLA (India) said that, since the title of article 22 read "Special provision applicable to cultivation" and the text itself referred to cultivation, he would like to know whether the term "cultivation" included wild growth. Wild coca bushes were dealt with in article 26.

69. The CHAIRMAN said that the representative of France had already suggested that the Committee vote
on the principle whether article 22 should be amended in such a way as to cover wild plants.

70. Mr. OLIVIERI (Argentina) said he preferred to vote on a text.

71. Mr. WARNANT (Belgium) said he thought the French suggestion was a sensible one.

72. Mr. OLIVIERI (Argentina) suggested that the United Kingdom, New Zealand and Argentine representatives should try to work out a joint text for submission to the Committee.

73. Mr. JIMÉNEZ HERNÁNDEZ (Spain) said he agreed with the Argentine representative.

74. Mr. MILLER (United States of America) said that, as far as voting on the principle of destroying wild plants was concerned, it was necessary also to consider whether such a provision fitted logically into article 22. He did not think so. There was no particular problem as far as wild opium poppies were concerned, and coca bushes were dealt with in article 36, so that article 28 would be the most suitable place for the provision, if indeed it belonged in the 1961 Convention at all.

75. Mr. BRAY (Australia) said that the destruction of wild plants should be dealt with in article 28, but the expression “or horticultural purposes” in article 28, paragraph 2, would provide an opportunity for circumventing the principle.

76. The CHAIRMAN said the Committee was not empowered to consider article 28.

77. He suggested that the representatives of Argentina, New Zealand and the United Kingdom consult together and submit a joint text for article 22.

It was so agreed.

The meeting rose at 12.50 p.m.

FIFTEENTH MEETING

Thursday, 16 March 1972, at 2.45 p.m.

Chairman: Dr. BÖLCS (Hungary)

Consideration of all amendments proposed to the Single Convention on Narcotic Drugs, 1961 (item 11 of the Conference agenda) (continued) (E/CONF.63/5)

ARTICLE 27 (Additional provisions relating to coca leaves) (E/CONF.63/6)

1. The CHAIRMAN said that, pursuant to the decision taken by the Conference at its 5th plenary meeting, Committee II would consider the proposal to amend article 27, submitted by Peru. The proposal had been submitted to the Commission on Narcotic Drugs at its twenty-fourth session (E/CONF.63/2)1 and was now presented in revised form in document E/CONF.63/6.

2. Dr. MONTERO (Peru), introducing his delegation’s proposal to amend article 27, said that coca leaf chewing in Peru was a social problem resulting from the low standard of living of the workers in the mountainous regions where the coca leaf was cultivated. The Government had recently adopted agrarian reform measures which provided that land should be used only for social purposes, and was confident that its policy would help to raise the standard of living of the rural population and ultimately to eliminate coca addiction. To be successful, however, those measures needed understanding and co-operation at the international level, since the problem was not merely a domestic one.

3. One of the objects of the proposed amendment was to restrict the export of coca leaf alkaloids extracted in the process of preparing a flavouring agent. By engaging in international trade in alkaloids themselves, Peru and other coca producing countries hoped to be able to obtain the resources necessary for economic and social reforms which would help to improve conditions in the coca growing areas and thereby assist control of the illicit traffic. The proposed amendment should be viewed in the context of the total national and international effort of the developing and developed countries together. In view of its limited effects, he hoped that the developed countries would be able to accept it. It represented an effort to deal with the problem of illicit traffic at its source, which was more logical than spending large sums on repressive measures.

4. The proposal for the destruction of surplus quantities of alkaloids would, he believed, be more effective than the provisions of the article 27 of the 1961 Convention at present in force, for the international control of alkaloids, since it was a preventive measure.

5. His Government considered that the proposed amendment was within the competence of the present Conference because it came within the scope of the objectives and principles of the 1961 Convention, namely, to prevent and combat drug addiction at its source. There was no question of establishing a monopoly; the amendment did not encourage any restrictive trade practice. He believed that opposition to the amendment was inspired by minor commercial interests. His Government was confident that it could meet normal requirements for coca leaf alkaloids.

6. Mr. de ACHA PRADO (Bolivia) said that his delegation supported the Peruvian amendment.

7. Mr. STEWART (United Kingdom) said that, although the volume of trade involved was comparatively small, the Peruvian amendment was important because it introduced a principle which, if applied in all fields, would have consequences that no one desired.

8. Referring to the Peruvian delegation’s explanatory note to its original amendment (E/CONF.63/2), he said that no one would quarrel with the sentiment expressed in the first paragraph; but the first sentence of the second paragraph gave cause for great concern because, if opium which substituted for coca leaf, a principle would be enunciated that only opium-producing countries should manufacture and export opium alkaloids. Broadly stated, the Peruvian proposal was: “No country shall manu-

1 See Official Records of the Economic and Social Council, Fifty-second Session, Supplement No. 2 (E/5082), annex VII.
facture coca leaf alkaloids and export them unless it itself produces coca leaf”.

9. Some years ago, the United Kingdom had imported coca leaf and manufactured cocaine. For certain reasons, it had in recent years imported crude cocaine from the United States of America and had manufactured and exported cocaine and cocaine preparations. If there were any other countries in the world market exporting crude cocaine, the United Kingdom would consider prices and offers to see if they were competitive with those of the United States of America, but no Peruvian concern had ever made a competitive offer.

10. There was only one United Kingdom enterprise importing crude cocaine and manufacturing cocaine and cocaine preparations and, as far as he was aware, only one United States enterprise importing coca leaf from Peru for the purpose of obtaining a flavouring agent and extracting crude cocaine for export. He would be surprised if the value involved exceeded 200,000 dollars. The Committee was not therefore dealing with an issue of great economic importance, but it was dealing with a principle which was radical, far-reaching and basic to the contents of the treaty, and one on which Governments should reflect very seriously before accepting it as a treaty obligation. If it were accepted, the corollary would be that opium producers alone should have the right to manufacture and export opium.

11. According to the “Statistics on Narcotic Drugs for 1970”, published by INCB, cocaine seizures for 1970 totalled 347 kgs, 80 in Chile, 2 in Panama, 24 in Peru and 241 in the United States of America. It was therefore clear that there was very little illicit traffic in cocaine in the United Kingdom or any of its metropolitan territories to which cocaine preparations were exported. He would like to ask the Peruvian representative, first, whether he could provide any evidence that cocaine extracted in the United States of America from coca leaf imported for the purpose of producing a flavouring agent was entering the illicit traffic; secondly, whether the 24 kgs seized in Peru in 1970 were from United States manufacture; thirdly, whether he had any views on the provenance of the 241 kgs seized in the United States of America; fourthly, whether he knew of any evidence that crude cocaine manufactured in the United States of America and exported to Europe had entered the illicit traffic; and lastly, whether he could say if cocaine exported from Western Europe to other countries was also entering the illicit traffic. The Committee would then be in a better position to judge the effect of the Peruvian amendment on legitimate trade and on the illicit traffic.

12. The United Kingdom Government fully supported the Peruvian or any other Government in its efforts to stop the illicit traffic in cocaine; but as a country with long experience of manufacture and export, it could as yet see no evidence that its own activities, or those of its industrial establishments supplying raw material, were causing any degeneration in the situation regarding illicit traffic in cocaine.

13. Mr. MAWHINNEY (Canada) said that he had little to add to the United Kingdom representative’s arguments. He could appreciate the motive for the Peruvian proposal and understand Peru’s anxiety to develop a viable domestic industry; but the 1961 Convention was not the appropriate place for the amendment. The amendment might have been understandable had there been a problem of diversion, but the statistics quoted by the United Kingdom representative showed that there was none.

14. His main difficulty with the proposed amendment was that it was aimed not at the illicit traffic but at the export of cocaine and cocaine preparations. The measure it proposed was undesirable in itself and would set an unfortunate precedent for other fields of drug abuse control. Canada, like the United Kingdom, had an economic interest in the matter and feared that the incorporation of such an amendment in the 1961 Convention would disrupt its sources of supply of medical cocaine. His delegation would therefore oppose it.

15. Mr. MILLER (United States of America) said that the United States of America was seriously affected by the illicit traffic in cocaine. In 1971, the Government had seized over 600 lbs. of cocaine but none of it had been traceable to the legitimate processing of coca leaf in the United States. The only diversion of cocaine reported had resulted from burglaries from pharmacies and hospitals. Intelligence reports indicated that all illicit cocaine was produced in other countries, where clandestine laboratories were operated.

16. There were stringent laws in force in his country governing imports of coca leaf for legitimate scientific and medical purposes, in other words, for the production of cocaine, and imports of special coca leaf for flavouring purposes. There was also a very strict quota control of cocaine production. In 1971, United States coca leaf requirements had been estimated at about 485,000 kilogrammes, all for legitimate scientific medical purposes. Estimates for 1972 showed coca leaf requirements at nearly 9 million kilogrammes, of which about 8-1/4 million kilogrammes would be used for coca leaf chewing. Very little of that 9 million kilogrammes’ production would therefore ever get into the possession of the United States Government, and when it did, it would be subject to strict control.

17. If his delegation thought that the proposed amendment would help to limit illicit traffic, it would be the first to support it. He did not, however, see how it could have any such effect, since illicit traffic originated in clandestine laboratories in areas where the coca leaf was readily available. He would therefore be obliged to vote against the amendment.

18. Mr. WATANABE (Japan) said that Japan did not import coca leaves but his delegation could not support the amendment, because according to domestic law it was not possible to enforce the destruction of the extra quantities of the alkaloids concerned. Moreover, even looking into the future, he could not see many prospects of that being done, in view of his country’s legislative policy.

19. Dr. MONTERO (Peru) said he wished to make it clear that he had never suggested that there was any
diversion into the illicit traffic of cocaine exported from the United States to such countries as the United Kingdom or the Federal Republic of Germany, for instance. In fact, Peru itself was perhaps one of the possible sources of the cocaine moving in the illicit traffic. At the same time, Peru was faced with the coca-chewing problem, which had its origin in the poverty of the rural inhabitants of the Andean highlands. The Peruvian amendment was designed to procure some additional resources which, within the general framework of international assistance to Peru, might help to improve the standard of living of those rural populations.

20. In his view, it was perfectly consistent with the purposes of the 1961 Convention to propose the establishment of a monopoly of the export of certain alkaloids for the benefit of the raw-material producing countries. He could not accept the United Kingdom's representative's argument on competitive prices; as far as dangerous substances were concerned, problems could not be viewed purely according to commercial criteria. The fact that Peru could not guarantee supplies at competitive prices was not a decisive argument against his proposal regarding article 27.

21. It would have been perfectly feasible for his country to adopt purely national measures making it compulsory to manufacture the flavouring agent in question in Peru itself. His Government had preferred not to adopt such extreme measures, but to make instead the more moderate proposal now under discussion.

22. Mr. BRAY (Australia) said that he was puzzled by the real extent of the problem which appeared to have prompted the Peruvian delegation to make its proposal. His delegation was fully in accord with the expressed desire of the Peruvian delegation to control the illicit use of the alkaloids processed from coca leaf; it was for that reason that his delegation would appreciate some assistance from the Peruvian delegation in identifying where the diversion from licit to illicit use took place.

23. Mr. GUILLOT (Cuba) said he supported the Peruvian proposal, which did not conflict in any way with the terms of the 1961 Convention and offered an additional means of control of narcotic drugs.

24. Mr. STEWART (United Kingdom) said that, following the admission by the Peruvian representative that there was no diversion into the illicit traffic from United States exports to the United Kingdom and other countries, he failed to see how the Peruvian proposal could in any way affect the illicit traffic in cocaine. The "Statistics on Narcotic Drugs for 1970" showed that in 1970 Peru had exported 287,731 kilogrammes of coca leaves, all of them to the United States of America, and that the United States had in its turn exported 737 kilogrammes of cocaine, all of it to three countries, the Federal Republic of Germany, France and the United Kingdom. The cocaine in question was a by-product obtained from the preparation of a flavouring agent for a soft drink and it represented the excess over domestic requirements.

25. If the Peruvian amendment were adopted, the effect would be that any crude cocaine produced by the United States in excess of its domestic requirements would have to be destroyed. Such destruction would not have any effect on the illicit traffic, since it was admitted that there was no diversion from United States exports into the illicit traffic, but it would adversely affect the supply of cocaine for medical and scientific purposes.

26. It was stated in paragraph 73 of the "Statistics on Narcotic Drugs for 1970" that total world consumption of cocaine had amounted to 1,018 kilogrammes in 1970, an increase of 43% as compared with 1969 but a lower figure than in previous years. In the light of those figures of cocaine production and United States exports, he would ask the Peruvian representative to explain how the illicit traffic could be reduced by eliminating United States exports to the Federal Republic of Germany, France and the United Kingdom. He would also ask whether the Peruvian Government had made any preparations to replace from its own resources the exports by the United States to those three European countries.

27. Mr. PRAWIROSUJANTO (Indonesia) said that Indonesia, which was a coca leaf producing country, could not accept the Peruvian amendment. If that amendment were adopted, his country would not be able to export the raw cocaine produced, as a by-product of the preparation of a flavouring agent, in excess of its small domestic requirements.

28. Mr. SCHNEKENBURGER (Federal Republic of Germany) said that there was only one producer of cocaine in his country and production was subject to stringent quota controls. The attitude of his delegation would depend on the replies by the Peruvian representative to the questions asked by the United Kingdom representative.

29. Dr. POGADY (Czechoslovakia) said that, although it agreed that, by virtue of its economic sovereignty, every country was entitled to plan its domestic production of alkaloids, his delegation would have to abstain from voting on the Peruvian amendment, unless it could obtain further clarification as to its implications. If the system proposed in the amendment were applied to other drugs, it would mean that an opium-importing country would be prevented from producing morphine for export.

30. Dr. MONTERO (Peru), replying to the United Kingdom representative, said that under the Peruvian amendment coca leaf producing countries would become the only suppliers of crude cocaine to the European countries mentioned; they would thus replace the United States as the exporter. In the case of Peru, it was hoped that the resources thus obtained would assist the Government in its efforts to overcome its social and economic problems, including that of coca leaf chewing. The Peruvian amendment was consistent with the spirit of the new article 14 bis on the subject of technical and financial assistance to the developing countries, approved by the Committee (E/CONF.63/C.2/L.10), and he appealed to the understanding of the delegations of the developed countries to accept it.

31. Mr. MILLER (United States of America) said that the Peruvian amendment, if adopted, would give the cultivating countries a virtual monopoly of cocaine exports. If the proposition that such a monopoly would help those countries financially and would also contribute to stopping the illicit traffic was valid, it would be
extremely interesting to apply it to the opium poppy; he did not believe, however, that the proposition was valid.

32. From the financial point of view, the estimate of 200,000 dollars given by the United Kingdom representative was much too high. Moreover, it was highly doubtful whether, with a declining market in cocaine and its declining use in medical practice, where it was being replaced by synthetic drugs, a producing country could guarantee to keep open a factory to supply the dwindling world medical needs in cocaine.

33. Mr. STEWART (United Kingdom) said that the Peruvian representative had not really answered his questions, including the question whether, in the event of the adoption of the amendment, Peru could guarantee to supply world requirements. The Peruvian representative had said that the creation of a monopoly would help to stop the illicit traffic. But if the export of coca leaves from Peru involved a danger of illicit traffic and thus of drug abuse, why did Peru not prohibit their use as a flavouring agent?

34. With regard to the dimensions of the problem, the United States representative had pointed out that the estimate of 200,000 dollars that he had mentioned was too high. In that case, it must be extremely doubtful whether an annual turnover of some 100,000 dollars would have any impact at all on the serious problem of illicit traffic.

35. Dr. MONTERO (Peru), replying to the United States representative, said that Peru was capable of maintaining a factory supplying cocaine to meet the medical and scientific needs of the whole world. Such a factory already existed in Peru and had no difficulty in covering the small licit domestic requirements.

36. In reply to the United Kingdom representative, he said that the proposal had both economic and preventive aspects, since it represented an attempt to attack the illicit traffic at the place of origin of the drug; in the case of coca leaf production, the countries of origin needed additional resources in order to be able to deal with the problem. It had been suggested during the debate that the resources arising under the amendment would be insignificant and that the Peruvian proposal should be submitted in some other context if its aim was to obtain additional funds for economic and social purposes. Of course, the benefits of the amendment might indeed be insignificant if considered in isolation, but in the framework of other international activities, they could have a considerable impact.

37. Mr. STEWART (United Kingdom) said he could not reconcile the deliberate attempt to interfere with trade patterns, which was inherent in the Peruvian amendment, with the proposition that the creation of a monopoly would help to eliminate the illicit traffic. Even if that proposition were acceptable, surely the best way of eliminating the illicit traffic would be for Peru to cease coca leaf exports to the United States altogether; there was no need to amend an international convention or to work through the complex procedure of a plenipotentiary conference to take that simple action.

38. It was clear that the adoption of the amendment would make no significant impression on the illicit traffic. Since it had been admitted that crude cocaine from the United States did not contribute to that traffic, there seemed to be no reason why the alkaloids derived from it should be destroyed, and it had also been shown that coca leaves imported into the United States did not affect the traffic. The claim that the diversion of the export trade in cocaine from the United States to Peru would suffice to improve the economic and social condition of the Andean Indians seemed highly dubious.

39. The attempt to have a trade advantage written into an international treaty was contrary to the spirit of the 1961 Convention and the instruments which had preceded it. His delegation would be obliged to vote against the Peruvian amendment.

40. The CHAIRMAN put the revised Peruvian amendment to article 27 (E/CONF.63/6) to the vote. The Peruvian amendment was rejected by 17 votes to 3, with 35 abstentions.

41. Mr. CHAWLA (India), explaining his vote, said that his delegation had abstained in the vote, first, because it had expressed grave doubts in its general statement at the 2nd plenary meeting of the Conference as to the need for any amendments to the 1961 Convention and secondly, because the Peruvian amendment raised certain questions of principle which might be extended to other natural drugs, such as the opium poppy.

The meeting rose at 5 p.m.

SIXTEENTH MEETING

Friday, 17 March 1972, at 9.55 a.m.

Chairman: Dr. BÖLCS (Hungary)

Consideration of all amendments proposed to the Single Convention on Narcotic Drugs, 1961 (item 11 of the Conference agenda) (continued) (E/CONF.63/5 and addenda)

ARTICLE 22 (Special provision applicable to cultivation) (continued*) (E/CONF.63/5, E/CONF.63/C.2/L.12)

1. The CHAIRMAN invited the Committee to consider the amendment submitted by Argentina and New Zealand (E/CONF.63/C.2/L.12) to the text of the joint proposal to amend article 22 (E/CONF.63/5). The final sentence in the English version of document E/CONF.63/C.2/L.12 should be underlined.

2. Mr. ABDO-GHANEM (Lebanon) proposed the addition at the end of sub-paragraph (a) of the second paragraph of the text of article 22 as proposed by Argentina and New Zealand of the words "or unless the seizure operation would be harmful to the Party concerned". In his delegation's opinion, the economic cost and political and social consequences should not be dispropor-
tionate to the results which might be expected from the seizure. In Lebanon, cannabis was cultivated in a remote area inhabited by a semi-nomadic, traditionally warlike population. Lebanon had done its best gradually to eliminate such cultivation, which was traditional. The proposed sub-paragraph (a) would oblige it to start an open conflict with the tribes in that area, with incalculable consequences. The original suggestion made by the United Kingdom representative (14th meeting) had been considerably more flexible.

3. Mr. ABSOLUM (New Zealand) said that the text before the Committee had been based on the assumption, which both he and the Argentine representative considered valid, that some provision for wild growth should be made in the 1961 Convention and that that provision should be made in article 22. They saw no reason why article 22 should not be broadened to include wild growth. The proposed title of the article had been worded accordingly. The words "and harvest" had been inserted in the first sentence of the proposed text of the article, to take account of a point made by the French representative (14th meeting). The rest of the text broadly followed the test suggested by the United Kingdom representative.

4. He was rather surprised at the Lebanese representative's comments. He had thought that the words "all practicable measures" would have met the difficulties of countries like Burma and Lebanon in tracking down wild growth. He was quite ready to replace the word "practicable" by "possible".

5. The words "subject to ecological considerations" had been included in sub-paragraph (b) of the proposed second paragraph to meet a point made by the United States representative at the 14th meeting.

6. The last sentence of the amendment covered a point made by the representative of Argentina. He considered it entirely valid and felt that it made article 22 consistent with the rest of the 1961 Convention.

7. Mr. HOOGWATER (Netherlands) said that, although he would abide by the majority decision on the proposed amendment, personally he found it far from logical. To begin with, the first sentence stated that, if a country wished simply to prohibit cultivation it was free to do so. That statement, however, was then qualified by the provisions of the second sentence. Did that mean that a country which simply wanted to prohibit cultivation would be unable to do so unless it fulfilled certain other conditions? If so, it would make prohibition more difficult. Next, the first sentence stated that a Party could prohibit cultivation if, "in its opinion", that was the most suitable measure for protecting the public health and welfare; but opinions changed. If a country changed its opinion, was it no longer bound to prohibit cultivation? Again, did the phrase "unless they are required for lawful medical or scientific purposes" in sub-paragraph (a) of the second paragraph mean in the Party's own country? If it did, the fact should be made clear or else the Party concerned would be free to export illicitly cultivated plants to another country for lawful medical or scientific purposes.

8. Mr. ADAMS (Sierra Leone) said that conditions in Sierra Leone were ideal for the growth of the cannabis plant, both cultivated and wild. It was cultivated deep in forest areas, so that the authorities had difficulty in locating it. The Government had therefore concentrated on seizing the harvested crop when it reached more civilized areas and destroying it whenever possible. No one would question the use of seized cannabis for medical purposes, but Sierra Leone lacked the technical knowledge to use it, except in the preparation of simple medications. At the present time, cannabis smoking had far outstripped the use of cannabis for medical purposes.

9. The opium poppy and the coca bush did not grow in Sierra Leone and it had found the provisions of the 1961 Convention perfectly satisfactory. However, his delegation would have no difficulty in accepting the proposed amendment.

10. Mr. OLIVIERI (Argentina), replying to the comments by the Netherlands representative, said that the intention of the sponsors of amendment E/CONF.63/C.2/L.12 was that each country should apply the measures stipulated in the light of its own circumstances. The phrase "unless they are required for lawful medical or scientific purposes" should be read in conjunction with the third paragraph of the amendment which ensured the necessary control.

11. He was quite prepared to replace the word "practicable" at the beginning of the second paragraph by the word "possible" if that would meet the Lebanese representative's point.

12. The phrase "subject to ecological conditions" in sub-paragraph (b) of the second paragraph was very broad, covering both geographical conditions generally and different conditions in different countries.

13. Mr. ABDO GHANEM (Lebanon) said he would be satisfied if the word "practicable" were replaced by the word "possible" and he accordingly withdrew his proposal.

14. Miss SHILLETTO (Jamaica) said that, while her delegation had been satisfied with the text of article 22 as set out in document E/CONF.63/5 and with the text suggested by the representatives of the United Kingdom and New Zealand, if the latest amendment satisfied the majority of the members of the Committee, she would support it.

15. She was not sure, however, that the words "and harvest" in the first sentence were well placed. How could the conditions prevailing in a country render the prohibition of the harvest of the opium poppy, coca bush or cannabis plant the most suitable measure? They might be better at the beginning of the second paragraph in the sentence beginning "A Party prohibiting cultivation . . .". With regard to the comment by the Netherlands representative on sub-paragraphs (a) and (b), Jamaica had exported small quantities of cannabis to the United States for lawful medical and scientific purposes and would therefore prefer that the phrase "unless they are required for lawful medical or scientific purposes" should remain unchanged.

16. Mr. MILLER (United States of America) said he had not changed his view that a provision relating to wild growth was not appropriate in article 22. Moreover, since its inclusion in article 22 involved a substantial
departure from the text of the original joint proposal for article 22, the amendment ought, in his opinion, to have been submitted by 4 p.m. on 13 March. He asked the Legal Adviser to the Conference whether the Committee was entitled to consider it.

17. Mr. RATON (Deputy Legal Adviser to the Conference) said that amendments of a substantive nature should have been submitted by 4 p.m. on 13 March. Cultivation involved human activity and wild growth did not, so that the amendment contained in document E/CONF.63/C.2/L.12 might be considered a new substantive proposal. It was for the Committee to decide whether it considered the amendment was in fact a new proposal. If it did not, it was authorized to discuss it.

18. Mr. CHAWLA (India) said he considered that the amendment was a new proposal. The original amendment to article 22 in document E/CONF.63/5 had retained the title given in the 1961 Convention and had merely explained how the prohibition of cultivation should be enforced. The amendment proposed by Argentina and New Zealand departed substantially from the text of article 22 of the 1961 Convention by including wild growth in the article. Under paragraph 1 of article 47 (Amendments) of the Convention, the text of any amendment proposed and the reasons therefor had to be communicated to the Secretary-General, who then communicated them to the parties and the Economic and Social Council; that provision had not been complied with.

19. There were a number of other points to which he wished to draw attention.

20. He was surprised that the United States representative should have expressed sympathy with the New Zealand amendment. It was the duty of all sides to consider the amendment and then, if it was a new proposal, to decide whether it considered the amendment was in fact a new proposal. If it did not, it was authorized to discuss it.

21. Mr. DURRIEU (Argentina), referring to the procedural question raised by the United States and supported by the Indian representative, said that article 22 referred to the decision which a party might take, if it considered it desirable, to prohibit the cultivation of the opium poppy, the coca bush or the cannabis plant in order to protect public health and welfare. When a State took such a decision, it was because it believed that the growth of such plants should not be allowed in its territory. It therefore followed logically that the State would not desire to have such prohibited plants growing wild in its territory. The amendment proposed jointly by his delegation and that of New Zealand was in keeping with the spirit of the article and followed logically from the principle which had already been accepted. It complied fully with the rules of procedures of the Conference and there was, therefore, no procedural problem.

22. Mr. ABSOLUM (New Zealand) said his delegation considered that article 22 related to the question of growth, which included wild growth. Members should bear in mind the objective of the Conference, which was to assist efforts to combat illicit growth. He therefore appealed to delegations to cast aside narrow considerations of procedure and to examine the amendment proposed by his delegation and that of Argentina.

23. Dr. ALAN (Turkey) said he wondered whether the Committee was authorized to decide whether a question of substance was involved. The plenary Conference had allocated certain matters to the Committee and the Committee ought to follow its directions. His delegation would prefer a simple solution and could accept the proposal in document E/CONF.63/5, as amended by the New Zealand representative, but had doubts about the question now before the Committee.

24. Thus the 1961 Convention already covered those aspects of wild growth which could be dealt with and it was improper on those grounds also to include any reference to wild growth in article 22.

25. Mr. STEWART (United Kingdom) said that having listened to the views of delegations and of the Deputy Legal Adviser to the Conference, he was inclined to reject the idea that article 22 should be enlarged to include wild growth. To begin with, he saw no need for the words “and harvest” in the first paragraph of the amendment proposed by Argentina and New Zealand, since, if a party prohibited cultivation, there could be no harvest without illicit cultivation. Did the word “harvest” refer to the harvest of the opium poppy, or of the opium poppy, the coca bush and the cannabis plant? In his opinion, the words “and harvest” should be deleted because they merely served to create confusion in an otherwise clear sentence.

26. The Netherlands representative had made a very relevant point regarding the measures which a party should take. If the party found that it would have to take a series of other measures, it might decide against the prohibition of cultivation. The statement in sub-paragraph (b) of the second paragraph of the Argentina and New Zealand amendment presumably referred to the opium poppy and the cannabis plant, since article 26 dealt with the coca bush and coca leaves. Opium poppy
did not grow wild to any extent and its wild growth did not present any problem to the health and welfare of mankind. In his view, therefore, the provision relating to the wild growth of the opium poppy was superfluous. Sub-paragraph (b) must therefore refer essentially to the cannabis plant. Article 28 of the 1961 Convention referred exclusively to the control of cannabis. If the international community had wished to lay down certain requirements concerning the wild growth of the cannabis plant, the most logical place would have been in article 28 and he would have had no objection to the insertion of a provision regarding the wild growth of the cannabis plant in that article.

30. The United States representative and the Deputy Legal Adviser to the Conference had pointed out that, in attempting to bring the wild growth of the cannabis plant within the purview of article 22, the Committee would be acting contrary to the rules of procedure laid down by the plenary Conference and would in effect be attempting to amend article 28. The feeling in the Committee seemed to be against the adoption of the text proposed by the Argentine and New Zealand delegations as it stood. He noted that the word “practicable” had been replaced by the word “possible”, a modification acceptable to his delegation.

31. In order to meet the views of representatives who had expressed disagreement with the proposed Argentine and New Zealand amendment, his delegation wished to suggest the following sub-amendment. First, in the proposed new text of the article the words “and wild growth” should be deleted. Secondly, in the first sentence, the words “and harvest” should be deleted. Thirdly, the remainder of the article should be replaced by the following text: “A Party prohibiting cultivation of the opium poppy or the cannabis plant shall take all possible measures to seize any plants illicitly cultivated and to destroy them, unless they are required for governmental or scientific purposes”. With regard to the term “governmental”, the underlying concept was that illicitly cultivated plants would be seized by enforcement services which would be under the supervision of the Government, and that the seizures could be said to be in the possession of the central authority of the Government. The Government could then allow the plants to be used for scientific purposes if it so desired.

32. Dr. POGADY (Czechoslovakia) said that his delegation could not entirely agree with the original joint proposal. A proposal to destroy all wild plants involved the sovereignty of States. The Committee could not prescribe which measures a State should take in order to co-ordinate action to solve problems resulting from drug abuse in its own territory; that was a purely domestic matter. The Committee could not solve the domestic ecological problems of a State. There were many other toxic plants which grew wild and which should not be destroyed, since they could be used for medical and scientific purposes.

33. Mr. de CHIARA (Italy) said that while his delegation could support the positive elements of the Argentine and New Zealand amendment, a clear distinction should be drawn between measures concerning the various aspects of cultivation. It therefore wished to propose the following modifications to that text. The sentences underlined should be replaced by the following: “A Party prohibiting cultivation of the opium poppy or the cannabis plant shall take all possible measures to seize any plants illicitly cultivated and to destroy them, unless they are required for lawful medical or scientific purposes. A Party shall also prohibit the use, unless authorized for lawful medical or scientific purposes, of all plants that grow wild and shall destroy them, subject to ecological considerations.”

34. Another possibility would be to convert the part of the amendment relating to wild growth into a draft resolution. In that way, the Committee would be able to adhere closely to the original text of the joint proposal and also to meet the views of delegations that wished to have the question of wild growth mentioned in the records of the Conference.

35. Mr. ADAMS (Sierra Leone) said that the United Kingdom sub-amendment provided a simple and straightforward answer to the point raised by the United States delegation regarding the inclusion in article 22 of the question of wild growth. He supported the use of the word “governmental”, since law enforcement officers were responsible for the seizure or confiscation of narcotic drugs. Whether those drugs were destroyed, confiscated or used for scientific and medical purposes was a matter for decision by the Government concerned. Sub-paragraph (b) should be deleted. His delegation supported the United Kingdom sub-amendment.

36. Mr. OLIVIERI (Argentina) said that the word “harvest” had been included in amendment E/CONF.63/C.2/L.12 because a harvest was the result of cultivation. At the 14th meeting, the French representative had urged the inclusion of the term “harvest” and the amendment had therefore been designed to meet his point.

37. Sub-paragraph (b) of the second paragraph had been drafted to deal with the question of wild growth, and it should be noted that the opium poppy did grow wild. With regard to the remark by the United Kingdom representative, he would point out that article 28 spoke of parties that permitted the cultivation of the cannabis plant, while article 22 referred to the prohibition of such cultivation. The Argentine and New Zealand amendment sought to deal with the prohibition of the growth of certain plants.

38. With regard to the procedural question which had been raised, it should be appreciated that the sponsors had submitted their amendment to meet the request that an attempt should be made to work out a text expressing the views of the Committee. The point raised by the representative of Sierra Leone concerning the responsibility of Governments was covered in the proposed amendment, when it made it clear that the party concerned would take whatever measure was, in its opinion, most suitable for protecting the public health and welfare. It was for the party concerned to decide what action should be taken and the proposed amendment imposed no obligation.

39. The amendment included the question of wild growth because, if States wished to prohibit cultivation, it was natural that they should also wish to prohibit the
use of wild growth. Sub-paragraph (b) of the second paragraph should be retained, since it was a natural consequence of the preceding provision. The sponsors had included the last paragraph because they wished to make it clear that the Board should be informed of any illicitly cultivated or wild plants used for lawful medical or scientific purposes. His delegation was prepared to accept the word "governmental", provided the last paragraph was retained, but would prefer the expression "lawful and governmental".

40. Mr. HOOGWATER (Netherlands), on a point of order, asked the Chairman to rule on the question whether it was in order for the Committee to discuss wild plants.

41. The CHAIRMAN invited the Committee to vote on the question whether it was competent to enlarge the scope of article 22 to cover the question of wild growth.

42. Mr. PONZ MARIN (Spain) said that his delegation considered the question to be a logical consequence of the principle of prohibiting illicit cultivation and that the Committee was accordingly competent to include the question of wild growth in article 22. His delegation would vote in favour of its inclusion.

43. Mr. MILLER (United States of America) said he was still not convinced that the Committee was authorized to consider what he believed to be new material. His delegation was not opposed to the concept that a country should destroy such plants found growing wild. Indeed, under United States law, the Attorney-General was authorized to undertake eradication programmes for destroying wild species from which certain drugs could be extracted. His delegation could not, however, support the proposal to introduce the question into article 22. His delegation would vote against the proposal.

44. Mr. BARONA LOBATO (Mexico) said that his delegation would vote against the Argentine and New Zealand amendment, since it departed widely from the original text of the joint proposal and introduced a series of entirely new factors which the Committee was not entitled to discuss.

45. Mr. MAZOV (Union of Soviet Socialist Republics) said that the 1961 Convention did not refer to the question of wild growth and there was therefore no justification for the introduction of new elements concerning wild growth in article 22. Moreover, his delegation was not convinced that the solution which the sponsors proposed for the problem of wild growth was correct, since the total destruction of wild plants would be a difficult, if not impossible, task. The objectives of the 1961 Convention should be within the possibilities of States.

46. His delegation was opposed to the inclusion of the question of wild plants in article 22. On the other hand, the United Kingdom sub-amendment might provide a basis for agreement.

47. Mr. MAWHINNEY (Canada) said that the inclusion of wild growth in article 22 or in any other article of the 1961 Convention posed no problem for his country, though the point raised by the United States representative had considerable merit. His delegation had doubts regarding the procedural issue and would abstain in the vote.

48. Mrs. OLSEN de FIGUERAS (Costa Rica) said that her delegation would vote in favour of the proposal, since the wild growth of cannabis was a subject of concern for many countries, including her own.

49. Dr. CARVALLO (Venezuela) said that he supported the Argentine and New Zealand proposal, although he had some doubts as to whether the Committee was authorized under its terms of reference to deal with the question of wild growth in connexion with article 22.

50. Mr. GUILLOT (Cuba) said that, although his Government was firmly committed to the eradication of the illicit traffic, his delegation would have to abstain from voting on the question put by the Chairman.

51. Mr. BRAY (Australia) proposed that, rather than take a vote in the present atmosphere of doubt, the Committee should refer the matter immediately to the plenary Conference.

52. Mr. de CHIARA (Italy) and Mr. DURRIEU (Argentina) said that they shared the Australian representative's view.

53. Mr. RATON (Deputy Legal Adviser to the Conference), in reply to a question by the Chairman, said that in his opinion the question whether the Argentine and New Zealand proposal went beyond the terms of reference of the Committee was one which could be decided by the Committee itself. Personally, since the Committee already had a mandate to deal with article 22, he did not see why it should be necessary to refer the matter to the plenary Conference.

54. Dr. CARVALLO (Venezuela) said that, in view of the importance of the matter under discussion, he felt that the question should be decided by the plenary Conference.

55. Mr. HOOGWATER (Netherlands) said that rule 44 (Conduct during voting) of the rules of procedure of the Conference read: "After the President has announced the beginning of voting, no representative shall interrupt the voting except on a point of order in connexion with the actual conduct of the voting". Since the Chairman had already invited the Committee to vote, it should do so immediately.

56. Mr. MAZOV (Union of Soviet Socialist Republics) said that his delegation agreed with the Australian representative that the Committee should refer the matter to the plenary Conference.

57. The CHAIRMAN invited the Committee to vote forthwith on the proposal that it be considered competent to enlarge the scope of article 22 by including a reference to wild growth.

The proposal was rejected by 10 votes to 9, with 31 abstentions.

58. Mr. ABSOLUM (New Zealand) said that he was prepared to modify the Argentine and New Zealand amendment E/CONF.63/C.2/L.12 in accordance with the sub-amendment proposed by the United Kingdom. The second sentence of the amendment would then read: "A Party prohibiting cultivation of the opium poppy or the cannabis plant shall take all possible measures to seize any plants illicitly cultivated and to destroy them,
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unless they are required for governmental or scientific purposes”.

59. Mr. DAZOCLANCLOUNON (Dahomey) said that his delegation would vote against the Argentine and New Zealand amendment, because in its opinion “wild growth” was impossible to locate.

60. Mr. BARONA LOBATO (Mexico) said he could agree that seized plants might be retained for scientific purposes or for evidence in court.

61. He hoped the Drafting Committee would bring the Spanish version of amendment E/CONF.63/C.2/L.12 more closely into line with that of the original joint proposal relating to article 22 (E/CONF.63/5).

62. Mr. DURRIEU (Argentina) formally proposed that the Committee vote on the question whether it was necessary to appeal to the plenary Conference to decide whether the Committee was competent to deal with the question of wild growth in connexion with article 22.

63. Mr. RATON (Deputy Legal Adviser to the Conference) said that the question of the Committee’s competence had already been decided by a vote; he personally did not see how the Committee could now refer the matter to the plenary Conference, except by reconsidering its decision by a two-thirds majority.

64. Mr. CHAWLA (India) said he hoped that the sub-amendments proposed by the United States, the United Kingdom and New Zealand would be submitted in writing. In particular, with regard to the oral sub-amendment by New Zealand, he had some difficulty over the precise meaning of the expression “governmental or scientific purposes”, which might cover special stocks, goods for export, or consumption within the country itself.

65. Dr. CARVALLO (Venezuela) proposed that the Committee vote on the question whether the inclusion of wild growth in article 22 was a matter to be decided by the plenary Conference. If the Committee decided that it was not, he reserved the right, in view of the importance of the matter, to raise the question in the plenary Conference.

66. The CHAIRMAN said that the Committee had already decided that it was not competent to enlarge the scope of the provisions of article 22 to include wild growth. The Committee could, however, vote on the question whether article 22 should be referred to the plenary Conference.

67. Mr. STEWART (United Kingdom) said that the proposal in question had already been rejected by the Committee and, under rule 27 (Reconsideration of proposals) of the rules of procedure, could not be reconsidered except by a decision taken by a two-thirds majority of the representatives present and voting.

68. Dr. CARVALLO (Venezuela) said that, in his opinion, the Committee could refer article 22 to the plenary Conference by a simple majority.

69. Mr. HOOGWATER (Netherlands) said that that was correct, but if the Committee merely rephrased the original proposal which had already been voted on and then referred it to the plenary Conference, a two-thirds majority would be necessary.

70. Mr. DURRIEU (Argentina) said that he agreed with that view.

71. Mr. TANŒ (Ivory Coast) said that he could see no point in sending the matter back to the plenary Conference, since that would only complicate matters unnecessarily. On the other hand, he saw no reason why the Committee could not ask the plenary Conference to extend its terms of reference to include the question of wild growth.

The meeting rose at 1.10 p.m.

SEVENTEENTH MEETING

Friday, 17 March 1972, at 3.10 p.m.
Chairman: Dr. BÖLCS (Hungary)

Consideration of all amendments proposed to the Single Convention on Narcotic Drugs, 1961 (item 11 of the Conference agenda) (concluded) (E/CONF.63/S and addenda)

ARTICLE 22 (Special provision applicable to cultivation) (concluded) (E/CONF.63/5, E/CONF.63/C.2/L.12)

1. Mr. CHAWLA (India), recapitulating the various decisions that had led to the procedural situation in which the Committee now found itself, said that the difficulty was largely due to the fact that preventive action with regard to the wild growth of the coca bush and cannabis was covered by articles 26 and 28, to which no amendments had been proposed. Because the subject was covered elsewhere, the Committee had decided by a simple-majority vote (16th meeting) that wild growth did not fall within the purview of article 22. There was now a proposal to refer the question back to the plenary Conference; he believed that it would be undesirable to refer article 22 as a whole to the plenary Conference, when there were substantive amendments that the Committee could still consider, thus saving valuable time for the Conference. He therefore proposed that the debate on referring the question to the plenary Conference should be closed; he requested that the substantive amendments should be considered in Committee II and that those substantive amendments should be submitted in writing.

2. Mr. OLIVIERI (Argentina) said that certain delegations had abstained in the vote on the Committee’s competence to discuss wild growth because they had understood that there would be a subsequent vote on referring the question to the plenary Conference. If the Committee did not now take that vote, but instead considered the substantive amendments, leaving until later the decision on whether the question should be referred to the plenary Conference, those who were in favour of the Argentine and New Zealand amendment to article 22 (E/CONF.63/C.2/L.12) would be placed in a difficult position.
Dr. CARVALLO (Venezuela) said that the question of competence ought to be decided, not by the Committee itself, but by the plenary Conference. Indeed, the discussion that had been begun on the United Kingdom amendments had been interrupted by a delegation which had invoked rule 35 of the rules of procedure of the Conference (Decisions on competence). Subsequently, rule 37 (Reconsideration of proposals) had been invoked, and it had been said that a two-thirds majority was required in order to refer the question to the plenary Conference. On the other hand, rule 39 (Application to Committees) and paragraph 2 of rule 41 (Required majority) showed that a simple majority would suffice for that decision. Accordingly, the Committee should decide to close the procedural debate and apply to the plenary Conference for authority to discuss the question of wild growth within the context of article 22.

Mr. MILLER (United States of America) said he agreed with the Indian representative that it would be undesirable to refer to the plenary Conference a question on which the Committee had taken a decision by a majority vote. From the procedural point of view, any proposal to reconsider that decision would have to be adopted by a two-thirds majority. The argument that a request to the plenary Conference for authority to consider wild growth in connexion with article 22 was not tantamount to the reconsideration of the same question by the Committee was oversophisticated.

Mr. STEWART (United Kingdom) said he entirely agreed with the Indian representative concerning the idea of reversing the Committee's decision. The reason why the Argentine representative wanted the plenary Conference to authorize the Committee to consider the question of wild growth was obviously that he wished to persuade the Committee to adopt amendment E/CONF.63/C.2/L.12. But all the articles would in due course be examined by the plenary Conference, and the Argentine representative could surely argue the case for his amendment there. The United Kingdom would have no objection to a vote on the question of referral, but would vote against such a motion.

The CHAIRMAN said that he had consulted the Legal Adviser to the Conference on whether the question of referring the Committee's decision to the plenary Conference required a two-thirds majority. In accordance with the advice he had received, he would rule that it did. To eliminate that difficulty, he proposed that the Committee should decide by a simple majority to consider the Argentine and New Zealand amendment with the United Kingdom and Lebanese sub-amendments submitted orally at the 16th meeting.

Dr. CARVALLO (Venezuela) asked why a two-thirds majority was required to refer the question to the plenary Conference when rule 41, paragraph 4, of the rules of procedure provided that all decisions of a Committee, sub-committee or working group should be taken by a majority of the members present and voting.

Mr. RATON (Deputy Legal Adviser to the Conference) said that, in view of the Committee's decision at the 16th meeting, referral of the question to the plenary Conference amounted to reconsideration of a proposal under rule 37 of the rules of procedure. Under rule 27 (Points of order), the Chairman's ruling should be put to the vote immediately.

Mr. DURRIEU (Argentina), speaking on a point of order, proposed that the vote should be taken on whether a two-thirds majority was required to refer the question of the Committee's competence to the plenary Conference.

Mr. HOOGWATER (Netherlands), speaking on a point of order, said that that proposal amounted to an appeal against the Chairman's ruling.

Mr. RATON (Deputy Legal Adviser to the Conference) confirmed that the Argentine motion was an appeal against the Chairman's ruling and said that it should be put to the vote immediately.

The CHAIRMAN put to the vote the Argentine motion that a vote be taken on the Chairman's decision that a two-thirds majority was required to refer the question of the Committee's competence to the plenary Conference.

The motion was defeated by 30 votes to 4, with 9 abstentions.

The CHAIRMAN put to the vote the proposal that the Committee should consider the Argentine and New Zealand amendment (E/CONF.63/C.2/L.12) with the United Kingdom and Lebanese sub-amendments.

The proposal was adopted by 32 votes to none, with 13 abstentions.

Dr. CARVALLO (Venezuela), explaining his vote, said that he had voted in favour of the Argentine motion and abstained on the Chairman's motion. He was prepared to discuss the proposed amendment in document E/CONF.63/C.2/L.12 but he considered that rules 27 and 35 and paragraphs 2 and 4 of rule 41 of the rules of procedure had been violated. He would make a statement on the subject in the plenary Conference.

Mr. OLIVIERI (Argentina) endorsed the comments of the Venezuelan representative.

The CHAIRMAN invited the Committee to consider the Argentine and New Zealand amendment to article 22 (E/CONF.63/C.2/L.12), as sub-amended orally by Lebanon and the United Kingdom.

In reply to a question from Mr. CHAWLA (India), Mr. ABSOLUM (New Zealand) said that, following the vote at the 16th meeting on the Committee's competence to discuss wild growth, his delegation was the only sponsor of the amendment in document E/CONF.63/C.2/L.12. The sub-amendments by Lebanon and the United Kingdom had been accepted.

The CHAIRMAN reminded the Committee that at the 16th meeting the Mexican representative had raised an objection to the word "Decomisar" ("Seize") in the Spanish text of sub-paragraph (a) of the second paragraph of the amendment.
20. Mr. PUNARO (Mexico) said that under Mexican law the word in question implied legal proceedings, not material seizure. Mexico would not wish to be party to any convention which did not permit the immediate seizure and destruction of illicitly cultivated plants. The Spanish text should be amended accordingly.

21. Mr. ABDO GHANEM (Lebanon) supported the views of the Mexican representative. The word "Confsquier" in the French text would have similar implications under Lebanese law.

22. Dr. ALAN (Turkey) agreed with the representatives of Mexico and Lebanon. The French and Spanish texts should be brought into line with the English sense of the word "seize".

23. Mr. WARNANT (Belgium) asked what was the exact meaning of the words "governmental purposes".

24. Mr. STEWART (United Kingdom) said that the words covered the possibility that a Government—which was superior to the enforcement agencies that would seize and destroy illicitly cultivated plants—might require some of the plants for its own purposes, for example to advance forensic science, or for comparison with other seizures. As long as the plants remained in government hands, there was no need to insist on their destruction. There was also the possibility that scientific institutions outside government control might need them for legitimate purposes such as scientific research, analysis or education. The greater part of illicit crops seized by the enforcement authorities would be destroyed immediately, but it was right that the article should make provision for such exceptions.

25. Mr. MILLER (United States of America) said that he was in favour of provision being made for the retention of some seized plants for governmental purposes, which might include use as evidence in criminal or civil cases and would also cover instructional purposes such as analysis by pharmaceutical or botany students, use by social workers or law enforcement officers and inclusion in "display kits" for lecturers on drugs and drug abuse. In scientific research, it might also be useful, for example, to compare such crops with those from other countries.

26. Mr. DURRIEU (Argentina) said that, although his delegation had originally been a sponsor of the amendment in document E/CONF.63/C.2/L.12, the deletion of the reference to wild growth in the text proposed by the United Kingdom and accepted by New Zealand had quite changed its nature. His delegation was now opposed to the text of that proposal, believing that in its present form it would weaken the 1961 Convention. In particular, it considered it essential to retain the last paragraph of the amendment, deleted in the new text proposed, which made plants used for lawful medical or scientific purposes subject to the provisions of the estimate system under the 1961 Convention.

27. He was also opposed to the reference to "governmental purposes". He did not agree with the United States representative's views on that subject. He would vote against the sub-amendment and support the original text of his proposal.

28. Mr. WARNANT (Belgium) said that the words "for governmental or scientific purposes" did not really convey the sense intended, as explained by the representatives of the United Kingdom and the United States of America. He proposed the words "for lawful purposes".

29. Mr. de ARAUJO MESQUITA (Brazil) said that his delegation had supported the original joint proposal in document E/CONF.63/5 and also supported the amendment in document E/CONF.63/C.2/L.12 as sub-amended. It was in favour of the latitude given to parties to the 1961 Convention by the words "in its opinion" in the second paragraph, which was consistent with the rest of the Convention. In that connection he mentioned articles 4, 23, 26 and 28 of the 1961 Convention. Parties were given the right to take appropriate action but were not compelled to do so. In Brazil, Act No. 69.845 of 1971, articles 3 and 5, provided for the implementation of provisions similarly worded. The amendment was based on the 1961 Convention as proposed in document E/CONF.63/5.

30. Mr. DAZOCLANCLOUNON (Dahomey) said that in general he supported the amendment in document E/CONF.63/C.2/L.12 but would abstain because of that part of the sub-amendment containing the term "governmental purposes", which was too vague.

31. Dr. CARVALLO (Venezuela) said that he agreed with the representative of Dahomey on the reference to the term "governmental purposes". He could not understand the decision to delete the last paragraph of the amendment. His Government was in favour of stricter control of drugs and more supervision by the Board. If seizure were to be used for governmental and scientific purposes, the Board should be kept fully informed.

32. In connexion with the Mexican representative's proposal concerning the Spanish version of the word "seize", he pointed out that the word "decomiso" was used in the Spanish version of article 20 of the 1961 Convention.

33. Dr. ALAN (Turkey) supported the Belgian sub-amendment.

34. Mr. ABSOLUM (New Zealand) said that he was willing to alter the wording of his amendment so as to replace the words "for governmental or scientific purposes" by the words "for lawful purposes", which were sufficiently wide to cover all the purposes intended.

35. Mr. WATANABE (Japan) supported the New Zealand amendment with that change of wording.

36. Mr. MILLER (United States of America) considered that there was general agreement that all measures had to be taken to destroy plants illicitly cultivated, unless they were required for some lawful purpose.

37. Mr. MUSEUX (France) said that he approved of the new wording "for lawful purposes". He for his part wished to propose that the words "or produced" should be inserted after the word "cultivated". That would have the advantage of creating for States an obligation to take measures for the destruction of an illicit crop regardless of what claims were made by an accused person. It was not uncommon for such a person to claim that plants had their origin in a wild growth. It was worth remembering that, at the 1961 United Nations Conference for the adoption of a Single Convention on
Narcotic Drugs, a great deal of thought had been given to the definition of the term "production" in article 1, paragraph 1 (r) of the 1961 Convention. His proposed wording was, moreover, much narrower than that originally proposed by Argentina, which would have called for the destruction of plants growing wild in the forests.

38. Mr. CHAWLA (India) said that his delegation could not accept the New Zealand amendment because of a number of difficulties due to the wording, which was ambiguous in places.

39. In the first place, a problem would arise because an opium poppy cultivation became a poppy straw crop after mowing; the New Zealand amendment would call for the destruction of the poppy straw unless required for a legitimate use, but that was not consistent with the system of the 1961 Convention, under which opium poppy was governed by the provisions of article 22 and poppy straw by those of article 25. That and similar problems indicated that the amendment might well bring about a major change of substance in other articles of the Convention.

40. He had also serious misgivings regarding the expression "all lawful purposes", which was too loose. The subject-matter called for much more precise wording. A similar difficulty arose with the expression "all possible measures" in the sub-amended version, which was much too wide; his delegation could not accept the proposed amendment unless it knew precisely the changes which it would entail in national legislations.

41. Mr. ABSOLUM (New Zealand) said that the interpretation of the words "all possible measures" should not cause any great difficulty. They meant measures which the Government concerned was in a position to adopt; clearly, economic, social or even political limitations could dissuade a Government from adopting measures which it would wish to adopt.

42. Mr. STEWART (United Kingdom) said that the introduction of the words "or produced" suggested by the French representative could create some confusion because the definition of the term "production" would be difficult to apply with reference to those words. The wording proposed by the New Zealand representative expressed clearly the intended purpose, which was to deal with plants illicitly cultivated.

43. With regard to the point raised by the Indian representative, he observed that article 22 of the 1961 Convention was a special provision applicable to the cultivation of three kinds of plant: the articles which followed dealt separately with the opium poppy and poppy straw (articles 23 to 25), the coca bush and coca leaves (articles 26 and 27) and cannabis (article 28). He therefore could not agree that the New Zealand amendment with the words "for lawful purposes" would in any way undermine the system set forth in article 23 and the following articles of the Convention.

44. Mr. MUSEUX (France) withdrew his sub-amendment to introduce the words "or produced", but pointed out that without those words, the New Zealand amendment would not impose upon Governments the obligation to destroy illicit crops obtained from plants originating in a wild growth.

45. Mr. MAZOV (Union of Soviet Socialist Republics) moved the closure of the debate.

The motion was carried by 32 votes to none, with 6 abstentions.

46. Mr. BARONA LOBATO (Mexico) suggested that, in order to ensure consistency in the versions in the various languages, the idea behind the phrase "for lawful purposes" should be expressed in terms drawn from the 1961 Convention itself. In that connexion, he drew attention to article 33, stating that the "Parties shall not permit the possession of drugs except under legal authority". He proposed that the matter of terminology should be referred to the Drafting Committee.

47. The CHAIRMAN invited the Committee to vote on the New Zealand proposal, as previously amended by the sub-amendments accepted by the sponsor, together with the change of wording proposed by the Belgian representative and accepted by the sponsor and on the understanding that suitable French and Spanish renderings would be found for the verb "to seize".

The New Zealand amendment to article 22, as amended, was approved by 34 votes to 1, with 9 abstentions.

The text of article 22, as amended, was referred to the Drafting Committee.

48. Mr. MILLER (United States of America) said, in explanation of his vote, that he had voted in favour of the New Zealand amendment, as sub-amended on the clear understanding that the Drafting Committee would abide by the wording "for lawful purposes" accepted by the sponsor. In the United States at least, the term "legal" would be too narrow.

49. Mr. JIMÉNEZ HERNÁNDEZ (Spain) said, in explanation of his vote, that he had abstained from voting, although in principle he agreed with the purpose of the New Zealand amendment, because the very useful French sub-amendment had been withdrawn and because the original Argentine proposal to cover wild growth had been dropped.

50. Mr. CHAWLA (India) said, in explanation of his vote, that he had voted against the New Zealand amendment, although he fully sympathized with its objective, because the text was not clear, as he had explained during the debate. The national legislation of his country already required the seizure and destruction of all illicit cultivation of the opium poppy and the cannabis plant.

51. Mr. DURRIEU (Argentina) said, in explanation of his vote, that he had abstained from voting, although he fully sympathized with its objective, because the text was not clear, as he had explained during the debate. The national legislation of his country already required the seizure and destruction of all illicit cultivation of the opium poppy and the cannabis plant.

52. Mr. STEWART (United Kingdom) said, in explanation of his vote, that he had voted in favour of the New Zealand amendment with the change of wording accepted by its sponsor, i.e. with the words "for lawful purposes", the meaning of which was clear. Like the United States representative, he had voted on the understanding that the Drafting Committee would abide by that terminology, regardless of the terms that would be used in the
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French and Spanish translations; in English, the term “legal” would be too restrictive.

53. Mr. BARONA LOBATO (Mexico) said, in explanation of his vote, that his delegation would have preferred the simpler text appearing in the original joint proposal (E/CONF.63/5) but had nevertheless voted in favour of the New Zealand amendment, subject to the reservation that suitable Spanish wording would be found to render the expression “for lawful purposes”. He suggested that the Drafting Committee should consider an expression such as “autorizados por la ley”. He also reserved his position with regard to the Spanish translation of the verb “to seize”, which could in no case be rendered as “decomisar”.

The meeting rose at 5.50 p.m.

EIGHTEENTH MEETING

Saturday, 18 March 1972, at 9.40 a.m.

Chairman: Dr. BÖLCS (Hungary)

Adoption of the Final Act of an instrument or instruments to give effect to the amendments approved by the Conference (item 12 of the Conference agenda)

FORM OF AN INSTRUMENT TO GIVE EFFECT TO THE AMENDMENTS (E/CONF.63/C.3/L.1)

1. The CHAIRMAN said that the Conference, at its fifth plenary meeting, had agreed that Committee II should make a preliminary study of the form of an instrument or instruments to give effect to the amendments adopted by the Conference and should submit its recommendations to the plenary Conference. He now invited the Committee to consider the memorandum prepared by the Legal Adviser to the Conference at the request of the General Committee (E/CONF.63/C.3/L.1).

2. Mr. WATTLES (Legal Adviser to the Conference), introducing the memorandum, said that the decisions to be taken by the Conference were summarized in paragraph 18. In his view, it would be most appropriate to draw up an amending protocol to the 1961 Single Convention on Narcotic Drugs, which would constitute a simple subsidiary instrument having the sole purpose of amending the Convention. Such a protocol would be open only to States parties to the 1961 Convention, and possibly also to the signatories of the Convention. Governments would probably wish to consider carefully whether to become parties to the protocol, and it would be preferable to provide that States might become parties by ratification or accession, rather than by simple signature.

3. It would be technically simpler if the conditions for the entry into force for the protocol and of the amendments contained therein were the same, but the Conference could, if it so desired, decide to provide that those amendments should enter into force one by one when a certain number of States had become parties to each amendment without reservation. It seemed essential to include transitional provisions regarding the composition and terms of office of INCB and to provide for the possibility of reservations, although that possibility could be limited to substantive amendments, since it was unlikely that any reservations would be entered with respect to the amendments concerning the number and terms of office of members of the Board.

4. Mr. WARNANT (Belgium) noted that the final decision concerning the form of the proposed instrument would have to be taken by the plenary Conference. He agreed that the instrument should be an amending protocol, to which States could become parties by signature and ratification or by accession, and that provision should be made for reservations. He suggested that provision might be made for the revision—say every ten years—of the amended Convention.

5. Mr. BARONA LOBATO (Mexico) said he agreed that the instrument to be adopted by the Conference should take the form of an amending protocol, which would be a simple subsidiary instrument. The protocol should be open to States parties to the 1961 Convention, which could become parties to it by signature and ratification or by accession. Careful consideration would have to be given to the question referred to in paragraph 7 of the memorandum prepared by the Legal Adviser to the Conference, namely, whether accession to the protocol would imply accession to the 1961 Convention as well. No decision on that matter could, however, be taken until the provisions of the proposed instrument were known. It was essential to include transitional provisions regarding the composition and terms of office of INCB and to provide for the possibility of reservations.

6. Mr. BEVANS (United States of America) said that his delegation was in full agreement with the recommendations of the Legal Adviser to the Conference.

7. Mr. MAWHINNEY (Canada) said that his comments would be preliminary in nature, since the final decision in the matter would have to be taken by the plenary Conference. He agreed that the proposed instrument should take the form of an amending protocol, which would be a simple subsidiary instrument open only to States parties to the 1961 Convention. In view of the importance of the amendments to be introduced, it was essential that provision should be made for ratification and accession. The instrument should enter into force after a certain number of States had become parties to it, but that was a question which should be considered in further detail in the plenary Conference. Additional provisions regarding the Board were essential if procedural difficulties were to be avoided, and provision would also probably have to be made for reservations.

8. Mr. HOOGWATER (Netherlands) said he agreed that an amending protocol, open only to States parties to the 1961 Convention, should be adopted. Provision should not be made for entry into force after ratification of the instrument by a certain number of countries, since the new enlarged Board would have to come into being as soon as one country had ratified the instrument.
9. He wondered whether countries which had not yet done so would be able to accede to the 1961 Convention without necessarily accepting the amending protocol.

10. Mr. WINKLER (Austria) said that the last point raised by the representative of the Netherlands was of particular importance to his country, which was not yet a party to the 1961 Convention but intended to accede to it.

11. His delegation agreed that a simple subsidiary instrument should be adopted and that provision should be made for ratification. The most complex question to be decided was that of the conditions for entry into force, which would need very careful study. Difficulties would arise if the protocol entered into force after ratification by a certain number of States, thereby binding States which were parties to the 1961 Convention but had not accepted the protocol. He suggested that the protocol might be regarded as a series of bilateral treaties, under which States which accepted the amendments were bound bilaterally with respect to any other State doing the same. Amendments which did not affect State rights and obligations, such as those relating to the composition and terms of office of the Board, might enter into force separately.

12. Mr. GROS ESPIELL (Uruguay) said he agreed with previous speakers that the instrument to be adopted should be an amending protocol constituting a subsidiary instrument of the 1961 Convention and open only to States parties to that Convention. Provision should be made for ratification or accession, and the conditions for the entry into force of the protocol itself and the amendments which it contained should be the same. The procedure for entry into force might be based on that adopted in the "Protocol of Buenos Aires" amending the Charter of the Organization of American States, under which the amending instrument entered into force when it had been ratified or acceded to by two-thirds of the States parties to the original instrument being amended. Transitional provisions regarding the composition and terms of office of the Board were clearly needed, but it was important to remember that the new Board would have to come into being as soon as possible. Provision must also be made for reservations, but only with respect to amendments specifically listed in the protocol as open to reservations.

13. With regard to the problem of States which might wish to become parties only to the unamended treaty, his delegation believed that the provisions of article 40 of the Vienna Convention on the Law of Treaties, as quoted in paragraph 7 of the memorandum of the Legal Adviser to the Conference should be applied.

14. He suggested that, once the Committee had completed its discussion, the Legal Adviser to the Conference should be asked to prepare a document setting out the points in which agreement had been reached and containing a model for the instrument which might be adopted.

15. Mr. ROSENNE (Israel) said he agreed with previous speakers that the form of the proposed instrument should be an amending protocol, but he would prefer to use the expression "dependent instrument" rather than "subsidiary instrument", which in some systems of law had a technical connotation.

16. With regard to the question of ratification, the matter was solved for his delegation by its instrument of full powers, which only authorized it to sign subject to ratification.

17. He fully supported the view of the representative of Uruguay regarding the necessity to take account of article 40 of the 1969 Vienna Convention on the Law of Treaties. Such a provision would remove some of the doubts of States wishing to become parties to the 1961 Convention after the entry into force of the protocol of amendment.

18. The question of reservations was extremely difficult and delicate, and it would be premature to take any final decision until the substantive provisions of the instrument to be adopted by the Conference were known. As far back as the 1920s, it was a reservation concerning the 1925 Convention which had precipitated all the international discussion on reservations in the time of the League of Nations. His delegation assumed that when the memorandum of the Legal Adviser to the Conference —and the Conference—spoke of reservations, they meant genuine reservations. He mentioned that because, in the fourth annual issue of the Secretariat's publication listing signatures, ratifications, accessions, etc. of multilateral treaties, one of his country's neighbours—Egypt—had made what purported to be a reservation stating, among other things, that "no treaty relations will arise" between that country and Israel. That, of course, was not a real reservation and was utterly inadmissible. Such statements completely thwarted the whole purpose of international action and were liable to reduce to nothing the protocol as well as the 1961 Convention. For the record, he would repeat that Israel was not a producing State and hardly a consuming State, but was an involuntary transit State as a result of the activities of smugglers from neighbouring countries.

19. He agreed that there was a need for transitional provisions separate from the provisions concerning entry into force. He also agreed that the protocol should enter into force after a prescribed number of States had ratified it. He doubted, however, whether that number should be the same as the number laid down in article 41 (Entry into force) of the 1961 Convention. Nor was he convinced that the high percentage required for the amendment of the Charter of the Organization of American States, though appropriate for a regional organiza-

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2 See United Nations, Multilateral treaties in respect of which the Secretary-General performs depositary functions. List of signatures, ratifications, accessions, etc. as at 31 December 1970 (United Nations publication, Sales No. E.71.V.5), chap. V, sect. 15, United Arab Republic, p. 149.
tion, was appropriate for an instrument of universal scope; the figure should be lower.

20. He supported the suggestion made by the representative of Uruguay that the Legal Adviser to the Conference should be asked to prepare a document setting out the consensus which had been reached in the Committee, or alternative texts where there was no consensus. He also suggested that the Secretariat be authorized to produce a consolidated text of the 1961 Convention, as amended by the present protocol, after the protocol had entered into force.

21. Mr. TOKINOYA (Japan) said that his delegation still believed that, in view of the extensive nature of the amendments proposed, it would be most appropriate to draw up a new convention. Since, however, there appeared to be a general consensus in the Committee in favour of the conclusion of an amending protocol, he was prepared to support that proposal. His delegation believed that States should become parties to the proposed instrument by ratification or accession and that it should enter into force after ratification or accession by at least 40 States.

22. Mr. STEWART (United Kingdom) said that, with regard to the first question in paragraph 18 of the memorandum prepared by the Legal Adviser to the Conference, he felt that the protocol of amendment was primarily a supplement to the 1961 Convention.

23. As for the second question, the United Kingdom preference was always for signature followed by ratification.

24. With regard to conditions for entry into force of the protocol, he envisaged it as taking place in two stages, because the amendments of substance affecting the functions of the Board and the rights and obligations of the parties could not enter into force until the necessary administrative reorganization had been completed and the Board had been reconstituted.

25. With regard to the third question, one speaker had seemed to suggest that States which were not parties to the 1961 Convention might be deterred from acceding to it if that also involved becoming a party to the protocol. Another view was that States might be encouraged to sign the protocol in order thereby to become a party to the amended Convention. Perhaps paragraph 2 of article 47 (amendments) of the Convention, provided the germ of a solution.

26. With regard to the fourth question, he agreed with the Legal Adviser to the Conference that there must be transitional provisions, they could very well follow the precedent of the Convention itself.

27. With regard to the fifth question, he agreed with the representatives of Uruguay and Israel that until the plenary Conference had decided what amendments were to be included in the protocol, it was difficult to decide what should be included in the reservation clause.

28. He supported the suggestion that the Legal Adviser to the Conference might be asked to prepare the preamble of an illustrative protocol, the details of which would be filled in by the Committee.

29. Mr. MAZOV (Union of Soviet Socialist Republics) said that the memorandum of the Legal Adviser provided an excellent basis for the Committee's decision and agreed that an amending protocol was the most appropriate form of instrument for amending the 1961 Convention.

30. Of the various proposals that had been made as to the number of ratifications that would be needed for the protocol to enter into force, his delegation preferred that of Uruguay, namely a two-thirds majority, but it felt that further clarification was needed, particularly with regard to the role of the countries that produced raw materials.

31. On the subject of reservations, it should now be possible to decide in respect of which paragraphs reservations would be permitted; the decision should follow the spirit of article 50 of the 1961 Convention (Other reservations).

32. His delegation supported the general consensus that signature followed by ratification should be required. Transitional provisions would be required to cover the position of the Board after the adoption of the protocol, so as to avoid a dual system.

33. He proposed that the Committee set up a small working party to consider, in collaboration with the Legal Adviser to the Conference, a draft text prepared by the latter that could be submitted to the plenary Conference at the end of the Committee's work.

34. Mr. CHOPRA (India) said his delegation supported the idea of an amending protocol, and was in favour of ratification. Conditions for entry into force could be based on article 41 of the 1961 Convention. Transitional provisions regarding the composition and terms of reference of the Board should be included, as should a reservations clause so as to encourage wider membership.

35. Mr. JIMÉNEZ HERNÁNDEZ (Spain), expressing support for the Uruguayan proposals, said he supported the idea of an amending protocol, with article 40 of the Vienna Convention on the Law of Treaties as a basis for membership, and with the requirement of ratification, based on the precedent of article 41 of the 1961 Convention. Conditions for the entry into force of the protocol and of the amendments should be identical, in the interests of legal harmony; the Convention itself should be taken as a precedent as far as entry into force was concerned. A two-thirds majority was in fact the standard majority for multilateral conventions. He agreed with the Legal Adviser to the Conference on the need for transitional provisions and also on the need for a reservations clause. Again, the 1961 Convention provided a precedent. With regard to the accession of new States, he agreed that article 40 of the Vienna Convention on the Law of Treaties was useful and proposed that its provisions should be incorporated in the protocol.

36. Mgr. FOUGERAT (Holy See) said he agreed with the majority view that an amending protocol was the most appropriate form of instrument for amending the 1961 Convention.

37. Dr. CARVALLO (Venezuela) said that he too agreed with the majority view. An amending protocol which would be dependent on the 1961 Convention was the best form of instrument; ratification was necessary; identical conditions should be established for entry into
force; transitional provisions were needed; and, although he doubted whether it was worth discussing the question in detail at present, it was important to have a reservations clause. With regard to the entry into force of the amendments, he favoured a two-thirds majority. The procedure therefore should be based on article 40 of the 1961 Convention.

38. Mr. MUSEUX (France) said he agreed with the majority view. An amending protocol was the best solution, since the Conference had limited terms of reference and was only concerned with a few articles. Ratification rather than simple signature was the usual procedure for multilateral conferences, and his delegation thought that identical conditions should be established for entry into force. With regard to the question of transitional provisions, he proposed that the Board be asked to carry on as at present until new elections had been held in accordance with its functions as amended. He noted that, although there appeared to be general agreement, some difficulties still remained, such as the number of ratifications needed for entry into force and the position of States that were not parties to the 1961 Convention. He agreed with the USSR proposal on the preparation of an acceptable text.

39. Mr. GUILLOT (Cuba) said he agreed with the suggestions made by the Legal Adviser to the Conference and with the support expressed for them by previous speakers. It was important to provide for universal participation. There should be no limitation or restriction on any category of States and all should be allowed to participate in the new treaty. The Conference would remember that the General Assembly had agreed that multilateral treaties should be open to universal participation. He endorsed the need for a reservations clause in the interests of State sovereignty and of the widest possible participation in the new instrument. Since Committee I was still considering a number of new proposals, it was difficult for States to know at present what position they would eventually take.

40. Mr. BRAY (Australia) said that simplicity and certainty, commensurate with the maximum acceptance, and an early entry into force should be the prime objectives in the consideration of the text. Australia would have to examine and perhaps amend its domestic legislation in order to become a party to the protocol and he therefore favoured signature followed by ratification. He agreed with the representatives of Uruguay and Israel on the merit of incorporating in the protocol the provisions of article 40, paragraph 5, of the Vienna Convention on the Law of Treaties. On the question of the number of ratifications needed in order for the instrument to enter into force, he agreed with the Uruguayan view that the number should be related to the number of parties to the 1961 Convention at the appropriate time. The question of reservations was most delicate. On the one hand it was important to secure the maximum number of ratifications; on the other hand, there were bound to be some articles on which reservations could not be permitted. He too favoured the idea of an illustrative protocol, to be drawn up by the Secretariat, so that the Conference could decide on the final form of the text.

41. Mr. WATTLES (Legal Adviser to the Conference), replying to a question by the Netherlands representative on the relationship between the 1961 Convention and the new instrument, said that article 40 of the Vienna Convention on the Law of Treaties was the most authoritative text on the applicable legal rule, since it had been adopted unanimously at a conference of 110 States which had worked over a period of two years on the law of treaties. He suggested that its wording should be taken over. In reply to the Austrian suggestion that certain amendments concerning the obligations of States should come into force separately, he offered to draft an appropriate clause. He also offered to produce by the morning of 20 March a draft text along the lines proposed by the Soviet Union.

42. The CHAIRMAN suggested that the Committee accept the offer of the Legal Adviser to the Conference to produce a text of the decisions to be taken. If it had the time, the Committee would consider that text and make recommendations to the plenary Conference; if not, the text would be submitted directly to the plenary Conference.

It was so agreed. The meeting rose at 12.30 p.m.

* The text prepared by the Legal Adviser to the Conference, entitled "Draft outline of an amending protocol prepared by the Legal Adviser to the Conference at the request of Committee II" (E/CONF.63/C.2/L.13) was submitted directly to the Conference at its 9th plenary meeting. Accordingly, Committee II held no further meetings.
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