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# ORGANIZATION OF AMERICAN STATES



## INTER-AMERICAN SPECIALIZED CONFERENCE ON TRAFFIC IN NARCOTIC DRUGS

FIRST MEETING  
April 22, 1986  
Rio de Janeiro, Brazil

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### LEGAL ASPECTS OF THE SYSTEM TO REGULATE INTERNATIONAL COMMERCE IN NARCOTIC DRUGS ON A GLOBAL SCALE

(Information document prepared by the General Secretariat)



## INTRODUCCION

I. This document has been prepared to fulfill two mandates given to the General Secretariat by the Working Group of the General Committee of the Permanent Council which is studying the problem of drug traffic and by the General Assembly in resolution AG/RES. 699 (XIV-0/84), "Convocation of an Inter-American Specialized Conference on Drug Traffic," operative paragraph 7 of which reads as follows:

To instruct the General Secretariat to prepare, in consultation with the Inter-American Juridical Committee, by collecting and taking into account all the background material available on the matter, and on the basis of the draft convention presented by the Government of Venezuela, an inter-American draft convention against drug traffic for consideration by the Specialized Conference.

II. It has been considered advisable to treat both of these mandates together for the following reasons. First, the subject matter is still an active issue, both within the United Nations world system, which has worked on it for over seventy-five years, and at the inter-American level where the topic is new and would be covered by effective instruments within the frame of the Charter of the Organization of American States. This paper is an attempt to furnish background information on the subject from both a worldwide and regional standpoint in a single document, for easy reference and to assist the member states in their decisions on this subject.

Second, since the Assembly's mandate directs the General Secretariat to consult the Inter-American Juridical Committee on the draft inter-American convention, it was considered that the presentation of background material and opinions by the General Secretariat in a single paper would assist the Juridical Committee to prepare its analysis and recommendations by supplying an organized set of issues interrelated between the global and regional systems.

The document basically concerns the background and legal issues of the system to regulate international commerce in narcotic drugs on a global scale.

Finally, the view was that this paper does not preclude the drafting of additional documents on specific legal issues, should further discussion of the matter so require.

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III. The methodology used in preparing the study was chosen to make it as informative as possible, taking into account the nature of drug traffic, which would be subjected to inter-American regulation, and a worldwide legal regime in which 25 member states of the Organization of American States that have ratified the Single Convention on Narcotic Drugs of 1961, as amended by a Protocol in 1972, participate. This regime is under study by the United Nations as a result of some proposals brought before that body to improve it through the signing of a new convention in 1987, although it is not yet known whether the new convention would embody standards to complement or replace the Single Convention. For this reason, reference is made in this paper to that legal instrument and its possible evolution, as described in the United Nations documents.

The mandate contained in resolution AG/RES. 699 (XIV-0/84) directs that "all the background material," be taken into account, of which the most important at present are the Single Convention of 1961, as amended by the Protocol of 1972, and the Convention on Psychotropic Substances of 1971.

IV. This paper is also an effort to systematically organize, from a regional inter-American perspective, certain basic material that could become the substance of a regional convention that would not create a new legal system at odds with the Single Convention. Such an outcome would be contrary to the purpose of devising more effective legal instruments to combat "a crime that affects all of mankind, with all the legal consequences that this implies," as stated in resolution AG/RES. 699 (XIV-0/84). The multiplicity of conflicting legal instruments would be a setback for the campaign against the illegal traffic in drugs, a return to the time before the Single Convention came into existence, when a diversity of instruments made it difficult for States to coordinate their action against this universal scourge. On the other hand, it has been felt that the existence of a Single Convention should hinder the Organization from developing instruments for international cooperation to meet the needs of inter-American cooperation on the matter without prejudice to worldwide agreements.

Washington, D.C., January 31, 1986

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A. CURRENT JURIDICAL SYSTEM FOR THE INTERNATIONAL CONTROL  
OF NARCOTIC DRUGS AND HISTORY OF ITS EVOLUTION

1. The current juridical system for the international control of addictive narcotic drugs is the product of a regulatory and institutional evolution. Its most important instruments are the Single Convention on Narcotic Drugs of 1961, amended by the Protocol of 1972, and the Convention on Psychotropic Substances of 1971.

It is important to bear in mind the process that led to two worldwide conventions and institutions, within the U.N., that have attributes and competence for the effective attainment of worldwide international cooperation. The fact that the illicit trade in drugs is a phenomenon that requires, for effective control, a worldwide and intergovernmental approach and coordination explains why 119 States have adhered to this world system. Among these, 25 are States Parties to the Charter of the Organization of American States and therefore members of the regional body.

2. Because of the concern with which the governments of the States Parties to the international instruments and members of the United Nations have viewed the increase in the harmful and criminal activity of drug trafficking, proposals have been brought to the U.N. in an effort to improve the existing system. These initiatives aim at drafting a new convention, the content and scope of which has not been decided as of this writing. The outcome will depend on the response of the member states to a questionnaire distributed by the United Nations General Secretariat at the behest of the Commission on Narcotic Drugs of its Economic and Social Council, and on the subsequent treatment of the topic, including a special meeting, convoked for 1987, for the purpose of adopting a new instrument. On the other hand, there has been no mention of replacing the current juridical system, particularly as regards aspects of controlling and eliminating illicit activity; the focus has been on improving the system and on such other aspects as education. Thus, a new convention, should one be approved, would not be entirely new, but rather a step forward or a further development in efforts to achieve worldwide and coordinated action.

3. At the time the Single Convention was discussed and adopted in 1961, there was already very widespread awareness, shared by most of the States, of the serious dangers of drug addiction and the need to make a coordinated effort to combat the evil on the basis of common principles and appropriate institutions. The existence of various conventions and protocols on the matter made it very difficult act effectively against this scourge that defies international boundaries and borders and which, as the preamble to the Convention states, "constitutes a serious evil for the individual and is fraught with social and economic danger to mankind."

4. Since the signature of the International Opium Convention on January 23, 1912 and up to the signing of the Single Convention on March 30, 1961, several conventions and protocols to regulate the matter have been adopted, but they did not form a cohesive whole, a single regulatory



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system that could buttress effective and concerted action worldwide. The preamble to the Single Convention recognizes this fact and uses it as the basic justification for the new instrument, the purpose of which was to remedy the situation, as stated in the following:

. . .

Considering that effective measures against abuse of narcotic drugs require coordinated and universal action,

Understanding that such universal action call for international cooperation guided by the same principles and aimed at common objectives,

Acknowledging the competence of the United Nations in the field of narcotics control and desirous that the international organs concerned should be within the framework of that Organization,

Desiring to conclude a generally acceptable international convention replacing existing treaties on narcotic drugs, limiting such drugs to medical and scientific use, and providing for continuous international cooperation and control for the achievement of such aims and objectives . . .

5. The Single Convention cites the earlier instruments that would be abrogated upon entry into force of the new instrument:

Article 44. Termination of previous international treaties

1. The provisions of this Convention, upon its coming into force, shall, as between Parties hereto, terminate and replace the provisions of the following treaties:

- a. International Opium Convention, signed at The Hague on 23 January 1912;
- b. Agreement concerning the Manufacture of, Internal Trade in and Use of Prepared Opium, signed at Geneva on 11 February 1925;
- c. International Opium Convention, signed at Geneva on 19 February 1925;
- d. Convention for Limiting the Manufacture and Regulating the Distribution of Narcotic Drugs, signed at Geneva on 13 July 1931;
- e. Agreement for the Control of Opium Smoking in the Far East, signed at Bangkok on 27 November 1931;

- f. Protocol signed at Lake Success on 11 December 1946, amending the Agreements, Conventions and Protocols on Narcotic Drugs concluded at The Hague on 23 January 1912, at Geneva on 11 February 1925 and 19 February 1925 and 13 July 1931, at Bangkok on 27 November 1931 and at Geneva on 26 June 1936, except as it affects the last-named Convention;
- g. The Conventions and Agreements referred to in subparagraphs (a) to (e) as amended by the Protocol of 1946 referred to in subparagraph (f);
- h. Protocol signed at Paris on 19 November 1984 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 on 11 December 1946;
- i. 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, should that Protocol have come into force.

2. Upon the coming into force of this Convention, Article 9 of the Convention for the Suppression of the Illicit Traffic in Dangerous Drugs, signed at Geneva on 26 June 1936, shall, between the Parties thereto which are also Parties to this Convention, be terminated, and shall be replaced by paragraph 2 (b) of article 36 of this Convention; provided that such a Party may by notification to the Secretary General continue in force the said Article 9.

6. Termination of the earlier instruments referred to in Article 44 did not lead to an entirely new one since that was not the purpose of the Single Convention. The object of the new instrument was to unify diverse components, organize acquired experience, create and restructure the institutions necessary for coordinated worldwide action, and thereby address the universal nature of the phenomenon to be controlled. Two basic concepts formed the cornerstone of the unified legal regime embodied in the new Convention: a) to permit the existence of a legitimate international market for and trade in narcotic drugs for medical and scientific uses; and b) to limit these substances to such uses through adequate international control. To the latter end, the Convention calls for institutional coordination between the agencies of the Treaty and the specific action of the governments of the States Parties in the exercise of their own competence based on national sovereignty.

7. From the International Opium Convention of 1912 to date, the juridical system regulating the traffic in narcotic drugs has undergone constant change and this may be explained not so much as a response to problems posed by the licit trade in these substances as to a perception of the inadequacy of the general legal system to properly control and

eventually suppress illicit traffic. The Single Convention itself is an example of the pressure brought to bear by the illicit trade on work toward a more effective regulatory system. After coming into force in 1964, the Convention was amended eight years later by the Protocol of 1972 to strengthen, among other things, international cooperation and governmental penal measures to combat illicit drug trafficking.

8. Current initiatives to improve the juridical system for the international control of narcotic drugs are also a reaction to the momentum of the problem of illicit drug traffic. It has grown to the dimensions of a worldwide clandestine business or power that can weaken the moral foundations of society and elude the State's legitimate effort to enforce the law. It has been pointed out both at the U.N. and at the regional inter-American level that this extralegal aspect must be taken into account in any examination of the efficacy of regulations applicable to illicit traffic in narcotic drugs and psychotropic substances. In other words, the determination and capacity of authorities to enforce compliance with the law, and to prevent the production, distribution, and consumption of dangerous substances.

9. In its present state of development, the juridical system for the control of narcotic drugs and psychotropic substances is based on treaties that establish standards for cooperation between sovereign States with agencies that have broad competence but which are not supra-national, so that the system is basically grounded in the States' decision to comply with international commitments, supplemented by reinforcing action within each country. Current concerns with the dangers posed by the illicit trade in drugs could determine the outcome of negotiations for more advanced formulas of cooperation to eradicate this problem.

Various international conventions preceding the Single Convention on Narcotic Drugs, 1961, amended by the Protocol of 1972

10. Before the 1909 Shanghai Conference on Opium, international law did not play any major part in controlling opium or any other drug. While some bilateral agreements did exist, no general principles had been laid down accepted by the international community; nor did domestic legal systems contain rules compatible with such agreements, where domestic law addressed the subject at all.

11. The concern of some governments over the widespread use of opium and its derivatives, either as inhaled smoke or by its combination with morphine, resulted in the convocation of the Shanghai Conference and the establishment of the so-called Shanghai Commission on Opium. The Commission gradually stirred a universal consensus on the dangers to mankind of the abuse of opium and other substances. Moreover, its efforts paved the way for the adoption on January 23, 1912 of the The Hague International Opium Convention.

12. The Convention of 1912 was the first international instrument devised to suppress the abuse of opium and other substances. By it, the Parties undertook to enact legislation, where none existed, to effectively control the production and distribution of opium. While the Convention did not specify where or to what extent such production would be controlled, it was a first step towards international control, based entirely on the will of the Parties to meet their obligations. Other future instruments would improve the means of international control by involving more complex international agencies.

Other provisions of the Convention established the obligation of the Parties to prevent the exportation of opium to countries that had placed limits on its importation, although no enforcement mechanism was established. On the other hand, the power of customs authorities to achieve effective control was emphasized.

13. With the beginnings of the League of Nations in 1920, the battle against illicit traffic in narcotic drugs moved to higher ground. Within the broad juridical frame represented by the League and its organs, cooperation among States to that end took on more complex and centralized institutional forms, based on the legal structure of the League's Convention and specific treaties and protocols that referred to and were tied into a central system. The experience of the League of Nations and the functions of some of its bodies were transferred after World War II to the United Nations.

14. Whatever the assessment of the success of the agencies that predated World War I and the one that followed it in combatting illicit traffic in narcotic drugs, given the present magnitude of that evil, favorable or unfavorable, it would still not answer the question as to what would have happened if that worldwide coordinated effort had not been made. It is true that there are no writers today who would maintain that isolated efforts of States or international agencies are the best answer to the worldwide power of drug trafficking. On the contrary, present efforts focus on ways to improve the system and to make it more effective and positive through a centralized approach.

15. The legal base of the competence of the League of Nations to control drug trafficking may be found in Article 23, paragraph c), of its Convention which states:

. . .

Article 23. Subject to and in accordance with the provisions of international conventions existing or hereafter to be agreed upon, the Members of the League.

. . .

c) will intrust the League with the general supervision over the execution of agreements with regard to traffic in women and children, and the traffic in opium and other dangerous drugs.

16. The conventions that came into force under sponsorship of the League of Nations were the following:

- a. International Opium Convention, signed at Geneva on February 19, 1925;
- b. Convention for Limiting the Manufacture and Regulating the Distribution of Narcotic Drugs, signed at Geneva on July 13, 1931; and
- c. Convention for the Suppression of the Illicit Traffic in Dangerous Drugs, signed at Geneva on June 26, 1936.

Beyond these conventions, other agreements of a more limited scope were signed under the auspices of the League of Nations, but in the application of all of these instruments, the League's agencies acted to exercise a broad control of the international trade in narcotic drugs.

17. Chattergee<sup>1/</sup> underscores the importance of the 1936 Convention in this connection, and how it differs from earlier conventions on illicit traffic in dangerous substances. While earlier conventions and the League of Nations generally drew a distinction between licit and illicit trade in drugs and endeavored to suppress the latter, "This," according to Chattergee, "was the first direct attempt which was made by it to suppress the illicit traffic in dangerous drugs, and to make the offence punishable." The Preamble to the Convention states that its object was "to strengthen the measures intended to penalize offences contrary to the provisions of the International Opium Convention of 1912, the Geneva Convention of February 19th, 1925 and the Convention for Limiting the Manufacture and Regulating the Distribution of Narcotic Drugs, Geneva, 1931, and on the other hand, to combat by the methods most effective in the present circumstances the illicit traffic in the drugs and substances covered by the above Conventions." The earlier conventions distinguished between licit and illicit traffic, and promoted the former. The 1936 Convention not only ratified that distinction, but also aimed to set up an international regime to suppress illicit traffic.

18. The 1936 Convention contained clauses aimed at improving the domestic law of the States Parties to suppress illicit traffic in narcotic drugs. Thus, in Article 2 the Parties agreed to adopt the necessary legislative measures to severely punish those who commit acts considered illicit traffic, and listed in the Convention itself, such as manufacture, conversion, extraction, preparation, possession, distribution, purchase, sale, transport, etc. Codification of each of these offences was left to the internal penal law of each state.

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1. Chattergee, S. K., Legal Aspects of International Drug Control, 1981. p. 168 et seqq.

19. Article 4 established that each of the offences specified in Article 2 would be considered a distinct offense, even if committed in different countries. This was an effort to buttress the content of Article 2.

20. Article 8 stated that foreigners in the territory of any of the contracting parties who had committed one of the offences specified in Article 2 would be prosecuted as though the crime had been committed in that territory. The object of this article was to ensure that the offender would not go unpunished, irrespective of his location in any of the territories of any State Party. This provision was subject to two conditions, however: a) that extradition of the accused had been requested and denied for reasons independent of the offence itself; and b) that the legislation of the country of sojourn allows, as a general rule, for prosecution of foreigners for crimes committed abroad.

21. Regarding administrative aspects of enforcement of the Convention and cooperation among the parties, the instrument required each Party to set up a central office in its territory to maintain direct contact with other such central offices, such contact to include direct communication between offices, bypassing diplomatic and consular channels.

22. Article 16 of the Convention was included to ensure coordination between the Parties and the League of Nations. According to this article, the Parties undertook to communicate to one another, through the Secretary-General of the League, the laws and regulations they promulgated to comply with the obligations of the Convention, and also to submit an annual report to the League on application of the Convention in their territories. Earlier treaties contained similar provisions, and through such obligations the conventions became integral parts of the League of Nations system.

23. The Convention of 1936 came into force on October 26, 1939. World War II had begun the preceding month, on September 1, 1939, with the invasion of Poland by the armed forces of Nazi Germany. In the post-war era, and in the framework of the new world organization, the United Nations, the effort to improve legal instruments to combat illicit traffic in narcotic and other dangerous drugs would continue.

B. CHARACTERISTICS OF THE INTERNATIONAL SYSTEM FOR THE REGULATION OF INTERNATIONAL TRAFFIC IN NARCOTIC DRUGS AND PSYCHOTROPIC SUBSTANCES AND THE POSSIBILITY OF REGIONAL INTER-AMERICAN REGULATION OF SOME ASPECTS RELATED TO THE ILLICIT TRAFFIC IN SUCH DRUGS

24. This section of the study describes the characteristics of the current legal system to control international traffic in narcotic drugs and psychotropic substances, an international system to which 25 member states of the Organization of American States are Parties. As this is the most important precedent in this area of endeavor, it must necessarily be taken into account in an assessment of the possibility of establishing inter-American laws on illicit drug traffic.

Foundations of the current legal system

25. In February, 1946, the Economic and Social Council of the United Nations set up the Commission on Narcotic Drugs; in December of the same year the governments that had signed the various conventions then in force to control drugs also signed a Protocol by which they transferred to the United Nations the functions that had been exercised in this area by the League of Nations. Until the adoption of the Single Convention on Narcotic Drugs of 1961, the control regime was generally similar to that operated by the League of Nations, which had been marked by the legal fragmentation caused by the diverse instruments that the Single Convention came to replace.

26. Certain basic principles, or underlying concepts, played and play a very important role in the perception of the need to control international traffic in narcotic drugs and others commonly abused, particularly in result of illicit traffic, since such abuse causes serious harm to individuals and society. Some of these principles were set out in the Preamble to the Single Convention of 1961, and derived from experience in applying international instruments within the framework of the League of Nations. They have been reaffirmed and broadened by the later experience of the United Nations.

To ensure the availability of narcotic drugs for medical purposes

27. One of the basic principles that shapes the legal system set up in the Single Convention on Narcotic Drugs to control international trade in these substances is to ensure the existence and international, legal distribution of narcotic drugs dispensed for medical purposes.

In the Preamble to the Single Convention, the parties state this requirement as follows:

. . .

The Parties,

Concerned with the health and welfare of mankind,

Recognizing that the medical use of narcotic drugs continues to be indispensable for the relief of pain and suffering and that adequate provision must be made to ensure the availability of narcotic drugs for such purposes, ...

In fact, as will be seen below, the Single Convention achieves its object of facilitating licit trade in narcotic drugs through a complex normative and institutional system that classifies drugs and places them on various "schedules" according to the degree of international control required, and by such other measures as estimates, statistical data, etc. Hence, with respect to this fundamental principle, it can be said that this instrument and the Convention on Psychotropic Substances have been successful. The problem in this area is large-scale, extended abuse of these substances and the emergence of a flourishing illicit international trade that threatens mankind.

Addiction as a danger to mankind

28. Another fundamental concept that has influenced legal treatment of the issue is that drug abuse is not a problem that involves only one particular country or countries, but rather is an evil that threatens mankind, and that insidiously spills over borders, causing real harm and having the potential for greater injury. The Preamble of the Single Convention formulates the concept as follows:

. . .

Recognizing that addiction to narcotic drugs constitutes a serious evil for the individual and is fraught with social and economic danger to mankind,...

Need to organize universal and coordinated action on the basis of shared principles and goals. The inter-American approach

29. As a corollary to the perception of drug addiction as a danger to mankind, and crucial to the establishment of a legal system called forth by that perception, is the concept of universally coordinated action, guided by common principles and shared purposes:

. . .

Considering that effective measures against abuse of narcotic drugs require coordinated and universal action,



Understanding that such universal action calls for international cooperation guided by the same principles and aimed at common objectives,...

30. Although experience acquired in application of the Single Convention on Narcotic Drugs, amended by the Protocol of 1972, is regarded as positive with respect to licit traffic in such substances, it has not been sufficient to control illicit traffic. This fact, and the emergence of a more precise understanding of the complexity of drug consumption in its educational, economic, sociological and other aspects, have led the United Nations to convoke a conference to be held in 1987 to improve the legal machinery to combat drug abuse by signing a new convention which will embody the lessons learned from application of the rules in force and will address every aspect of this complex phenomenon. Nevertheless, based on the documents available to date that bear on this new effort at international legal regulation, the concept of universal coordination, far from being undermined, has gathered strength in the face of the international financial and technical means mobilized by the interests of illicit drug traffickers.

31. The Organization of American States, through resolution AG/RES. 699 (XIV-0/84), explicitly recognized the universal dimension of the problem of illicit traffic in dangerous drugs, stating that "drug traffic is a crime that affects all of mankind, with all the legal consequences that this implies...". This statement indicates that a regional effort to apply legal norms would not be contrary to or competitive with a similar universal effort, but rather would be supplementary to and compatible with it.

On the other hand, in the abovesited resolution the General Assembly has set out quite clearly the specific aspects of illegal drug traffic that are of particular concern to the region. They are:

- a) Socioeconomic development alternatives to the problem created by the elimination of surplus coca crops;
- b) Measures to reduce demand;
- c) Inter-American cooperation measures on these matters;
- d) Possible establishment of a "specialized regional fund to provide assistance to the member states affected by this problem";
- e) Social, cultural, medical and economic effects of the use of coca on indigenous populations;
- f) Problem of drug addiction among children and the youth of the Americas;

- g) Educational aspects of prevention and control of the unlawful use of drugs;
- h) Draft Inter-American Convention Against Drug Traffic, collecting and taking into account all the background material available on the matter.

These regional, inter-American aspects of the drug issue could provide specific material for a regional Convention that would not merely reiterate universal regulation, compete normatively with it, or contradict it, if these aspects were viewed as the subject matter of a convention rather than of resolutions or recommendations of the bodies of the Organization of American States.

32. Moreover, it should be noted that in the United Nations, the conceptual development in understanding the problem of drug traffic, apart from the penal and suppressive aspects of illicit traffic, has brought to the fore other factors associated with this phenomenon that could be subject to more advanced international regulation. Such factors relate to the causes of the problem in terms of illicit demand for dangerous drugs (educational aspects, for example) and production, beginning with cultivation of the plants and bushes that are the raw material for illicit substances (poverty of the peasant population and the potential for earning a livelihood in this activity, crop substitution, socioeconomic development problems, etc.). The Secretary-General of the United Nations has identified what he considers the key areas on which the 1987 world conference should focus its attention:

"Specifically, the conference should be multi-disciplinary in nature and focus on the following key areas: (1) the promotion of education and community participation in prevention and reduction of the demand for illicit drugs; (2) crop substitution and other methods of reduction of supply; (3) improved methods to limit the use of narcotics to medical and scientific purposes; (4) forfeiture of illegally acquired proceeds and the extradition of persons arrested for drug-related crimes; (5) strengthening of resources of law enforcement authorities; (6) treatment and rehabilitation of drug addicts".<sup>2/</sup>

33. Given the diversity of subjects that the world conference would address, it is too early to predict whether its results would be embodied in a single international instrument, several instruments, or in a combination of these and other less formal means, such as resolutions, recommendations, etc. It should be noted that from the standpoint of the Secretary-General of the United Nations, the conference would be an opportunity to support the action of other international bodies, including regional organizations.

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2. See: "Socio-Economic Studies for the Inter-American Specialized Conference on Drug Traffic," OEA/Ser. H/XIV, CEPICIES/1238, October 1985, p. 35.

"The Conference should serve to raise the level of world awareness of the danger we face, mobilize the full potential of the United Nations system, reinforce other intergovernmental, non-governmental and regional initiatives, and encourage governments to concert their efforts and to devote greater resources to combat drug abuse and trafficking."

34. Taking into account this background, it is reasonable to assume that on the drug traffic issue the regional Organization will exercise its broad authority in a fashion that is compatible with and supportive of the universal approach to the issue, since any action that adds normative confusion to the problem would benefit drug traffic rather than reduce it. This would be the chief legal consequence of a crime which, as stated in resolution AG/RES. 699 (XIV-0/84) "affects all of mankind, with all the legal consequences that this implies."

#### Characteristics of the world system

35. The world system for the control of narcotic drugs is a system of indirect control, one in which the chief responsibility falls to the States Parties to the Single Convention on Narcotic Drugs of 1961, amended by the Protocol of 1972, and with respect to psychotropic substances, to the Convention on Psychotropic Substances of 1971. It is the States Parties to those instruments, through their domestic law and subject to their internal jurisdiction, who must exercise effective control under the obligations assumed through the treaties, which have no directly applicable institutional jurisdiction in the territories of the States Parties.

36. The fundamental purpose of the Single Convention on Narcotic Drugs is to ensure the availability of such drugs for medical and scientific purposes, and to suppress the illicit availability of drugs outside of national and international control. The Convention also contains provisions to control illicit trade and traffic in narcotic drugs.

#### Means established in the Single Convention

##### Schedules

37. The Single Convention has appended to it four "schedules" of narcotic drugs, which represent four levels of control, or measures to supervise the substances, according to the degree of danger they represent when used or consumed for purposes other than medical or scientific. Under the terms of the system, these schedules may be amended at the request of any of the Parties, by notifying the Secretary-General, who transmits the request together with its supporting arguments, in addition to other material he may consider pertinent, to the other Parties and to the World Health Organization. Both the WHO and the Commission on Narcotic Drugs of the United Nations Economic and Social Council have competence to request amendment of the schedules, following a procedure set forth in Article 3 of the Convention.

38. The content of the schedules and amendment thereof through the procedures established in the Treaty are crucial to determining which substances are controlled and what degree of international control applies to them. Once the States Parties receive notification from the Secretary General of the United Nations on decisions concerning substances, they are bound to take the necessary action to comply with such decisions under their obligation as Parties to the instrument and pursuant to the obligation expressly assumed under Article 4, which reads:

1. The Parties shall take such legislative and administrative measures as may be necessary:

- a) To give effect to and carry out the provisions of this Convention within their own territories;
- b) To cooperate with other States in the execution of the provisions of this Convention; and
- c) Subject to the provisions of the Convention, to limit exclusively to medical and scientific purposes the production, manufacture, export, import, distribution of, trade in, use and possession of drugs.

Through their domestic law and jurisdiction the Parties comply with the terms of the Treaty, controlling the production, manufacture, export, import, trade in, use and possession of narcotic drugs for medical and scientific purposes.

39. Regarding the Commission's decisions to amend the schedules, the Treaty provides that such decisions are subject to review by the Economic and Social Council at the request of any Party, under the terms set forth in section 8 of Article 3:

8. a) The decisions of the Commission amending any of the Schedules shall be subject to review by the Council upon the request of any Party filed within ninety days from receipt of notification of the decision. The request for review shall be sent to the Secretary General together with all relevant information upon which the request for review is based.

b) The Secretary General shall transmit copies of the request for review and relevant information to the Commission, the World Health Organization and to all the parties inviting them to submit comments within ninety days. All comments received shall be submitted to the Council for consideration.

c) The Council may confirm, alter or reverse the decision of the Commission and the decision of the Council shall be final. Notification of the Council's decision shall be transmitted to all States Members of the United Nations, to nonmember States Parties to this Convention, to the Commission, to the World Health Organization, and to the Board.

d) During pendency of the review the original decision of the Commission shall remain in effect.

#### The estimate system

40. The Parties are required to estimate the quantity of narcotic drugs that they will need annually, for scientific and medicinal use, and furnish these estimates to the Board. In turn, this data is used to calculate the land area to be used for legal cultivation and the amount of legal international trade in narcotic drugs. The Parties must also report on the method used to compute their estimates.

The Board fixes the date and the manner in which the Governments of the States Parties shall provide their estimates and may request additional data. If a State fails to furnish such estimates, the Board shall, insofar as possible, establish the corresponding estimate. Paragraph 5 of Article 12 states that:

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.

Articles 19 and 12, respectively, set out the estimate system and the role of the Board in the system.

Article 19, as amended by the Protocol of 1972, reads as follows (the underlined text indicates amendments arising from the Protocol of 1972):

1. The Parties shall furnish to the Board each year for each of their territories, in the manner and form prescribed by the Board, estimates on forms supplied by it in respect of the following matters:

a) Quantities of drugs to be consumed for medical and scientific purposes;

b) Quantities of drugs to be utilized for the manufacture of other drugs, of preparations in Schedule III and of substances not covered by this Convention;

c) Stocks of drugs to be held as at 31 December of the year to which the estimates relate;

d) Quantities of drugs necessary for addition to special stocks;

e) The area (in hectares) and the geographical location of land to be used for the cultivation of the opium poppy;

f) Approximate quantity of opium to be produced;

g) The number of industrial establishments which will manufacture synthetic drugs; and

h) The quantities of synthetic drugs to be manufactured by each of the establishments referred to in the preceding subparagraph;

2. a) Subject to the deductions referred to in paragraph 3 of Article 21, the total of the estimates for each territory and each drug except opium and synthetic drugs shall consist of the sum of the amount specified under subparagraphs a), b) and d) of paragraph 1 of this article, with the addition of any amounts required to bring the actual stocks on hand at 31 December of the preceding year to the level estimated as provided in subparagraph c) of paragraph 1.

b) Subject to the deductions referred to in paragraph 3 of article 21 regarding imports and in paragraph 2 of article 21 bis, the total of the estimates for opium for each territory shall consist either of the sum of the amounts specified under subparagraphs a), b) and d) of paragraph 1 of this article, with the addition of any amount required to bring the actual stocks on hand at 31 December of the preceding year to the level estimated as provided in subparagraph c) of paragraph 1 or of the amount specified under subparagraph (f) of paragraph 1 of this article, whichever is higher.

c. Subject to the deductions referred to in paragraph 3 of article 21, the total of the estimates for each territory for each synthetic drug shall consist either of the sum of the amounts specified under subparagraphs (a), (b) and (d) of paragraph 1 of this

article, with the addition of any amount required to bring the actual stocks on hand at 31 December of the preceding year to the level estimated as provided in subparagraph (c) of paragraph 1, or of the sum of the amounts specified under subparagraph (h) of paragraph 1 of this article, whichever is higher.

d) The estimates furnished under the preceding subparagraphs of this paragraph shall be appropriately modified to take into account any quantity seized and thereafter released for licit use as well as any quantity taken from special stocks for the requirements of the civilian population.

3. Any State may during the year furnish supplementary estimates with an explanation of the circumstances necessitating such estimates.

4. The Parties shall inform the Board of the method used for determining quantities shown in the estimates and of any changes in the said method.

5. Subject to the deductions referred to in paragraph 3 of article 21, and account being taken where appropriate of the provisions of article 21 bis, the estimates shall not be exceeded.

Article 21 bis was introduced by the Protocol of 1972 and expressly governed limitations on opium production.

The system of statistical returns

41. Article 20 of the Single Convention, as amended by the Protocol of 1972, establishes that:

1. The Parties shall furnish to the Board for each of their territories, in the manner and form prescribed by the Board, statistical returns on forms supplied by it in respect of the following matters:

- (a) Production or manufacture of drugs;
- (b) Utilization of drugs for the manufacture of other drugs, of preparations in Schedule III and of substances not covered by this Convention, and utilization of poppy straw for the manufacture of drugs;
- (c) Consumption of drugs;
- (d) Imports and exports of drugs and poppy straw;

- (e) Seizures of drugs and disposal thereof;
- (f) Stocks of drugs as at 31 December of the year to which the returns relate; and
- (g) Ascertainable area of cultivation of the opium poppy.

2. (a) The statistical returns in respect of the matters referred to in paragraph 1, except subparagraph (d), shall be prepared annually and shall be furnished to the Board not later than 30 June following the year to which they relate.

(b) The statistical returns in respect to the matters referred to in subparagraph (d) of paragraph 1 shall be prepared quarterly and shall be furnished to the Board within one month after the end of the quarter to which they relate.

3. The Parties are not required to furnish statistical returns respecting special stocks, but shall furnish separately returns respecting drugs imported into or procured within the country or territory for special purposes, as well as quantities of drugs withdrawn from special stocks to meet the requirements of the civilian population.

The importance of the statistical returns system and the obligations undertaken under this article lies in the fact that, from a central worldwide standpoint, if the Parties fully comply with the terms of the treaty, it would be possible to determine the amount of drugs produced (production understood as cultivation) and manufactured, as well as consumption, imports, seizures and disposal of substances seized, so that the Board could be alerted with respect to production surpluses that might otherwise be diverted into illicit traffic. Naturally, the effectiveness of this international control method depends on the willingness and capability of the Governments of the States Parties to meet their obligations under the treaty. In this regard, paragraph 2 of article 13 states:

2. The Board shall examine the returns with a view to determining whether a Party or any other State has complied with the provisions of this Convention.

It should be recalled that the Convention provides for nonparties to the Convention to voluntarily adopt measures in accordance with the Convention and the decisions of its bodies (article 8, subparagraph d).



International trade

42. The import and export of drugs are subject to control measures that the Parties are required to adopt in compliance with the specific provisions set forth chiefly in Article 31 of the Single Convention. These measures include control of persons and enterprises that are engaged in such trade. In addition, as a general obligation, the Treaty prohibits the Parties from authorizing the export of drugs, except: a) when such export is in accordance with the laws and regulations of the importing country or territory; b) such exports are within the limits of the estimates for that country, with the addition of the amounts intended to be reexported.

All exports require an "export authorization" which in turn may not be granted if the enterprise or person requesting it does not have an "import certificate" granted by the importing country.

43. Drugs intended for consumption in the importing country as well as those in transit shall be subject to the control measures stipulated in the treaty and to the necessary statistical return system to ensure the legality of trade in such substances.

"The Parties--states article 33--shall not permit the possession of drugs except under legal authority".

Article 34 states:

Measures of supervision and inspection

The Parties shall require:

a) That all persons who obtain licences as provided in accordance with this Convention, or who have managerial or supervisory positions in a State enterprise established in accordance with this Convention, shall have adequate qualifications for the effective and faithful execution of the provisions of such laws and regulations as are enacted in pursuance thereof; and

b) That governmental authorities, manufacturers, traders, scientists, scientific institutions and hospitals keep such records as will show the quantities of each drug manufactured and of each individual acquisition and disposal of drugs. Such records shall respectively be preserved for a period of not less than two years.

Where counterfoil books (article 30, paragraph 2 (b)) of official prescriptions are used, such books including the counterfoils shall also be kept for a period of not less than two years.

Trade and distribution of drugs in the domestic market

44. With respect to trade and distribution of drugs in domestic markets, the Single Convention establishes various obligations of the Parties in Article 30. The most general obligation is to require that such trade and distribution be under licence by the State. With respect to the supply or dispensation of drugs to individuals, the treaty establishes the obligation to require medical prescriptions.

To establish universal control of substances, the Parties have the option set forth in paragraph three of Article 30 to establish certain requirements regarding advertisements or offers of drugs by the non-proprietary name communicated by the World Health Organization.

The same article sets forth other requirements that the Parties may adopt to enhance drug control within their jurisdiction.

Action against illicit traffic and penal provisions

45. Although the underlying idea of the system to control drug traffic in the Single Convention is to prevent insofar as possible the illicit production and surpluses of such substances, in order to impede their illicit distribution, the legal evolution of this subject shows that governments, whether within the League of Nations or in the United Nations at present, have always confronted the phenomenon of the illicit consumption of and trade in drugs. In fact, at the very root of current regulatory effort is a concern with the abuse of opium, and over the years, of other substances the abuse of which is the fundamental reason for cooperative efforts among governments to improve the suppression of illicit activity through international cooperation on penal provisions. The Single Convention of 1961 sets forth these aspects with regard to illicit trade in Articles 35 and 36, and in the 1972 Protocol of amendments of that instrument an effort was made to improve such provisions to deal with the increasing dangerous consumption of drugs. The amended text of Article 35 reads as follows (the underlined text indicates the amendments introduced by the Protocol of 1972):

Having due regard to their constitutional, legal and administrative systems, the Parties shall:

- (a) Make arrangements at the national level for co-ordination of preventive and repressive action against the illicit traffic; to this end they may usefully designate an appropriate agency responsible for such co-ordination;
- (b) Assist each other in the campaign against the illicit traffic in narcotic drugs;

- (c) Co-operate closely with each other and with the competent international organizations of which they are members with a view to maintaining a co-ordinated campaign against the illicit traffic;
- (d) Ensure that international co-operation between the appropriate agencies be conducted in an expeditious manner; and
- (e) Ensure that where legal papers are transmitted internationally for the purposes of a prosecution, the transmittal be effected in an expeditious manner to the bodies designated by the Parties; this requirement shall be without prejudice to the right of a Party to require that legal papers be sent to it through the diplomatic channel;
- (f) Furnish, if they deem it appropriate, to the Board and the Commission through the Secretary-General, in addition to information required by article 18, information relating to illicit drug activity within their borders, including information on illicit cultivation, production, manufacture and use of, and on illicit trafficking in, drugs; and
- (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 advice to it in furnishing the information and in endeavouring to reduce the illicit drug activity within the borders of that Party.

This article sets forth in greater detail certain aspects of the general obligation undertaken in Article 4 of the same instrument, whereby the Parties undertake to carry out all of the provisions of the Convention through internal legislative and administrative measures, and also through international cooperation with other States. The obligation in the last part of Article 4 is to "limit exclusively to medical and scientific purposes the production, manufacture, export, import, distribution of, trade in, use and possession of drugs."

Thus, the systems for schedules, estimates, statistical returns, licences and limitation of cultivation referred to above aim at ensuring that drugs exist only in quantities and for purposes that are lawful. Nevertheless, the Convention recognizes the fact of illicit activity and creates a system of cooperation against illicit traffic which includes penal suppression of illicit aspects.

46. Paragraphs a) and c) of article 35 cited above refer to coordination of national and international activities, with a view to "maintaining a coordinated campaign against the illicit traffic" in the international arena.

Coordination for the purposes of the Single Convention has a universal scope, reflecting the basic concept of a danger to mankind in the international order in this field, but it does not impede more intensive and advanced cooperation and coordination by other international organizations, outside of the United Nations, of which the Convention is a normative and institutional agency, when this is necessary and feasible in the corresponding legal system, whether regional, subregional or by any other that the sovereign states deem advisable. Moreover, the provision of paragraph c) cited above creates an obligation of the parties to cooperate closely with each other and with the competent international organizations of which they are members, with a view to maintaining a coordinated campaign against illicit traffic.

47. The substance of paragraph e) of Article 35 exemplifies one of the specific means set forth in the Single Convention to make its legal system more effective with respect to legal cooperation to combat illicit drug trafficking. At the same time, this is a legal aspect which, at a regional level such as that of inter-American cooperation, could be more sharply developed to facilitate attainment of the purposes set forth in the United Nations instrument.

48. Paragraphs f) and g), added by the Protocol of 1972, provide that, if the Parties deem it advisable, they may furnish the Board, through the Secretary General of the United Nations, information on illicit activities within their borders, including the "illicit cultivation, production, manufacture and use of, and on illicit trafficking in, drugs". In addition, the Convention states that the Board, at the request of a Party, may offer its advice to reduce illicit drug activities within the borders of that Party.

Regarding this aspect of action against illicit activities, cooperation envisaged in the Convention is based on absolute respect for national sovereignty and on the potential for dialogue between the institutions of the Treaty and the governments of the States Parties. Likewise, Article 36 of the Single Convention as amended by the Protocol of 1972 calls for cooperation on penal matters on the basis of intergovernmental action without creating or promoting any supranational authority.

49. Article 36, with the amendments introduced by the Protocol of 1972 underlined, states:

1. a) Subject to its constitutional limitations, each Party shall adopt such measures as will ensure that cultivation, production, manufacture, extraction, preparation, possession, offering, offering for sale, distribution, purchase, sale, delivery on any terms whatsoever, brokerage, dispatch, dispatch in transit, transport,

importation and exportation of drugs contrary to the provisions of this Convention, and any other action which in the opinion of such Party may be contrary to the provisions of this Convention, shall be punishable offences when committed intentionally, and that serious offences shall be liable to adequate punishment particularly by imprisonment or other penalties of deprivation of liberty.

b) Notwithstanding the preceding subparagraph, when abusers of drugs have committed such offences, the Parties may provide, either as an alternative to conviction or punishment or in addition to conviction or punishment, that such abusers shall undergo measures of treatment, education, after-care, rehabilitation and social reintegration in conformity with paragraph 1 of article 38.

2. Subject to the constitutional limitations of a Party, its legal system and domestic law,

- a) i) Each of the offences enumerated in paragraph 1, if committed in different countries, shall be considered as a distinct offence;
  - ii) Intentional participation in, conspiracy to commit and attempts to commit, any of such offences, and preparatory acts and financial operations in connexion with the offences referred to in this article, shall be punishable offences as provided in paragraph 1;
  - iii) Foreign convictions for such offences shall be taken into account for the purpose of establishing recidivism; and
  - iv) Serious offences heretofore referred to committed either by nationals or by foreigners shall be prosecuted by the Party in whose territory the offence was committed, or by the Party in whose territory the offender is found if extradition is not acceptable in conformity with the law of the Party to which application is made, and if such offender has not already been prosecuted and judgement given.
- b. i) Each of the offences enumerated in paragraphs 1 and 2 (a) (ii) of this article shall be deemed to be included as an extraditable offence in any extradition treaty existing between Parties. Parties undertake to include such offences as extraditable offences in every extradition treaty to be concluded between them;

- ii) If a Party which makes extradition conditional on the existence of a treaty receives a request for extradition from another Party with which it has no extradition treaty, it may at its option consider this Convention as the legal basis for extradition in respect of the offences enumerated in paragraphs 1 and 2 (a) (ii) of this article. Extradition shall be subject to the other conditions provided by the law of the requested Party;
- iii) Parties which do not make extradition conditional on the existence of a treaty shall recognize the offences enumerated in paragraphs 1 and 2 (a) (ii) of this article as extraditable offences between themselves, subject to the conditions provided by the law of the requested Party;
- iv) Extradition shall be granted in conformity with the law of the Party to which application is made, and, notwithstanding subparagraphs (b) (i), (ii) and (iii) of this paragraph, the Party shall have the right to refuse to grant the extradition in cases where the competent authorities consider that the offence is not sufficiently serious.

50. Section a) of paragraph 1 of Article 36 allows each of the Parties to adopt measures that will make certain acts that do not conform to the provisions of the Single Convention punishable offences. The list offered in this provision is not exhaustive, since the Convention itself states that there may be other actions which in the opinion of the Parties are contrary to the provisions of the instrument. The rule stresses the elements of intention and seriousness of the offences for purposes of determining adequate punishment. In other words, each Party undertakes to adopt penal measures within its competence and constitutional limitations that are compatible with the purposes and provisions of the Convention. The Convention does not contain penal provisions that are directly applicable in the territory of the Parties, allowing each Party to adopt domestic penal legislation to determine punishable offences in keeping with the purpose of making the Convention effective in the campaign against illicit drug trafficking.

51. An important amendment introduced in this article by the Protocol of Amendments of 1972 was the addition of section b) to paragraph 1, which provides that drug abusers who have committed the offences referred to in the article may be provided treatment, in accordance with Article 38, which calls on the Parties to take all practicable measures to provide treatment to drug abusers, insofar as resources permit.

52. The drafting of section i) of subparagraph b) of paragraph 2 is similar to that of paragraph 1 of article 8 of the Convention for the Suppression of Unlawful Seizure of aircraft signed at The Hague on December 16, 1970. The drafting of section ii) closely resembles that of paragraph 2 of article 8 of the above-cited agreement. This latter section does not impose an obligation on the Parties, but rather offers an option.

53. By contrast, section i) does establish obligations regarding extradition in relation to treaties that the Parties may have concluded and those that may be concluded in the future.

The first part of section 1) of subparagraph b) establishes that "each of the offences" enumerated in the rule "shall be deemed to be included as an extraditable offence in any extradition treaty existing between Parties". In other words, (and this is the interpretation given in the Observations on the Protocol of 1972 to the Single Convention on Narcotic Drugs of 1961)<sup>3/</sup> this part of section i) would entail, whenever a Party to the Single Convention requests extradition of another Party, an amendment of any extradition treaty (bilateral or multilateral) that those Parties may have concluded to include such offences, even if they were not included at the time of the conclusion of the treaty between the Parties.

Future extradition treaties that may be concluded among Parties to the Single Convention shall include such offences under the terms of the second part of the above-cited section.

54. Both paragraph 1 and paragraph 2 of Article 36 expressly state that application and compliance with the provisions of this rule are subject to the Constitution, legal system and domestic law of the Parties. Thus, this rule contains provisions that limit and harmonize these aspects of the international obligations undertaken through the Convention with the legal diversity and different internal systems of the

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3. Published in 1972 under the auspices of the United Nations Office of Legal Affairs, document E/CN.7/588.

States Parties. Thus, in section iv) of paragraph a) of paragraph 2) it is provided that serious offences committed abroad, whether committed by nationals or foreigners, shall be prosecuted by the Party in whose territory the offence was committed or by the Party in whose territory the offender is found if extradition is not acceptable in conformity with the law of the requested Party. Thus, it is the Party to which application is made that must decide, in accordance with its domestic law whether the crime is sufficiently serious or, if for any other reason, extradition is not acceptable.

Section iv) of subparagraph b) of paragraph 2 refers explicitly to the domestic law of the Party to which application is made for extradition, and provides that "the Party shall have the right to refuse to grant the extradition in cases where the competent authorities consider that the offence is not sufficiently serious". The Party to which application is made, under the terms of this provision, has ample scope to determine whether the offence is sufficiently serious for purposes of granting extradition.

55. The provisions of the Single Convention reflect the complexity of the question of extradition among sovereign states. It should be added that the 25 American States that are also Parties to the Single Convention are governed by the provisions of existing multilateral extradition treaties, in addition to the bilateral treaties that they may have ratified. Also to be considered is the diversity of treatment of offences related to illicit drug trafficking contained in domestic penal law, since there are no recent studies on the potential for harmonization of legislation that might facilitate the strengthening of the institution of extradition as one of the means, from a penal standpoint, to combat the scourge of drug trafficking in the inter-American region.

Limitation of cultivation, provisions concerning certain crops.  
Treatment of coca leaves and the coca bush

56. The instruments to control drugs provided by the Single Convention, such as the schedules, estimates, statistical returns, international trade regime, etc., have as their object, as has been noted, to ensure that the availability of these substances be limited to that which is strictly necessary for licit purposes. In addition, the Convention contains a specific control measure, provisions designed to limit the cultivation of certain plants or bushes from which alkaloids are derived.

The crops to which the Convention makes specific reference are poppy (from which opium is derived), the cannabis plant, (from which marijuana is derived) and the coca bush (from which cocaine is derived). The Single Convention of 1961 was the first multilateral instrument to include provisions on the cultivation of the coca bush.



57. At this point, special mention should be made of the coca leaf and the coca bush, since this crop is the only one referred to in the OAS General Assembly resolution AG/RES. 699 (XIV-0/84), by which a Specialized Inter-American Conference on Drug Traffic is convoked. In effect, operative paragraph 4 of that resolution states:

4. To instruct the Permanent Executive Committee of the Inter-American Economic and Social Council (CIES) to submit, in consultation with other organs of the inter-American system, a study to the Specialized Conference that will identify socio-economic development alternatives to the problem created by the elimination of surplus coca crops, proposed measures to reduce demand, devise inter-American cooperation mechanisms in this regard, and urgently consider the establishment of a specialized regional fund to provide assistance to the member states affected by this problem.

It will be noted that the regional inter-American approach to surplus coca crops envisages two lines of activity for the inter-American system: one having to do with socio-economic development alternatives to address problems that arise from the suppression of surplus crops and the other having to do with measures to reduce demand.

The emphasis that this study of the Single Convention of 1961, amended by the Protocol of 1972, places on the treatment of the coca bush and leaf does not diminish the importance of that instrument's treatment of other crops, such as poppy and cannabis, but rather seeks to illustrate the treatment of a specific topic in the UN instrument from the regional perspective requested by the General Assembly of the OAS.

58. Among the definitions of terminology and concepts laid out by the Single Convention, the following which are contained in Article 1 of the instrument should be noted:

...

e) "Coca bush" means the plant of any species of the genus *Erythroxylon*.

f) "Coca leaf" means the leaf of the coca bush except a leaf from which all ecgonine, cocaine and any other ecgonine alkaloids have been removed.

The coca leaf, from which the alkaloids have not been extracted, falls under the control regime of the Single Convention whereas the leaf from which drug substances have been removed is not regarded as "coca leaf" in the specific sense of its legal definition for the purposes of regulation.

The Single Convention leaves the Parties free to determine whether it is necessary to prohibit cultivation of the coca bush under certain circumstances. Article 22 of the Single Convention, as amended by the Protocol of 1972, provides that:

1. Whenever the prevailing conditions in the country or a territory of a Party render the prohibition of the cultivation of the opium poppy, the coca bush or the cannabis plant the most suitable measure, in its opinion, for protecting the public health and welfare and preventing the diversion of drugs into the illicit traffic, the Party concerned shall prohibit cultivation.

2. A Party prohibiting cultivation of the opium poppy or the cannabis plant shall take appropriate measures to seize any plants illicitly cultivated and to destroy them, except for small quantities required by the Party for scientific or research purposes.

According to paragraph 1, the States Parties have the option to determine when prohibition of the cultivation of the coca bush is the most suitable way to protect public health and to prevent illicit traffic. Paragraph 2 refers to the opium poppy and the cannabis plant when cultivation has been prohibited by a State Party.

Where cultivation of the coca bush is legally permitted, the regime established through Article 26 of the Single Convention, together with Article 23, applies.

The first paragraph of article 26 provides that:

1. If a Party permits the cultivation of the coca bush, it shall apply thereto and to coca leaves the system of controls as provided in Article 23 respecting the control of the opium poppy, but as regards paragraph 2 d) of that article, the requirements imposed on the agency therein referred to shall be only to take physical possession of the crop as soon as possible after the end of the harvest.

59. The system for supervision of the opium poppy, applicable also to licit cultivation of the coca bush and coca leaves, sets out specific obligations established in article 23. First, the Parties are required to establish one or more government agencies (referred to in the Article as the Agency) to supervise such cultivation through the following functions established under paragraph 2:

a) The Agency shall designate the areas in which, and the plots of land on which, cultivation of the opium poppy for the purpose of producing opium shall be permitted.

- b) Only cultivators licensed by the Agency shall be authorized to engage in such cultivation.
- c) Each licence shall specify the extent of the land on which the cultivation is permitted.
- d) All cultivators of the opium poppy shall be required to deliver their total crops of opium to the Agency. The Agency shall purchase and take physical possession of such crops as soon as possible, but not later than four months after the end of the harvest.
- e) The Agency shall, in respect of opium, have the exclusive right of importing, exporting, wholesale trading and maintaining stocks other than those held by manufacturers of opium alkaloids, medicinal opium or opium preparations. Parties need not extend this exclusive right to medicinal opium and opium preparations.

Subject to their domestic law and administrative system, the Parties may choose to apply to the coca bush and leaves the same supervision system, adapting the content of Article 23 to that purpose. Article 26 modifies the treatment of the coca harvest provided in subparagraph d) of paragraph 2 of Article 23.

60. With respect to illicit cultivation or wild bushes, the Single Convention establishes in paragraph 2 of article 26 that:

...

2. The Parties shall so far as possible enforce the uprooting of all coca bushes which grow wild. They shall destroy the coca bushes if illegally cultivated.

Although this article sets out an obligation to uproot coca bushes that grow wild and to destroy illicitly cultivated bushes, the obligation is contingent upon the capability of the Parties to fulfill it. The Single Convention does not set out any guideline to determine what criteria will be taken into account to determine whether the action set out in the rule is possible, and such criteria may be determined according to the sovereign judgment of the States Parties.

The Single Convention also contains certain supplementary provisions regarding coca leaves, in Article 27:

1. The Parties may permit the use of coca leaves for the preparation of a flavouring agent, which shall not contain any alkaloids, and, to the extent necessary for such use, may permit the production, import, export, trade in and possession of such leaves.

2. The Parties shall furnish separately estimates (Article 19) and statistical information (Article 20) in respect of coca leaves for preparation of the flavouring agent, except to the extent that the same coca leaves are used for the extraction of alkaloids and the flavouring agent, and so explained in the estimates and statistical information.

According to paragraph 2 of article 27 coca leaves are included under the systems of estimates and statistical information analyzed above. We have already noted the importance that these systems in the Single Convention (Article 13, paragraph 2) had in allowing the Board to determine whether the Parties or any other state have complied with the terms of the Convention. In the following chapter we will consider how the Convention (article 14) seeks to ensure compliance with its provisions.

#### Provisions to ensure compliance with the Convention

61. The text of Article 14 of the Single Convention, as amended by the 1972 Protocol, contains certain provisions concerning the conduct of the parties in applying the convention and the consequences of non-compliance with the agreement. In addition, that article provides for the case of a situation that endangers compliance with the provisions of the convention despite the willingness of a State Party to comply with its provisions when its territory has become an important center for events or activities contrary to the purposes of the convention. In general, the rules systematize institutional action, based on the Treaty, with respect to the State Party affected, seeking to affirm the effectiveness of the instrument.

The text of Article 14, as amended, is as follows (the underlined portions show the amendments made in 1972 to the 1961 text):

1. a. If, on the basis of its examination of information submitted by Governments to the Board under the provisions of this Convention, or of information communicated by United Nations organs or by specialized agencies or, provided that they are approved by the Commission on the Board's recommendation, by either other inter-governmental organizations or international non-governmental organizations which have direct competence in the subject-matter and 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, the Board has objective reasons to believe that the aims of this Convention are being seriously endangered by reason of the failure of any Party, country or territory to carry out the provisions of this Convention, the Board shall have the right to propose to the Government concerned the opening of consultations or to request it to furnish explanations. If, without any failure in implementing the provisions of the

Convention, a Party or a country or territory has become, or if there exists evidence of a serious risk that it may become, an important centre of illicit cultivation, production or manufacture of, or traffic in or consumption of drugs, the Board has the right to propose to the Government concerned the opening of consultations. Subject to the right of the Board to call the attention of the Parties, the Council and the Commission to the matter referred to in subparagraph (d) below the Board shall treat as confidential a request for information and an explanation by a Government or a proposal for consultations and the consultations held with a Government under this subparagraph.

b. After taking action under subparagraph (a) above, the Board, if satisfied that it is necessary to do so, may call upon the Government concerned to adopt such remedial measures as shall seem under the circumstances to be necessary for the execution of the provisions of this Convention.

c. The Board may, if it thinks such action necessary for the purpose of assessing a matter referred to in subparagraph (a) of this paragraph, propose to the Government concerned that a study of the matter be carried out in its territory by such means as the Government deems appropriate. If the Government concerned decides to undertake this study, it may request the Board to make available the expertise and the services of one or more persons with the requisite competence to assist the officials of the Government in the proposed study. The person or persons whom the Board intends to make available shall be subject to the approval of the Government. The modalities of this study and the time-limit within which the study has to be completed shall be determined by consultation between the Government and the Board. The Government shall communicate to the Board the results of the study and shall indicate the remedial measures that it considers necessary to take.

d. If the Board finds that the Government concerned has failed to give satisfactory explanations when called upon to do so under subparagraph (a) above, or has failed to adopt any remedial measures which it has been called upon to take under subparagraph (b) above, or that there is a serious situation that needs co-operative action at the international level with a view to remedying it, it may call the attention of the Parties, the Council and the Commission to the matter. The Board shall so act if the aims of this Convention are being seriously endangered and it has not been possible to resolve the matter satisfactorily in any other way. It shall also so act if it finds that there is a serious situation that needs co-operative action at the international level with a view to remedying it and that bringing such a situation to the notice of the Parties, the Council and the Commission is the most appropriate method of facilitating such co-operative action; after considering the reports of the Board, and of the Commission if available on the matter, the Council may draw the attention of the General Assembly to the matter.

2. The Board, when calling the attention of the Parties, the Council and the Commission to a matter in accordance with paragraph (d) above, may, if it is satisfied that such a course is necessary, recommend to Parties that they stop the import of drugs, the export of drugs, or both, from or to the country or territory concerned, either for a designated period or until the Board shall be satisfied as to the situation in that country or territory. The State concerned may bring the matter before the Council.

3. The Board shall have the right to publish a report on any matter dealt with under the provisions of this article, and communicate it to the Council, which shall forward it to all Parties. If the Board publishes in this report a decision taken under this article or any information relating thereto, it shall also publish therein the views of the Government concerned if the latter so requests.

4. If in any case a decision of the Board which is published under this article is not unanimous, the views of the minority shall be stated.

5. Any State shall be invited to be represented at a meeting of the Board at which a question directly interesting it is considered under this article.

6. Decisions of the Board under this article shall be taken by a two-thirds majority of the whole number of the Board.

62. The amendment introduced in this article by the 1972 Protocol had several purposes, one of which was to make the rule more precise regarding the Board's relationship to the governments of the States Parties regarding the competence of the Board to gather information on aspects connected with compliance with the treaty and possible action by the Board in that regard. The 1961 text gave the Board, on the assumptions stipulated in the article, authority to "request the government of the country or territory concerned to furnish explanations." The amended text states that the Board "has the right to propose to the government concerned the opening of consultations or to request it to furnish explanations." The reason for this amendment was that, in the view of several delegations, the previous text gave the Board excessive authority from the standpoint of the need of preserving national sovereignties.

63. One aspect in which the Board's capacity was expanded to obtain information in relation to its duties involves the sources from which the Board can obtain such information. The 1961 text provided that only communications from the United Nations organs could be sources of information. In contrast, the amended text states that the Board may base its action on information from, in addition to the sources cited, the

United Nations specialized agencies or intergovernmental or nongovernmental organizations that have direct competence in the subject matter, provided that they are recognized as enjoying consultative status with the Economic and Social Council under Article 71 of the United Nations Charter.

This expansion of information sources was objected to in the deliberations,<sup>4/</sup> on the grounds that it would be damaging to the national sovereignty of the states to give the Board authority to act on the basis of information other than that provided by the governments. It was argued that the states should not be subject to measures of inspection, investigations, explanations or other similar acts because good faith and mutual confidence were the bases for relations among sovereign states.

Despite objections such as those mentioned, the 1972 Protocol expanded the Board's ability to obtain information as indicated. The Board reviews the information to make an objective judgment, on the basis of which it can choose a particular course of action to maintain compliance with the aims of the treaty, on two assumptions that differ in nature and scope from the standpoint of the principle pacta sunt servanda, but that are able to generate important institutional action in the sphere of application of the international instrument.

64. Two situations or circumstances regarding the problem of illicit traffic and consumption of narcotics can determine the exercise of the Board's authority to see to the attainment of the Convention's aims. The first situation or circumstance is noncompliance by a state party to the convention. The other circumstance occurs when, even though there is willingness to comply with the convention, a country or territory becomes, or runs the risk of becoming a center for cultivation, production, manufacture, traffic or illicit use of narcotics.

Before giving its opinion on the circumstances mentioned, the Board, if it wishes, may propose to the government concerned that studies be conducted in its territory through whatever means the government may accept. The findings of those studies shall be reported to the Board by that government.

65. Regarding subparagraph a) and c) of the rule being commented upon, it can be seen that it is to the interest of the parties to harmonize the exercise of the Board's authority and its responsibility for better attainment of the Treaty's aims, with the goal of safeguarding state sovereignty in each case. The Treaty does not establish a supranational agency, but is primarily based on the notion of harmonious cooperation between governments and institutions to attain the agreed upon aims.

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4. United Nations Conference to consider Amendments to the 1961 Single Convention on Narcotic Drugs (E/CONF.63/10, p. 24).

Both in the case of proven failure to comply with obligations and in situations where compliance is impossible but attainment of the Treaty's goals is endangered, the Board is authorized to propose to the government concerned that consultations be held to seek solutions or even to request explanations regarding the failure to comply. Under subparagraph 1.b) of Article 14, the Board may propose to the government concerned that it adopt remedial measures to execute the provisions of the Convention.

66. The Treaty contains provisions for joint action among the parties to ensure effectiveness in situations in which normal cooperation between institutions and the government concerned has not achieved such effectiveness. This is one of the Treaty's most important aspects because it deals with measures that the parties have called for to ensure the effectiveness of an instrument that was conceived as a "single convention," of worldwide coverage to regulate aspects connected with the drug problem, and thus to avoid, as effectively as possible, illicit and harmful traffic of such substances. The issue of effectiveness of such a legal system in the face of the growing danger and harmfulness of the illicit traffic in narcotics requires an in-depth analysis of the conceptual assumptions of the entire normative system, i.e., a system based on state sovereignty and voluntary international cooperation as an alternative to a system of more direct control through institutions with supranational jurisdiction. On the other hand, in this same area of concern, analysis should be made as to whether in a regional sphere such as that covered by the OAS Charter, progress can be made that, without being in conflict with the worldwide system, can implement a more effective and stricter system than that agreed upon by twenty-five member states of the regional organization as parties to the worldwide Single Convention.

67. From the theoretical standpoint, it would not be illogical to consider the possibility of having a regional system that does not conflict with, but is more advanced than, the world system even though the member states of the regional organization are in turn parties to the world system. Several factors or reasons that determine a certain conception for the world system might not be present, or might at least be less relevant in the regional sphere, in the face of the need for increasing to the maximum the effectiveness of the hemisphere-wide cooperation system in this area of concern. This possibility, however, brings to the fore a basic problem in achieving more effective international action than now exists to control or eliminate illicit drug traffic, i.e., the problem of the primary juridical conception on which the system for cooperation among the states is based.

The world system is based on an agreement for cooperation among the states and a system for national control that each of the parties establishes, subject to its domestic jurisdiction. The mechanism for indirect control, which was described above, is the product of an evolution



that has not succeeded in implementing more advanced formulas than the traditional ones, i.e., action based on the desire to comply with agreements and on the lack of institutions with real powers beyond that of denouncing violators and producing a moral deterrent to achieve compliance with the aims of the Treaty. The main reason for this state of affairs is that as indicated by Bassiouni, "the reluctance of states to yield any of their sovereign prerogatives to an international body."<sup>2/</sup> This statement is valid both in the world context of the fight against illicit drug traffic and international criminal law in general, and in the regional context of inter-American cooperation at least, in its multiple aspects, up to the present time in its historic development.<sup>3/</sup>

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2. Bassiouni, M. Cherif: "Transnational Control of Narcotics" in American Society of International Law. Proceedings of the 66th Annual Meeting. Washington, D.C., April 27-29, 1972. American Journal of International Law. Vol. 66, September 1972, No. 4, p. 229.

3. During the process of amending the Charter of the Organization of American States, which began in 1973 with the establishment by the General Assembly of the Special Committee to Study the Inter-American System and to Propose Measures for Restructuring It (CEESI), the Permanent Council, as the agency responsible for completing that study, proposed in 1976 to add to Article 1 of the Charter a third paragraph stressing the strictly intergovernmental nature of the Organization, which reads as follows: "The Organization of American States has no powers other than those expressly conferred upon it by this Charter, none of whose provisions authorizes it to intervene in matters that are within the internal jurisdiction of the Member States."

In the study of the amendment text prepared in 1985 by the General Secretariat when it again took up revision of the 1976 text, pursuant to resolution AG/RES. 745 (XIV-0/84), the Secretariat explained the scope of this text as follows: "6. The third paragraph proposed by the Council in the revision of the contents and purpose of Article 1 is an adaptation, mutatis mutandi, of paragraph seven of Article 2 of the Charter of the United Nations. In connection with the nature of the regional Organization, it was pointed out that the proposed paragraph aims to eliminate the possibility of broad interpretations of the Organization's powers by recognizing only those expressly conferred by its Charter. Mention was made of the fact that, in the course of inter-American relations, interpretations had on occasion been made to the effect that the Organization or the organs established by its Charter enjoyed implicit powers which were not expressly set down in the international instrument.

The paragraph added at the end of Article 1, discussed originally when Chapter IV of the Charter on "Fundamental Rights and Duties of States" was under consideration, would ensure that no amplificatory interpretations of the Organization's authority could be defended in the future. (OEA/Ser.G/CP/doc.1560/85/Part I, p. 11).

In the present status of the amendment process (October 1985), the Commission on Juridical and Political Affairs again endorsed the text of the paragraph of article 1 transcribed above.

C. POSSIBLE CONTENT OF AN INTER-AMERICAN CONVENTION  
AGAINST THE ILLICIT TRAFFIC IN DRUGS

68. The preceding pages have described the chief characteristics of the international legal regime, of worldwide scope, relating to the licit and illicit trade in drugs to which 25 member states of the Organization of American States are parties. This fundamental precedent in the subject of drug traffic influences, together with other factors, any approach to the possible content of an inter-American convention against drug traffic.

It should be noted that prior to the approval by the General Assembly on November 17, 1984 of resolution AG/RES. 699 (XIV-0/84): "Convocation of a Specialized Inter-American Conference on Drug Traffic", neither the General Secretariat nor any other organ of the Organization had carried out feasibility studies or studies on the advisability of drafting a regional convention on a subject already regulated at the global level.

69. The OAS General Assembly resolution approaches the question of regional action bearing in mind its global context when it states that "drug traffic is a crime that affects all of mankind, with all the legal consequences that this implies". In addition, it entrusts to various organs of the Organization specific studies on given aspects of the drug traffic problem, from which might arise suggestions for the content of a possible inter-American Convention as an alternative to the general focus that might be superimposed on the approach already embodied in the Single Convention on Narcotic Drugs of 1961 as amended by the 1972 Protocol.

The General Assembly resolution does not approach the issue of drug traffic from a penal standpoint, although this is implicit in its definition of it as an offence, but rather, above all, focuses on other aspects of the phenomenon relating to the supply of and demand for dangerous drugs, and how they relate to the economic and social development problems of the member states. As one of its precedents, the General Assembly resolution cites the resolution of the Inter-American Economic and Social Council, CIES/RES. 315 (XIX-0/84), approved at its XIX Annual Meeting at the Ministerial Level, the preamble of which condemns and repudiates drug traffic as contrary to the development ideals upheld by the Charter of the Organization, stating:

That drug traffic in the Americas has become a transnational problem which, in its manifold harmful aspects, affects the interests of the member states by creating an economic distortion due to a vile and degrading activity whose social consequences are contrary to the ideals of development enshrined in the Charter of the Organization.

70. Such earlier treatment of the drug traffic issue indicates that it would not be appropriate to consider lucrative activity in drug traffic as a legitimate alternative to the development of one or more member states of the inter-American system, because it is expressly condemned

from a moral standpoint as "a vile and degrading activity whose social consequences are contrary to the ideals of development enshrined in the Charter of the Organization", and also from a legal standpoint, because according to the Assembly resolution, drug traffic " is a crime that affects all of mankind, with all the legal consequences that this implies". Thus, penal aspects relating to drug traffic are contained explicitly in resolution AG/RES. 699.

71. Following a modern trend in the campaign against this scourge, the OAS General Assembly resolution emphasizes other underlying aspects of the phenomenon it seeks to combat, through coordinated action of the organs and agencies of the Organization and through global international action within the framework of the United Nations, such as the existence of demand for illicit drugs and the production and offering for sale of them. Hence the studies requested relate chiefly to those preceding and concomitant aspects of criminal activity in the illicit traffic of such substances.

72. Although these studies might point to a specific inter-American content for a regional convention, the latter would result from a decision of the Governments of the member states to embody formulas for inter-American action in a convention. Such formulas have always been the subject of resolutions and recommendations from the bodies, rather than the content of a legal instrument, which faces the problem of obtaining a sufficient number of ratifications to be effective, and introduces a certain rigidity in a developing issue that requires prompt and flexible action.

73. On the other hand, not all of the studies have been completed, and those that have been completed, such as that entrusted to CEPICIES: "Socio-economic Studies for the Inter-American Specialized Conference on Drug Traffic" (CEPICIES/1238/October 21, 1985) suggests alternatives for action that must be decided upon at the Conference by the Governments of the member states.

74. Therefore, study of precedents in this area has not yet led to a specific content for an inter-American convention. The content of the draft convention submitted by the Government of Venezuela was taken into account during the research performed, and it refers to a very general control system that closely follows the content of the penal aspects of the Single Convention on Narcotic Drugs of 1961, amended by the Protocol of 1972. As a result, the draft does not have a strictly inter-American content, but is rather global, and entrusts supervision to global institutions, as does the Single Convention, as follows:

Article fourteen. - Control

The parties agree to entrust the Narcotics Commission of the Economic and Social Council and the International Narcotics Control Board of the United Nations with control over the activities and obligations set forth in the present Convention.

With respect to the activities and obligations set forth in this draft, particularly those relating to cooperation among States and on penal aspects, articles 9 and 10 are virtual repetitions of the content of articles 35 and 36 of the Single Convention, respectively.

75. The draft sets forth two specific ideas to render treatment of the offence of drug trafficking more serious, one referring to the nature of the offence, set forth in article 5:

Article five. - Nature of the offence

For the purposes of extradition, the illicit activities listed in this Convention shall not be considered to be political offences.

The other idea, set forth in article 6, is that there is no statute of limitations on offences or prosecution of offences that are defined as "drug trafficking":

Article six. - Statute of limitations of the offences

The offences listed in this Convention are not subject to any statute of limitations. Regardless of the date when they were committed, they shall be the subject of investigation, and persons against whom there is sufficient evidence of having committed such offences shall be sought, detained, brought to trial, and, if found guilty, punished.

The States undertake to adopt, in accordance with their respective legislations, any legislative or other measures that may be necessary to ensure that a time limit for penal action or punishment, established by law or otherwise, shall not apply to the offences mentioned in Article 3 and in subparagraph a), paragraph II of Article 10 of this Convention, and should such a statute of limitation exist, to abolish it.

In view of the fact that the concept of a statute of limitations is deeply rooted in the penal law of the member states, it seems unlikely that the member states would adopt a rule to abolish such statute of limitations.

76. This draft of a global nature has also been submitted to the United Nations and forms part, as a working document, of the documents under study in preparation for the conference to be held in 1987 to consider the possible adoption of new instruments in the campaign against drug traffic.

77. In sum, it would appear that an inter-American draft convention against drug traffic, given the current status of studies undertaken, could only be outlined sketchily.

78. The treaty obligations that would be assumed by the member states would refer to concrete actions in inter-American cooperation relating to supply and demand. The above-cited study by CEPCIES (page 104 of the English text) reads:

Taking into account these factors, the Member States under the OAS Charter can select from a number of options to express their determination to deal with the "white plague." The following are presented for consideration:

1. The establishment of a unit within the General Secretariat to follow the subject matter and maintain liaison with the U.N. bodies (1) to insure full information for the OAS Member States of actions by the world-wide bodies and (2) to facilitate consideration of regional inter-American concerns by the U.N. However, the OAS would not develop its own operational programs but work through the United Nations agencies already operating in this field, as described in Section I of this Study. The OAS could continue to follow and monitor the subject matter through its political bodies and establish appropriate channels, through the member states and/or through the General Secretariat, to transmit their concerns and recommendations to the U.N. agencies.
2. The development within the General Secretariat of a comprehensive OAS program for the Western Hemisphere capable of dealing coherently and progressively with all or selected phases of the cocaine and drug problem. Under this option, the OAS might consider the establishment of an Inter-American Commission on Drug Traffic, made up of distinguished experts elected by the Member States similarly to those chosen for the Inter-American Commission on Human Rights. The General Assembly could define its terms of reference and provide it with the necessary mandate for initiating operations as soon as the General Assembly deemed it appropriate. In considering this option, the Member States could define the institutional and functional relationship they believe desirable between a regional Commission and the world-wide U.N. agencies.
3. The creation of a Specialized Organization under Article 130 of the Charter which would be entrusted with the responsibility of developing a comprehension program for the Hemisphere, perhaps with similar characteristics to the Pan American Health Organization insofar as its relations with the U.N. drug agencies, that is, to become their regional arm for the Western Hemisphere.
4. The establishment of limited activities by the OAS to deal with specific problems related to cocaine or other drugs, such as:

- an Inter-American Training Center for public officials on the broad range of drug-related issues from crop substitution to enforcement, from legislation to drug treatment.
  - an inter-American clearing-house on drug traffic which could link the drug enforcement agencies throughout the continent in an effective telecommunications network to facilitate the interception of drugs moving from one country to another and the disruption of the illicit drug businesses.
  - an Inter-American Interpol for Drug Traffic Control designed to coordinate police and other drug enforcement actions throughout the continent.
5. The development of specific activities on aspects of the coca/cocaine and other drug problems within existing programs of the OAS. Under this option, the General Secretariat, specialized organizations and the specialized conferences would be instructed by the General Assembly to develop appropriate lines of action in their biennial Program-Budget to deal with relevant aspects of the drug problem. Such activities and their impact could be the subject of a special biennial report by the Secretary General or presented in a special chapter of the Program-Budget for ready identification by the political bodies.
  6. The creation of an Inter-American Fund. This Fund would be established for the specific purpose of providing additional, emergency resources to those countries which must develop economic alternatives to coca cultivation or upgrade their capability to stop the processing of coca leaf and the traffic in cocaine. This Fund would supplement UNFDAC and bilateral assistance programs and be coordinated insofar as possible with related programs financed from these sources. Further analysis of this option appears in Study 4 which deals exclusively with the possibilities of creating a special OAS fund, as requested by the General Assembly in OAS Resolution AG/RES. 699.

The appropriate OAS mechanism depends on the option selected by the member states. There is an adequate range of alternative structures and regimes under the OAS Charter to accommodate whichever of the options is deemed most desirable by member states.

79. It is clear that the possibilities for action that would be set forth in the Convention, if in fact a Convention is considered the most desirable way to approach inter-American action against drug traffic, are quite diverse, and CEPCIES considers that the Governments of the member states should select the corresponding options. These options would constitute the specific content of the Inter-American Convention.

The other studies mandated by the Assembly will also contain a number of options on possible courses of action which, once decided upon by the Governments, would also become articles of the new inter-American international instrument.

80. Faced with the problem of infusing consistency and flexibility in an action program that is multifaceted and coordinated with other international agencies because of the worldwide nature of the problem, CEPCIES suggests that an Inter-American Commission on Drug Traffic be established, the terms of reference to be established by the General Assembly. This option may be the most realistic one, given a phenomenon such as drug traffic which requires concrete actions applied in a flexible fashion rather than a legal instrument such as a Convention, with all of the disadvantages of requirements for ratification and ongoing amendments to adapt it to a changing international reality.

#### D. POSSIBILITY OF ESTABLISHING AN INTER-AMERICAN NARCOTIC DRUG COMMISSION (CIE), OF THE GENERAL ASSEMBLY

81. Following this line of reasoning, one could hypothesize that the member states are of the view that an Inter-American Convention on Narcotic Drugs is not feasible for now because: a) it is not desired to regulate regionally a problem that is already regulated at the worldwide level with the participation of 25 member states of the Organization of American States; b) because it would be too costly for the regional organization's current budget limitations to set up a complex institutional system similar to, and with functions like, the system operating at the United Nations, and c) because in any case, the significantly inter-American aspects of cooperation to combat drug traffic would be better served by a flexible approach through resolutions and recommendations of the appropriate organs of the General Assembly, to achieve the coordination called for in Article 52, subparagraph b) of the Charter of the Organization.

82. Working on this premise, in order to have a standing central forum to deal with the drug traffic problem, perhaps it would be best to establish an Inter-American Narcotic Drug Commission (CIE), as CEPCIES suggested. This Commission could be established by the General Assembly and subordinate to it, by virtue of the powers conferred upon it by Article 52 of the Charter.

The members the CIE would be elected in their personal capacity by the General Assembly from among candidates nominated by the governments of the member states of the Organization. The number of Commission members, the prerequisites for election, the length of terms and partial renewal of members would be determined in the Commission's statutes that the General Assembly would approve based on a draft to be prepared by the Permanent Council.

83. The CIE would draw up its own rules of procedure, which would be submitted to the General Assembly for approval, and the Assembly could delegate to the Permanent Council any aspect of the text for it to study and make appropriate recommendations to the General Assembly for final decision.

84. In the Statute, the Assembly would give the CIE in the statutes the main role of serving as a central forum to coordinate flexible, coordinated and effective action by all of the organs and entities of the Organization in the fight against the illicit traffic of drugs and thus contribute to the efforts made by the states parties to that end.

85. The main means for the CIE to carry out its mission would be to make well-founded recommendations to the General Assembly so it could, in the exercise of the powers conferred upon it by subparagraphs b) and c) of Article 52 of the Charter determine through decisions, mandates or recommendations what action should be taken in connection with the fight against illicit traffic of narcotics and other drugs.

86. The General Secretariat would provide the CIE with the Secretariat services and with support personnel required by the Commission, through its Chairman, and would assign part or full-time personnel depending on the needs and various fields of knowledge in which such services might be required.



4/6

**Single Convention on Narcotic Drugs, 1961, as amended by the Protocol amending the Single Convention on Narcotic Drugs, 1961 (with annexes). Done at New York on 8 August 1975**

**Objection by Israel to the declaration made by Kuwait upon accession to the Protocol amending the Single Convention on Narcotic Drugs, 1961**

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**SINGLE CONVENTION ON NARCOTIC DRUGS, 1961,<sup>2</sup> AS  
AMENDED BY THE PROTOCOL AMENDING THE SINGLE  
CONVENTION ON NARCOTIC DRUGS, 1961<sup>3</sup> (1972)**



**PREAMBLE**

**The Parties,**  
**Concerned with the health and welfare of mankind,**  
**Recognizing that the medical use of narcotic drugs continues to be indispensable for the relief of pain and suffering and that adequate provision must be made to ensure the availability of narcotic drugs for such purposes,**  
**Recognizing that addiction to narcotic drugs constitutes a serious evil for the individual and is fraught with social and economic danger to mankind,**  
**Conscious of their duty to prevent and combat this evil,**  
**Considering that effective measures against abuse of narcotic drugs require co-ordinated and universal action,**  
**Understanding that such universal action calls for international co-operation guided by the same principles and aimed at common objectives,**  
**Acknowledging the competence of the United Nations in the field of narcotics control and desirous that the international organs concerned should be within the framework of that Organization,**

Desiring to conclude a generally acceptable international convention replacing existing treaties on narcotic drugs, limiting such drugs to medical and scientific use, and providing for continuous international co-operation and control for the achievement of such aims and objectives,

Hereby agree as follows:

*Article 1. DEFINITIONS*

1. Except where otherwise expressly indicated or where the context otherwise requires, the following definitions shall apply throughout the Convention:

- (a) "Board" means the International Narcotics Control Board.
- (b) "Cannabis" means the flowering or fruiting tops of the cannabis plant (excluding the seeds and leaves when not accompanied by the tops) from which the resin has not been extracted, by whatever name they may be designated.
- (c) "Cannabis plant" means any plant of the genus *Cannabis*.
- (d) "Cannabis resin" means the separated resin, whether crude or purified, obtained from the cannabis plant.
- (e) "Coca bush" means the plant of any species of the genus *Erythroxylon*.
- (f) "Coca leaf" means the leaf of the coca bush except a leaf from which all ecgonine, cocaine and any other ecgonine alkaloids have been removed.
- (g) "Commission" means the Commission on Narcotic Drugs of the Council.
- (h) "Council" means the Economic and Social Council of the United Nations.
- (i) "Cultivation" means the cultivation of the opium poppy, coca bush or cannabis plant.
- (j) "Drug" means any of the substances in Schedules I and II, whether natural or synthetic.
- (k) "General Assembly" means the General Assembly of the United Nations.
- (l) "Illicit traffic" means cultivation or trafficking in drugs contrary to the provisions of this Convention.
- (m) "Import" and "export" mean in their respective connotations the physical transfer of drugs from one State to another State, or from one territory to another territory of the same State.
- (n) "Manufacture" means all processes, other than production, by which drugs may be obtained and includes refining as well as the transformation of drugs into other drugs.
- (o) "Medicinal opium" means opium which has undergone the processes necessary to adapt it for medicinal use.
- (p) "Opium" means the coagulated juice of the opium poppy.
- (q) "Opium poppy" means the plant of the species *Papaver somniferum* L.
- (r) "Poppy straw" means all parts (except the seeds) of the opium poppy, after mowing.

(s) "Preparation" means a mixture, solid or liquid, containing a drug.

(t) "Production" means the separation of opium, coca leaves, cannabis and cannabis resin from the plants from which they are obtained.

(u) "Schedule I", "Schedule II", "Schedule III" and "Schedule IV" mean the correspondingly numbered list of drugs or preparations annexed to this Convention, as amended from time to time in accordance with article 3.

(v) "Secretary-General" means the Secretary-General of the United Nations.

(w) "Special stocks" means the amounts of drugs held in a country or territory by the Government of such country or territory for special government purposes and to meet exceptional circumstances; and the expression "special purposes" shall be construed accordingly.

(x) "Stocks" means the amounts of drugs held in a country or territory and intended for:

- (i) Consumption in the country or territory for medical and scientific purposes,
- (ii) Utilization in the country or territory for the manufacture of drugs and other substances, or
- (iii) Export,  
but does not include the amounts of drugs held in the country or territory,
- (iv) By retail pharmacists or other authorized retail distributors and by institutions or qualified persons in the duly authorized exercise of therapeutic or scientific functions, or
- (v) As "special stocks".

(y) "Territory" means any part of a State which is treated as a separate entity for the application of the system of import certificates and export authorizations provided for in article 31. This definition shall not apply to the term "territory" as used in articles 42 and 46.

2. For the purposes of this Convention a drug shall be regarded as "consumed" when it has been supplied to any person or enterprise for retail distribution, medical use or scientific research; and "consumption" shall be construed accordingly.

#### Article 2. SUBSTANCES UNDER CONTROL

1. Except as to measures of control which are limited to specified drugs, the drugs in Schedule I are subject to all measures of control applicable to drugs under this Convention and in particular to those prescribed in articles 4 (c), 19, 20, 21, 29, 30, 31, 32, 33, 34 and 37.

2. The drugs in Schedule II are subject to the same measures of control as drugs in Schedule I with the exception of the measures prescribed in article 30, paragraphs 2 and 5, in respect of the retail trade.

3. Preparations other than those in Schedule III are subject to the same measures of control as the drugs which they contain, but estimates (article 19) and statistics (article 20) distinct from those dealing with these drugs shall not be required in the case of such preparations, and article 29, paragraph 2 (c), and article 30, paragraph 1 (b) (ii), need not apply.

4. Preparations in Schedule III are subject to the same measures of control as preparations containing drugs in Schedule II except that article 31, paragraphs 1 (b) and 3 to 15 and, as regards their acquisition and retail distribution, article 34, paragraph (b), need not apply, and that for the purpose of estimates (article 19) and statistics (article 20) the information required shall be restricted to the quantities of drugs used in the manufacture of such preparations.

5. The drugs in Schedule IV shall also be included in Schedule I and subject to all measures of control applicable to drugs in the latter Schedule, and in addition thereto:

- (a) A Party shall adopt any special measures of control which in its opinion are necessary having regard to the particularly dangerous properties of a drug so included; and
- (b) A Party shall, if in its opinion the prevailing conditions in its country render it the most appropriate means of protecting the public health and welfare, prohibit the production, manufacture, export and import of, trade in, possession or use of any such drug except for amounts which may be necessary for medical and scientific research only, including clinical trials therewith to be conducted under or subject to the direct supervision and control of the Party.

6. In addition to the measures of control applicable to all drugs in Schedule I, opium is subject to the provisions of article 19, paragraph 1, subparagraph (f), and of articles 21 *bis*, 23 and 24, the coca leaf to those of articles 26 and 27 and cannabis to those of article 28.

7. The opium poppy, the coca bush, the cannabis plant, poppy straw and cannabis leaves are subject to the control measures prescribed in article 19, paragraph 1, subparagraph (e), article 20, paragraph 1, subparagraph (g), article 21 *bis* and in articles 22 to 24; 22, 26 and 27; 22 and 28; 25; and 28, respectively.

8. The Parties shall use their best endeavours to apply to substances which do not fall under this Convention, but which may be used in the illicit manufacture of drugs, such measures of supervision as may be practicable.

9. Parties are not required to apply the provisions of this Convention to drugs which are commonly used in industry for other than medical or scientific purposes, provided that:

- (a) They ensure by appropriate methods of denaturing or by other means that the drugs so used are not liable to be abused or have ill effects (article 3, paragraph 3) and that the harmful substances cannot in practice be recovered; and
- (b) They include in the statistical information (article 20) furnished by them the amount of each drug so used.

### Article 3. CHANGES IN THE SCOPE OF CONTROL

1. Where a Party or the World Health Organization has information which in its opinion may require an amendment to any of the Schedules, it shall notify the Secretary-General and furnish him with the information in support of the notification.

2. The Secretary-General shall transmit such notification, and any information which he considers relevant, to the Parties, to the Commission, and,

where the notification is made by a Party, to the World Health Organization.

3. Where a notification relates to a substance not already in Schedule I or in Schedule II,

- (i) The Parties shall examine in the light of the available information the possibility of the provisional application to the substance of all measures of control applicable to drugs in Schedule I;
- (ii) Pending its decision as provided in subparagraph (iii) of this paragraph, the Commission may decide that the Parties apply provisionally to that substance all measures of control applicable to drugs in Schedule I. The Parties shall apply such measures provisionally to the substance in question;
- (iii) If the World Health Organization finds that the substance is liable to similar abuse and productive of similar ill effects as the drugs in Schedule I or Schedule II or is convertible into a drug, it shall communicate that finding to the Commission which may, in accordance with the recommendation of the World Health Organization, decide that the substance shall be added to Schedule I or Schedule II.

4. If the World Health Organization finds that a preparation because of the substances which it contains is not liable to abuse and cannot produce ill effects (paragraph 3) and that the drug therein is not readily recoverable, the Commission may, in accordance with the recommendation of the World Health Organization, add that preparation to Schedule III.

5. If the World Health Organization finds that a drug in Schedule I is particularly liable to abuse and to produce ill effects (paragraph 3) and that such liability is not offset by substantial therapeutic advantages not possessed by substances other than drugs in Schedule IV, the Commission may, in accordance with the recommendation of the World Health Organization, place that drug in Schedule IV.

6. Where a notification relates to a drug already in Schedule I or Schedule II or to a preparation in Schedule III, the Commission, apart from the measure provided for in paragraph 5, may, in accordance with the recommendation of the World Health Organization, amend any of the Schedules by:

- (a) Transferring a drug from Schedule I to Schedule II or from Schedule II to Schedule I; or
- (b) Deleting a drug or a preparation, as the case may be, from a Schedule.

7. Any decision of the Commission taken pursuant to this article shall be communicated by the Secretary-General to all States Members of the United Nations, to non-member States Parties to this Convention, to the World Health Organization and to the Board. Such decision shall become effective with respect to each Party on the date of its receipt of such communication, and the Parties shall thereupon take such action as may be required under this Convention.

8. (a) The decisions of the Commission amending any of the Schedules shall be subject to review by the Council upon the request of any Party filed within ninety days from receipt of notification of the decision. The request for review shall be sent to the Secretary-General together with all relevant information upon which the request for review is based.

(b) The Secretary-General shall transmit copies of the request for review and relevant information to the Commission, the World Health Organization and to all

the Parties inviting them to submit comments within ninety days. All comments received shall be submitted to the Council for consideration.

(c) The Council may confirm, alter or reverse the decision of the Commission, and the decision of the Council shall be final. Notification of the Council's decision shall be transmitted to all States Members of the United Nations, to non-member States Parties to this Convention, to the Commission, to the World Health Organization, and to the Board.

(d) During pendency of the review the original decision of the Commission shall remain in effect.

9. Decisions of the Commission taken in accordance with this article shall not be subject to the review procedure provided for in article 7.

#### Article 4. GENERAL OBLIGATIONS

1. The Parties shall take such legislative and administrative measures as may be necessary:

- (a) To give effect to and carry out the provisions of this Convention within their own territories;
- (b) To co-operate with other States in the execution of the provisions of this Convention; and
- (c) Subject to the provisions of this Convention, to limit exclusively to medical and scientific purposes the production, manufacture, export, import, distribution of, trade in, use and possession of drugs.

#### Article 5. THE INTERNATIONAL CONTROL ORGANS

The Parties, recognizing the competence of the United Nations with respect to the international control of drugs, agree to entrust to the Commission on Narcotic Drugs of the Economic and Social Council, and to the International Narcotics Control Board, the functions respectively assigned to them under this Convention.

#### Article 6. EXPENSES OF THE INTERNATIONAL CONTROL ORGANS

The expenses of the Commission and the Board will be borne by the United Nations in such manner as shall be decided by the General Assembly. The Parties which are not Members of the United Nations shall contribute to these expenses such amounts as the General Assembly finds equitable and assess from time to time after consultation with the Governments of these Parties.

#### Article 7. REVIEW OF DECISIONS AND RECOMMENDATIONS OF THE COMMISSION

Except for decisions under article 3, each decision or recommendation adopted by the Commission pursuant to the provisions of this Convention shall be subject to approval or modification by the Council or the General Assembly in the same way as other decisions or recommendations of the Commission.



*Article 8. FUNCTIONS OF THE COMMISSION*

The Commission is authorized to consider all matters pertaining to the aims of this Convention, and in particular:

- (a) To amend the Schedules in accordance with article 3;
- (b) To call the attention of the Board to any matters which may be relevant to the functions of the Board;
- (c) To make recommendations for the implementation of the aims and provisions of this Convention, including programmes of scientific research and the exchange of information of a scientific or technical nature; and
- (d) To draw the attention of non-parties to decisions and recommendations which it adopts under this Convention, with a view to their considering taking action in accordance therewith.

*Article 9. COMPOSITION AND FUNCTIONS OF THE BOARD*

1. The Board shall consist of thirteen members to be elected by the Council as follows:

- (a) Three members with medical, pharmacological or pharmaceutical experience from a list of at least five persons nominated by the World Health Organization; and
- (b) Ten members from a list of persons nominated by the Members of the United Nations and by Parties which are not Members of the United Nations.

2. Members of the Board shall be persons who, by their competence, impartiality and disinterestedness, will command general confidence. During their term of office they shall not hold any position or engage in any activity which would be liable to impair their impartiality in the exercise of their functions. The 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.

3. The Council, with due regard to the principle of equitable geographic representation, shall give consideration to the importance of including on the Board, in equitable proportion, persons possessing a knowledge of the drug situation in the producing, manufacturing, and consuming countries, and connected with such countries.

4. The Board, in co-operation with Governments, and subject to the terms of this Convention, shall endeavour to limit the cultivation, production, 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 and manufacture of, and illicit trafficking in and use of, drugs.

5. All measures taken by the Board under 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.

**Article 10. TERMS OF OFFICE AND REMUNERATION  
OF MEMBERS OF THE BOARD**

1. The members of the Board shall serve for a period of five years, and may be re-elected.
2. The term of office of each member of the Board shall end on the eve of the first meeting of the Board which his successor shall be entitled to attend.
3. A member of the Board who has failed to attend three consecutive sessions shall be deemed to have resigned.
4. The Council, on the recommendation of the Board, may dismiss a member of the Board who has ceased to fulfil the conditions required for membership by paragraph 2 of article 9. Such recommendation shall be made by an affirmative vote of nine members of the Board.
5. Where a vacancy occurs on the Board during the term of office of a member, the Council shall fill such vacancy as soon as possible and in accordance with the applicable provisions of article 9, by electing another member for the remainder of the term.
6. The members of the Board shall receive an adequate remuneration as determined by the General Assembly.

**Article 11. RULES OF PROCEDURE OF THE BOARD**

1. The Board shall elect its own President and such other officers as it may consider necessary and shall adopt its rules of procedure.
2. The Board shall meet as often as, in its opinion, may be necessary for the proper discharge of its functions, but shall hold at least two sessions in each calendar year.
3. The quorum necessary at meetings of the Board shall consist of eight members.

**Article 12. ADMINISTRATION OF THE ESTIMATE SYSTEM**

1. The Board shall fix the date or dates by which, and the manner in which, the estimates as provided in article 19 shall be furnished and shall prescribe the forms therefor.
2. The Board shall, in respect of countries and territories to which this Convention does not apply, request the Governments concerned to furnish estimates in accordance with the provisions of this Convention.
3. If any State fails to furnish estimates in respect of any of its territories by the date specified, the Board shall, as far as possible, establish the estimates. The Board in establishing such estimates shall to the extent practicable do so in co-operation with the Government concerned.
4. The Board shall examine the estimates, including supplementary estimates, and, except as regards requirements for special purposes, may require such information as it considers necessary in respect of any country or territory on behalf of which an estimate has been furnished, in order to complete the estimate or to explain any statement contained therein.
5. The Board, with a view to 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, shall as expeditiously as possible confirm the estimates, including supplementary estimates, or, with the consent of the Government concerned, may amend such estimates. In case of a disagreement between the Government and the Board, the latter shall have the right to establish, communicate and publish its own estimates, including supplementary estimates.

6. In addition to the reports mentioned in article 15, the Board shall, at such times as it shall determine but at least annually, issue such information on the estimates as in its opinion will facilitate the carrying out of this Convention.

*Article 13. ADMINISTRATION OF THE STATISTICAL RETURNS SYSTEM*

1. The Board shall determine the manner and form in which statistical returns shall be furnished as provided in article 20 and shall prescribe the forms therefor.

2. The Board shall examine the returns with a view to determining whether a Party or any other State has complied with the provisions of this Convention.

3. The Board may require such further information as it considers necessary to complete or explain the information contained in such statistical returns.

4. It shall not be within the competence of the Board to question or express an opinion on statistical information respecting drugs required for special purposes.

*Article 14. MEASURES BY THE BOARD TO ENSURE THE EXECUTION OF PROVISIONS OF THE CONVENTION*

1. (a) If, on the basis of its examination of information submitted by Governments to the Board under the provisions of this Convention, or of information communicated by United Nations organs or by specialized agencies or, provided that they are approved by the Commission on the Board's recommendation, by either other intergovernmental organizations or international non-governmental organizations which have direct competence in the subject matter and 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, the Board has objective reasons to believe that the aims of this Convention are being seriously endangered by reason of the failure of any Party, country or territory to carry out the provisions of this Convention, the Board shall have the right to propose to the Government concerned the opening of consultations or to request it to furnish explanations. If, without any failure in implementing the provisions of the Convention, a Party or a country or territory has become, or if there exists evidence of a serious risk that it may become, an important centre of illicit cultivation, production or manufacture of, or traffic in or consumption of drugs, the Board has the right to propose to the Government concerned the opening of consultations. Subject to the right of the Board to call the attention of the Parties, the Council and the Commission to the matter referred to in subparagraph (d) below, the Board shall treat as confidential a request for information and an explanation by a Government or a proposal for consultations and the consultations held with a Government under this subparagraph.

(b) After taking action under subparagraph (a) above, the Board, if satisfied that it is necessary to do so, may call upon the Government concerned to adopt

such remedial measures as shall seem under the circumstances to be necessary for the execution of the provisions of this Convention.

(c) The Board may, if it thinks such action necessary for the purpose of assessing a matter referred to in subparagraph (a) of this paragraph, propose to the Government concerned that a study of the matter be carried out in its territory by such means as the Government deems appropriate. If the Government concerned decides to undertake this study, it may request the Board to make available the expertise and the services of one or more persons with the requisite competence to assist the officials of the Government in the proposed study. The person or persons whom the Board intends to make available shall be subject to the approval of the Government. The modalities of this study and the time-limit within which the study has to be completed shall be determined by consultation between the Government and the Board. The Government shall communicate to the Board the results of the study and shall indicate the remedial measures that it considers necessary to take.

(d) If the Board finds that the Government concerned has failed to give satisfactory explanations when called upon to do so under subparagraph (a) above, or has failed to adopt any remedial measures which it has been called upon to take under subparagraph (b) above, or that there is a serious situation that needs co-operative action at the international level with a view to remedying it, it may call the attention of the Parties, the Council and the Commission to the matter. The Board shall so act if the aims of this Convention are being seriously endangered and it has not been possible to resolve the matter satisfactorily in any other way. It shall also so act if it finds that there is a serious situation that needs co-operative action at the international level with a view to remedying it and that bringing such a situation to the notice of the Parties, the Council and the Commission is the most appropriate method of facilitating such co-operative action; after considering the reports of the Board, and of the Commission if available on the matter, the Council may draw the attention of the General Assembly to the matter.

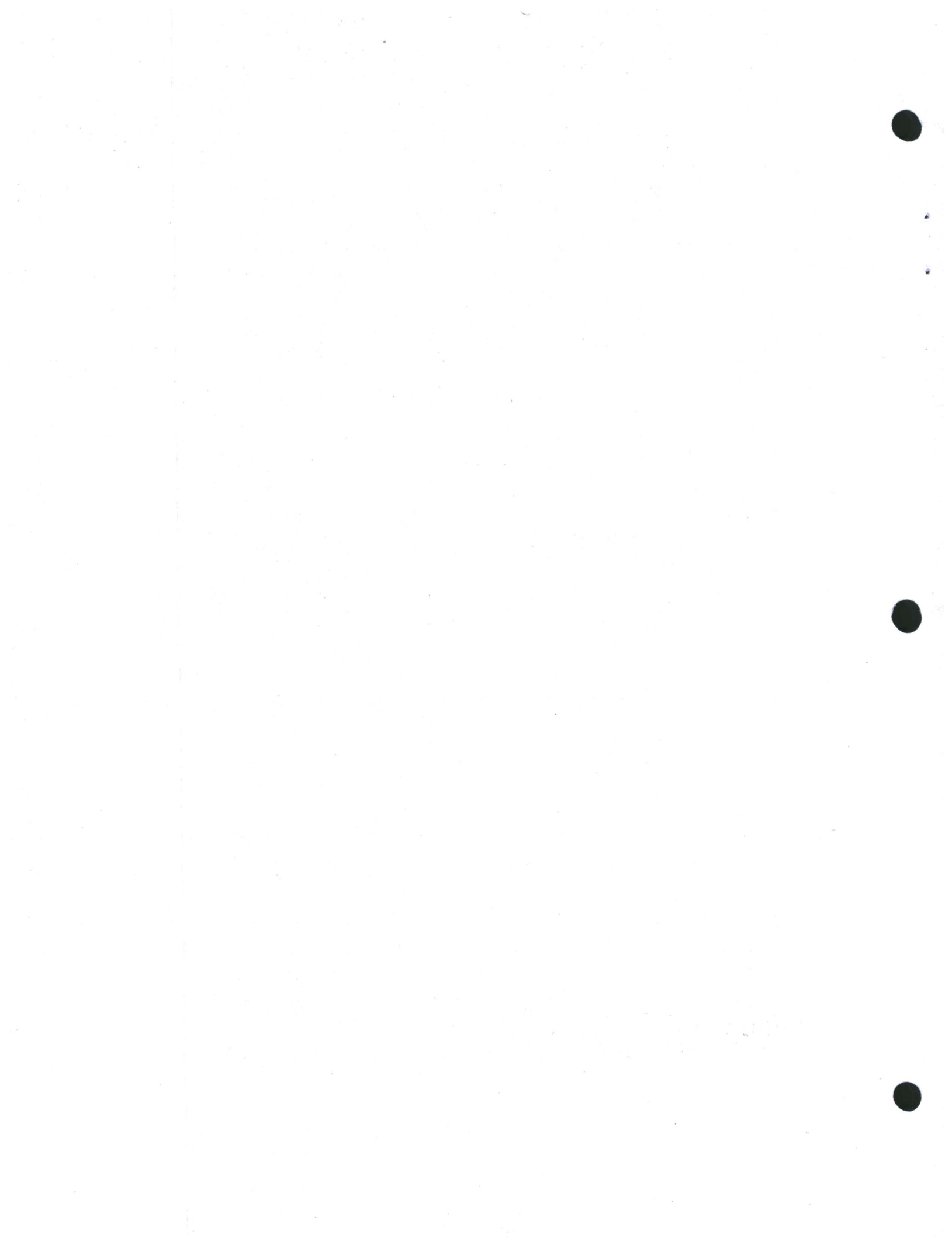
2. The Board, when calling the attention of the Parties, the Council and the Commission to a matter in accordance with paragraph 1 (d) above, may, if it is satisfied that such a course is necessary, recommend to Parties that they stop the import of drugs, the export of drugs, or both, from or to the country or territory concerned, either for a designated period or until the Board shall be satisfied as to the situation in that country or territory. The State concerned may bring the matter before the Council.

3. The Board shall have the right to publish a report on any matter dealt with under the provisions of this article, and communicate it to the Council, which shall forward it to all Parties. If the Board publishes in this report a decision taken under this article or any information relating thereto, it shall also publish therein the views of the Government concerned if the latter so requests.

4. If in any case a decision of the Board which is published under this article is not unanimous, the views of the minority shall be stated.

5. Any State shall be invited to be represented at a meeting of the Board at which a question directly interesting it is considered under this article.

6. Decisions of the Board under this article shall be taken by a two-thirds majority of the whole number of the Board.



*Article 14 bis.* TECHNICAL AND FINANCIAL ASSISTANCE

In cases which it considers appropriate and either in addition or as an alternative to measures set forth in article 14, paragraphs 1 and 2, the Board, with the agreement of the Government concerned, may recommend to the competent United Nations organs and to the specialized agencies that technical or financial assistance, or both, be provided to the Government in support of its efforts to carry out its obligations under this Convention, including those set out or referred to in articles 2, 35, 38 and 38 *bis*.

*Article 15.* REPORTS OF THE BOARD

1. The Board shall prepare an annual report on its work and such additional reports as it considers necessary containing also an analysis of the estimates and statistical information at its disposal, and, in appropriate cases, an account of the explanations, if any, given by or required of Governments, together with any observations and recommendations which the Board desires to make. These reports shall be submitted to the Council through the Commission, which may make such comments as it sees fit.

2. The reports shall be communicated to the Parties and subsequently published by the Secretary-General. The Parties shall permit their unrestricted distribution.

*Article 16.* SECRETARIAT

The secretariat services of the Commission and the Board shall be furnished by the Secretary-General. In particular, the Secretary of the Board shall be appointed by the Secretary-General in consultation with the Board.

*Article 17.* SPECIAL ADMINISTRATION

The Parties shall maintain a special administration for the purpose of applying the provisions of this Convention.

*Article 18.* INFORMATION TO BE FURNISHED BY PARTIES  
TO THE SECRETARY-GENERAL

1. The Parties shall furnish to the Secretary-General such information as the Commission may request as being necessary for the performance of its functions, and in particular:

- (a) An annual report on the working of the Convention within each of their territories;
- (b) The text of all laws and regulations from time to time promulgated in order to give effect to this Convention;
- (c) Such particulars as the Commission shall determine concerning cases of illicit traffic, including particulars of each case of illicit traffic discovered which may be of importance, because of the light thrown on the source from which drugs are obtained for the illicit traffic, or because of quantities involved or the method employed by illicit traffickers; and
- (d) The names and addresses of the governmental authorities empowered to issue export and import authorizations or certificates.

2. Parties shall furnish the information referred to in the preceding paragraph in such manner and by such dates and use such forms as the Commission may request.

*Article 19. ESTIMATES OF DRUG REQUIREMENTS*

1. The Parties shall furnish to the Board each year for each of their territories, in the manner and form prescribed by the Board, estimates on forms supplied by it in respect of the following matters:

- (a) Quantities of drugs to be consumed for medical and scientific purposes;
- (b) Quantities of drugs to be utilized for the manufacture of other drugs, of preparations in Schedule III, and of substances not covered by this Convention;
- (c) Stocks of drugs to be held as at 31 December of the year to which the estimates relate;
- (d) Quantities of drugs necessary for addition to special stocks;
- (e) The area (in hectares) and the geographical location of land to be used for the cultivation of the opium poppy;
- (f) Approximate quantity of opium to be produced;
- (g) The number of industrial establishments which will manufacture synthetic drugs; and
- (h) The quantities of synthetic drugs to be manufactured by each of the establishments referred to in the preceding subparagraph.

2. (a) Subject to the deductions referred to in paragraph 3 of article 21, the total of the estimates for each territory and each drug except opium and synthetic drugs shall consist of the sum of the amounts specified under subparagraphs (a), (b) and (d) of paragraph 1 of this article, with the addition of any amount required to bring the actual stocks on hand at 31 December of the preceding year to the level estimated as provided in subparagraph (c) of paragraph 1.

(b) Subject to the deductions referred to in paragraph 3 of article 21 regarding imports and in paragraph 2 of article 21 *bis*, the total of the estimates for opium for each territory shall consist either of the sum of the amounts specified under subparagraphs (a), (b) and (d) of paragraph 1 of this article, with the addition of any amount required to bring the actual stocks on hand at 31 December of the preceding year to the level estimated as provided in subparagraph (c) of paragraph 1, or of the amount specified under subparagraph (f) of paragraph 1 of this article, whichever is higher.

(c) Subject to the deductions referred to in paragraph 3 of article 21, the total of the estimates for each territory for each synthetic drug shall consist either of the sum of the amounts specified under subparagraphs (a), (b) and (d) of paragraph 1 of this article, with the addition of any amount required to bring the actual stocks on hand at 31 December of the preceding year to the level estimated as provided in subparagraph (c) of paragraph 1, or of the sum of the amounts specified under subparagraph (h) of paragraph 1 of this article, whichever is higher.

(d) The estimates furnished under the preceding subparagraphs of this paragraph shall be appropriately modified to take into account any quantity seized

and thereafter released for licit use as well as any quantity taken from special stocks for the requirements of the civilian population.

3. Any State may during the year furnish supplementary estimates with an explanation of the circumstances necessitating such estimates.

4. The Parties shall inform the Board of the method used for determining quantities shown in the estimates and of any changes in the said method.

5. Subject to the deductions referred to in paragraph 3 of article 21, and account being taken where appropriate of the provisions of article 21 *bis*, the estimates shall not be exceeded.

**Article 20. STATISTICAL RETURNS TO BE FURNISHED TO THE BOARD**

1. The Parties shall furnish to the Board for each of their territories, in the manner and form prescribed by the Board, statistical returns on forms supplied by it in respect of the following matters:

- (a) Production or manufacture of drugs;
- (b) Utilization of drugs for the manufacture of other drugs, of preparations in Schedule III and of substances not covered by this Convention, and utilization of poppy straw for the manufacture of drugs;
- (c) Consumption of drugs;
- (d) Imports and exports of drugs and poppy straw;
- (e) Seizures of drugs and disposal thereof;
- (f) Stocks of drugs as at 31 December of the year to which the returns relate; and
- (g) Ascertainable area of cultivation of the opium poppy.

2. (a) The statistical returns in respect of the matters referred to in paragraph 1, except subparagraph (d), shall be prepared annually and shall be furnished to the Board not later than 30 June following the year to which they relate.

(b) The statistical returns in respect to the matters referred to in subparagraph (d) of paragraph 1 shall be prepared quarterly and shall be furnished to the Board within one month after the end of the quarter to which they relate.

3. The Parties are not required to furnish statistical returns respecting special stocks, but shall furnish separately returns respecting drugs imported into or procured within the country or territory for special purposes, as well as quantities of drugs withdrawn from special stocks to meet the requirements of the civilian population.

**Article 21. LIMITATION OF MANUFACTURE AND IMPORTATION**

1. The total of the quantities of each drug manufactured and imported by any country or territory in any one year shall not exceed the sum of the following:

- (a) The quantity consumed; within the limit of the relevant estimate, for medical and scientific purposes;
- (b) The quantity used, within the limit of the relevant estimate, for the manufacture of other drugs, of preparations in Schedule III, and of substances not covered by this Convention;



- (c) The quantity exported;
- (d) The quantity added to the stock for the purpose of bringing that stock up to the level specified in the relevant estimate; and
- (e) The quantity acquired within the limit of the relevant estimate for special purposes.

2. From the sum of the quantities specified in paragraph 1 there shall be deducted any quantity that has been seized and released for licit use, as well as any quantity taken from special stocks for the requirements of the civilian population.

3. If the Board finds that the quantity manufactured and imported in any one year exceeds the sum of the quantities specified in paragraph 1, less any deductions required under paragraph 2 of this article, any excess so established and remaining at the end of the year shall, in the following year, be deducted from the quantity to be manufactured or imported and from the total of the estimates as defined in paragraph 2 of article 19.

4. (a) If it appears from the statistical returns on imports or exports (article 20) that the quantity exported to any country or territory exceeds the total of the estimates for that country or territory, as defined in paragraph 2 of article 19, with the addition of the amounts shown to have been exported, and after deduction of any excess as established in paragraph 3 of this article, the Board may notify this fact to States which, in the opinion of the Board, should be so informed.

(b) On receipt of such a notification, Parties shall not during the year in question authorize any further exports of the drug concerned to that country or territory, except:

- (i) In the event of a supplementary estimate being furnished for that country or territory in respect both of any quantity over-imported and of the additional quantity required, or
- (ii) In exceptional cases where the export, in the opinion of the Government of the exporting country, is essential for the treatment of the sick.

#### *Article 21 bis.* LIMITATION OF PRODUCTION OF OPIUM

1. The production of opium by any country or territory shall be organized and controlled in such manner as to ensure that, as far as possible, the quantity produced in any one year shall not exceed the estimate of opium to be produced as established under paragraph 1 (f) of article 19.

2. If the Board finds on the basis of information at its disposal in accordance with the provisions of this Convention that a Party which has submitted an estimate under paragraph 1 (f) of article 19 has not limited opium produced within its borders to licit purposes in accordance with relevant estimates and that a significant amount of opium produced, whether licitly or illicitly, within the borders of such a Party, has been introduced into the illicit traffic, it may, after studying the explanations of the Party concerned, which shall be submitted to it within one month after notification of the finding in question, decide to deduct all, or a portion, of such an amount from the quantity to be produced and from the total of the estimates 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. This decision shall take effect ninety days after the Party concerned is notified thereof.

3. After notifying the Party concerned of the decision it has taken under paragraph 2 above with regard to a deduction, the Board shall consult with that Party in order to resolve the situation satisfactorily.

4. If the situation is not satisfactorily resolved, the Board may utilize the provisions of article 14 where appropriate.

5. In taking its decision with regard to a deduction under paragraph 2 above, 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 Party.

*Article 22. SPECIAL PROVISION APPLICABLE TO CULTIVATION*

1. Whenever the prevailing conditions in the country or a territory of a Party render the prohibition of the cultivation of the opium poppy, the coca bush or the cannabis plant the most suitable measure, in its opinion, for protecting the public health and welfare and preventing the diversion of drugs into the illicit traffic, the Party concerned shall prohibit cultivation.

2. A Party prohibiting cultivation of the opium poppy or the cannabis plant shall take appropriate measures to seize any plants illicitly cultivated and to destroy them, except for small quantities required by the Party for scientific or research purposes.

*Article 23. NATIONAL OPIUM AGENCIES*

1. A Party that permits the cultivation of the opium poppy for the production of opium shall establish, if it has not already done so, and maintain, one or more government agencies (hereafter in this article referred to as the Agency) to carry out the functions required under this article.

2. Each such Party shall apply the following provisions to the cultivation of the opium poppy for the production of opium and to opium:

- (a) The Agency shall designate the areas in which, and the plots of land on which, cultivation of the opium poppy for the purpose of producing opium shall be permitted.
- (b) Only cultivators licensed by the Agency shall be authorized to engage in such cultivation.
- (c) Each licence shall specify the extent of the land on which the cultivation is permitted.
- (d) All cultivators of the opium poppy shall be required to deliver their total crops of opium to the Agency. The Agency shall purchase and take physical possession of such crops as soon as possible, but not later than four months after the end of the harvest.
- (e) The Agency shall, in respect of opium, have the exclusive right of importing, exporting, wholesale trading and maintaining stocks other than those held by manufacturers of opium alkaloids, medicinal opium or opium preparations. Parties need not extend this exclusive right to medicinal opium and opium preparations.

3. The governmental functions referred to in paragraph 2 shall be discharged by a single government agency if the constitution of the Party concerned permits it.

**Article 24. LIMITATION ON PRODUCTION OF OPIUM  
FOR INTERNATIONAL TRADE**

1. (a) If any Party intends to initiate the production of opium or to increase existing production, it shall take account of the prevailing world need for opium in accordance with the estimates thereof published by the Board so that the production of opium by such Party does not result in over-production of opium in the world.

(b) A Party shall not permit the production of opium or increase the existing production thereof if in its opinion such production or increased production in its territory may result in illicit traffic in opium.

2. (a) Subject to paragraph 1, where a Party which as of 1 January 1961 was not producing opium for export desires to export opium which it produces, in amounts not exceeding five tons annually, it shall notify the Board, furnishing with such notification information regarding:

- (i) The controls in force as required by this Convention respecting the opium to be produced and exported; and
- (ii) The name of the country or countries to which it expects to export such opium;

and the Board may either approve such notification or may recommend to the Party that it not engage in the production of opium for export.

(b) Where a Party other than a Party referred to in paragraph 3 desires to produce opium for export in amounts exceeding five tons annually, it shall notify the Council, furnishing with such notification relevant information including:

- (i) The estimated amounts to be produced for export;
- (ii) The controls existing or proposed respecting the opium to be produced;
- (iii) The name of the country or countries to which it expects to export such opium;

and the Council shall either approve the notification or may recommend to the Party that it not engage in the production of opium for export.

3. Notwithstanding the provisions of subparagraphs (a) and (b) of paragraph 2, a Party that during ten years immediately prior to 1 January 1961 exported opium which such country produced may continue to export opium which it produces.

4. (a) A Party shall not import opium from any country or territory except opium produced in the territory of:

- (i) A Party referred to in paragraph 3;
- (ii) A Party that has notified the Board as provided in subparagraph (a) of paragraph 2; or
- (iii) A Party that has received the approval of the Council as provided in subparagraph (b) of paragraph 2.

(b) Notwithstanding subparagraph (a) of this paragraph, a Party may import opium produced by any country which produced and exported opium during the ten years prior to 1 January 1961 if such country has established and maintains a national control organ or agency for the purposes set out in article 23 and has in force an effective means of ensuring that the opium it produces is not diverted into the illicit traffic.

5. The provisions of this article do not prevent a Party:

- (a) From producing opium sufficient for its own requirements; or
- (b) From exporting opium seized in the illicit traffic, to another Party in accordance with the requirements of this Convention.

#### Article 25. CONTROL OF POPPY STRAW

1. A Party that permits the cultivation of the opium poppy for purposes other than the production of opium shall take all measures necessary to ensure:

- (a) That opium is not produced from such opium poppies; and
- (b) That the manufacture of drugs from poppy straw is adequately controlled.

2. The Parties shall apply to poppy straw the system of import certificates and export authorizations as provided in article 31, paragraphs 4 to 15.

3. The Parties shall furnish statistical information on the import and export of poppy straw as required for drugs under article 20, paragraphs 1 (d) and 2 (b).

#### Article 26. THE COCA BUSH AND COCA LEAVES

1. If a Party permits the cultivation of the coca bush, it shall apply thereto and to coca leaves the system of controls as provided in article 23 respecting the control of the opium poppy, but as regards paragraph 2 (d) of that article, the requirements imposed on the Agency therein referred to shall be only to take physical possession of the crops as soon as possible after the end of the harvest.

2. The Parties shall so far as possible enforce the uprooting of all coca bushes which grow wild. They shall destroy the coca bushes if illegally cultivated.

#### Article 27. ADDITIONAL PROVISIONS RELATING TO COCA LEAVES

1. The Parties may permit the use of coca leaves for the preparation of a flavouring agent, which shall not contain any alkaloids, and, to the extent necessary for such use, may permit the production, import, export, trade in and possession of such leaves.

2. The Parties shall furnish separately estimates (article 19) and statistical information (article 20) in respect of coca leaves for preparation of the flavouring agent, except to the extent that the same coca leaves are used for the extraction of alkaloids and the flavouring agent, and so explained in the estimates and statistical information.

#### Article 28. CONTROL OF CANNABIS

1. If a Party permits the cultivation of the cannabis plant for the production of cannabis or cannabis resin, it shall apply thereto the system of controls as provided in article 23 respecting the control of the opium poppy.

2. This Convention shall not apply to the cultivation of the cannabis plant exclusively for industrial purposes (fibre and seed) or horticultural purposes.

3. The Parties shall adopt such measures as may be necessary to prevent the misuse of, and illicit traffic in, the leaves of the cannabis plant.

#### Article 29. MANUFACTURE

1. The Parties shall require that the manufacture of drugs be under licence except where such manufacture is carried out by a State enterprise or State enterprises.

2. The Parties shall:

- (a) Control all persons and enterprises carrying on or engaged in the manufacture of drugs;
- (b) Control under licence the establishments and premises in which such manufacture may take place; and
- (c) Require that licensed manufacturers of drugs obtain periodical permits specifying the kinds and amounts of drugs which they shall be entitled to manufacture. A periodical permit, however, need not be required for preparations.

3. The Parties shall prevent the accumulation, in the possession of drug manufacturers, of quantities of drugs and poppy straw in excess of those required for the normal conduct of business, having regard to the prevailing market conditions.

#### Article 30. TRADE AND DISTRIBUTION

1. (a) The Parties shall require that the trade in and distribution of drugs be under licence except where such trade or distribution is carried out by a State enterprise or State enterprises.

(b) The Parties shall:

- (i) Control all persons and enterprises carrying on or engaged in the trade in or distribution of drugs;
- (ii) Control under licence the establishments and premises in which such trade or distribution may take place. The requirement of licensing need not apply to preparations.

(c) The provisions of subparagraphs (a) and (b) relating to licensing need not apply to persons duly authorized to perform and while performing therapeutic or scientific functions.

2. The Parties shall also:

- (a) Prevent the accumulation in the possession of traders, distributors, State enterprises or duly authorized persons referred to above, of quantities of drugs and poppy straw in excess of those required for the normal conduct of business, having regard to the prevailing market conditions; and
- (b) (i) Require medical prescriptions for the supply or dispensation of drugs to individuals. This requirement need not apply to such drugs as individuals may lawfully obtain, use, dispense or administer in connexion with their duly authorized therapeutic functions; and

(ii) If the Parties deem these measures necessary or desirable, require that prescriptions for drugs in Schedule I should be written on official forms to be issued in the form of counterfoil books by the competent governmental authorities or by authorized professional associations.

3. It is desirable that Parties require that written or printed offers of drugs, advertisements of every kind or descriptive literature relating to drugs and used for commercial purposes, interior wrappings of packages containing drugs, and labels under which drugs are offered for sale indicate the international non-proprietary name communicated by the World Health Organization.

4. If a Party considers such measure necessary or desirable, it shall require that the inner package containing a drug or wrapping thereof shall bear a clearly visible double red band. The exterior wrapping of the package in which such drug is contained shall not bear a double red band.

5. A Party shall require that the label under which a drug is offered for sale show the exact drug content by weight or percentage. This requirement of label information need not apply to a drug dispensed to an individual on medical prescription.

6. The provisions of paragraphs 2 and 5 need not apply to the retail trade in or retail distribution of drugs in Schedule II.

*Article 31. SPECIAL PROVISIONS RELATING TO INTERNATIONAL TRADE*

1. The Parties shall not knowingly permit the export of drugs to any country or territory except:

- (a) In accordance with the laws and regulations of that country or territory; and
- (b) Within the limits of the total of the estimates for that country or territory, as defined in paragraph 2 of article 19, with the addition of the amounts intended to be re-exported.

2. The Parties shall exercise in free ports and zones the same supervision and control as in other parts of their territories, provided, however, that they may apply more drastic measures.

3. The Parties shall:

- (a) Control under licence the import and export of drugs except where such import or export is carried out by a State enterprise or enterprises;
- (b) Control all persons and enterprises carrying on or engaged in such import or export.

4. (a) Every Party permitting the import or export of drugs shall require a separate import or export authorization to be obtained for each such import or export whether it consists of one or more drugs.

(b) Such authorization shall state the name of the drug, the international non-proprietary name if any, the quantity to be imported or exported, and the name and address of the importer and exporter, and shall specify the period within which the importation or exportation must be effected.

(c) The export authorization shall also state the number and date of the import certificate (paragraph 5) and the authority by whom it has been issued.

(d) The import authorization may allow an importation in more than one consignment.

5. Before issuing an export authorization the Parties shall require an import certificate, issued by the competent authorities of the importing country or territory and certifying that the importation of the drug or drugs referred to therein, is approved and such certificate shall be produced by the person or establishment applying for the export authorization. The Parties shall follow as closely as may be practicable the form of import certificate approved by the Commission.

6. A copy of the export authorization shall accompany each consignment, and the Government issuing the export authorization shall send a copy to the Government of the importing country or territory.

7. (a) The Government of the importing country or territory, when the importation has been effected or when the period fixed for the importation has expired, shall return the export authorization, with an endorsement to that effect, to the Government of the exporting country or territory.

(b) The endorsement shall specify the amount actually imported.

(c) If a lesser quantity than that specified in the export authorization is actually exported, the quantity actually exported shall be stated by the competent authorities on the export authorization and on any official copy thereof.

8. Exports of consignments to a post office box, or to a bank to the account of a Party other than the Party named in the export authorization, shall be prohibited.

9. Exports of consignments to a bonded warehouse are prohibited unless the Government of the importing country certifies on the import certificate, produced by the person or establishment applying for the export authorization, that it has approved the importation for the purpose of being placed in a bonded warehouse. In such case the export authorization shall specify that the consignment is exported for such purpose. Each withdrawal from the bonded warehouse shall require a permit from the authorities having jurisdiction over the warehouse and, in the case of a foreign destination shall be treated as if it were a new export within the meaning of this Convention.

10. Consignments of drugs entering or leaving the territory of a Party not accompanied by an export authorization shall be detained by the competent authorities.

11. A Party shall not permit any drugs consigned to another country to pass through its territory, whether or not the consignment is removed from the conveyance in which it is carried, unless a copy of the export authorization for such consignment is produced to the competent authorities of such Party.

12. The competent authorities of any country or territory through which a consignment of drugs is permitted to pass shall take all due measures to prevent the diversion of the consignment to a destination other than that named in the accompanying copy of the export authorization unless the Government of that country or territory through which the consignment is passing authorizes the diversion. The Government of the country or territory of transit shall treat any requested diversion as if the diversion were an export from the country or territory of transit to the country or territory of new destination. If the diversion is authorized, the provisions of paragraph 7 (a) and (b) shall also apply between the

country or territory of transit and the country or territory which originally exported the consignment.

13. No consignment of drugs while in transit, or whilst being stored in a bonded warehouse, may be subjected to any process which would change the nature of the drugs in question. The packing may not be altered without the permission of the competent authorities.

14. The provisions of paragraphs 11 to 13 relating to the passage of drugs through the territory of a Party do not apply where the consignment in question is transported by aircraft which does not land in the country or territory of transit. If the aircraft lands in any such country or territory, those provisions shall be applied so far as circumstances require.

15. The provisions of this article are without prejudice to the provisions of any international agreements which limit the control which may be exercised by any of the Parties over drugs in transit.

16. Nothing in this article other than paragraphs 1 (a) and 2 need apply in the case of preparations in Schedule III.

**Article 32. SPECIAL PROVISIONS CONCERNING THE CARRIAGE OF DRUGS IN FIRST-AID KITS OF SHIPS OR AIRCRAFT ENGAGED IN INTERNATIONAL TRAFFIC**

1. The international carriage by ships or aircraft of such limited amounts of drugs as may be needed during their journey or voyage for first-aid purposes or emergency cases shall not be considered to be import, export or passage through a country within the meaning of this Convention.

2. Appropriate safeguards shall be taken by the country of registry to prevent the improper use of the drugs referred to in paragraph 1 or their diversion for illicit purposes. The Commission, in consultation with the appropriate international organizations, shall recommend such safeguards.

3. Drugs carried by ships or aircraft in accordance with paragraph 1 shall be subject to the laws, regulations, permits and licences of the country of registry, without prejudice to any rights of the competent local authorities to carry out checks, inspections and other control measures on board ships or aircraft. The administration of such drugs in the case of emergency shall not be considered a violation of the requirements of article 30, paragraph 2 (b).

**Article 33. POSSESSION OF DRUGS**

The Parties shall not permit the possession of drugs except under legal authority.

**Article 34. MEASURES OF SUPERVISION AND INSPECTION**

The Parties shall require:

- (a) That all persons who obtain licences as provided in accordance with this Convention, or who have managerial or supervisory positions in a State enterprise established in accordance with this Convention, shall have adequate qualifications for the effective and faithful execution of the provisions of such laws and regulations as are enacted in pursuance thereof; and



- (b) That governmental authorities, manufacturers, traders, scientists, scientific institutions and hospitals keep such records as will show the quantities of each drug manufactured and of each individual acquisition and disposal of drugs. Such records shall respectively be preserved for a period of not less than two years. Where counterfoil books (article 30, paragraph 2 (b)) of official prescriptions are used, such books including the counterfoils shall also be kept for a period of not less than two years.

#### Article 35. ACTION AGAINST THE ILLICIT TRAFFIC

Having due regard to their constitutional, legal and administrative systems, the Parties shall:

- (a) Make arrangements at the national level for co-ordination of preventive and repressive action against the illicit traffic; to this end they may usefully designate an appropriate agency responsible for such co-ordination;
- (b) Assist each other in the campaign against the illicit traffic in narcotic drugs;
- (c) Co-operate closely with each other and with the competent international organizations of which they are members with a view to maintaining a co-ordinated campaign against the illicit traffic;
- (d) Ensure that international co-operation between the appropriate agencies be conducted in an expeditious manner; and
- (e) Ensure that where legal papers are transmitted internationally for the purposes of a prosecution, the transmittal be effected in an expeditious manner to the bodies designated by the Parties; this requirement shall be without prejudice to the right of a Party to require that legal papers be sent to it through the diplomatic channel;
- (f) Furnish, if they deem it appropriate, to the Board and the Commission through the Secretary-General, in addition to information required by article 18, information relating to illicit drug activity within their borders, including information on illicit cultivation, production, manufacture and use of, and on illicit trafficking in, drugs; and
- (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 advice to it in furnishing the information and in endeavouring to reduce the illicit drug activity within the borders of that Party.

#### Article 36. PENAL PROVISIONS

1. (a) Subject to its constitutional limitations, each Party shall adopt such measures as will ensure that cultivation, production, manufacture, extraction, preparation, possession, offering, offering for sale, distribution, purchase, sale, delivery on any terms whatsoever, brokerage, dispatch, dispatch in transit, transport, importation and exportation of drugs contrary to the provisions of this Convention, and any other action which in the opinion of such Party may be contrary to the provisions of this Convention, shall be punishable offences when committed intentionally, and that serious offences shall be liable to adequate punishment particularly by imprisonment or other penalties of deprivation of liberty.

(b) Notwithstanding the preceding subparagraph, when abusers of drugs have committed such offences, the Parties may provide, either as an alternative to conviction or punishment or in addition to conviction or punishment, that such abusers shall undergo measures of treatment, education, after-care, rehabilitation and social reintegration in conformity with paragraph 1 of article 38.

2. Subject to the constitutional limitations of a Party, its legal system and domestic law,

- (a) (i) Each of the offences enumerated in paragraph 1, if committed in different countries, shall be considered as a distinct offence;
- (ii) Intentional participation in, conspiracy to commit and attempts to commit, any of such offences, and preparatory acts and financial operations in connexion with the offences referred to in this article, shall be punishable offences as provided in paragraph 1;
- (iii) Foreign convictions for such offences shall be taken into account for the purpose of establishing recidivism; and
- (iv) Serious offences heretofore referred to committed either by nationals or by foreigners shall be prosecuted by the Party in whose territory the offence was committed, or by the Party in whose territory the offender is found if extradition is not acceptable in conformity with the law of the Party to which application is made, and if such offender has not already been prosecuted and judgement given.
- (b) (i) Each of the offences enumerated in paragraphs 1 and 2 (a) (ii) of this article shall be deemed to be included as an extraditable offence in any extradition treaty existing between Parties. Parties undertake to include such offences as extraditable offences in every extradition treaty to be concluded between them;
- (ii) If a Party which makes extradition conditional on the existence of a treaty receives a request for extradition from another Party with which it has no extradition treaty, it may at its option consider this Convention as the legal basis for extradition in respect of the offences enumerated in paragraphs 1 and 2 (a) (ii) of this article. Extradition shall be subject to the other conditions provided by the law of the requested Party;
- (iii) Parties which do not make extradition conditional on the existence of a treaty shall recognize the offences enumerated in paragraphs 1 and 2 (a) (ii) of this article as extraditable offences between themselves, subject to the conditions provided by the law of the requested Party;
- (iv) Extradition shall be granted in conformity with the law of the Party to which application is made, and, notwithstanding subparagraphs (b) (i), (ii) and (iii) of this paragraph, the Party shall have the right to refuse to grant the extradition in cases where the competent authorities consider that the offence is not sufficiently serious.

3. The provisions of this article shall be subject to the provisions of the criminal law of the Party concerned on questions of jurisdiction.

4. Nothing contained in this article shall affect the principle that the offences to which it refers shall be defined, prosecuted and punished in conformity with the domestic law of a Party.

**Article 37. SEIZURE AND CONFISCATION**

Any drugs, substances and equipment used in or intended for the commission of any of the offences, referred to in article 36, shall be liable to seizure and confiscation.

**Article 38. MEASURES AGAINST THE ABUSE OF DRUGS**

1. The Parties shall give special attention to and take all practicable measures for the prevention of abuse of drugs and for the early identification, treatment, education, after-care, rehabilitation and social reintegration of the persons involved and shall co-ordinate their efforts to these ends.

2. The Parties shall as far as possible promote the training of personnel in the treatment, after-care, rehabilitation and social reintegration of abusers of drugs.

3. The Parties shall take all practicable measures to assist persons whose work so requires to gain an understanding of the problems of abuse of drugs and of its prevention, and shall also promote such understanding among the general public if there is a risk that abuse of drugs will become widespread.

**Article 38 bis. AGREEMENTS ON REGIONAL CENTRES**

If a Party considers it desirable 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 or the specialized agencies, it shall promote the establishment, in consultation with other interested Parties in the region, of agreements which contemplate the development of regional centres for scientific research and education to combat the problems resulting from the illicit use of and traffic in drugs.

**Article 39. APPLICATION OF STRICTER NATIONAL CONTROL MEASURES THAN THOSE REQUIRED BY THIS CONVENTION**

Notwithstanding anything contained in this Convention, a Party shall not be, or be deemed to be, precluded from adopting measures of control more strict or severe than those provided by this Convention and in particular from requiring that Preparations in Schedule III or drugs in Schedule II be subject to all or such of the measures of control applicable to drugs in Schedule I as in its opinion is necessary or desirable for the protection of the public health or welfare.

**Article 40. LANGUAGES OF THE CONVENTION AND PROCEDURE FOR SIGNATURE, RATIFICATION AND ACCESSION**

1. This Convention, of which the Chinese, English, French, Russian and Spanish texts are equally authentic, shall be open for signature until 1 August 1961 on behalf of any Member of the United Nations, of any non-member State which is a Party to the Statute of the International Court of Justice or member of a specialized agency of the United Nations, and also of any other State which the Council may invite to become a Party.

2. This Convention is subject to ratification. The instruments of ratification shall be deposited with the Secretary-General.

3. This Convention shall be open after 1 August 1961 for accession by the States referred to in paragraph 1. The instruments of accession shall be deposited with the Secretary-General.

*Article 41.* ENTRY INTO FORCE

1. This Convention shall come into force on the thirtieth day following the date on which the fortieth instrument of ratification or accession is deposited in accordance with article 40.

2. In respect of any other State depositing an instrument of ratification or accession after the date of deposit of the said fortieth instrument, this Convention shall come into force on the thirtieth day after the deposit by that State of its instrument of ratification or accession.

*Article 42.* TERRITORIAL APPLICATION

This Convention shall apply to all non-metropolitan territories for the international relations of which any Party is responsible, except where the previous consent of such a territory is required by the Constitution of the Party or of the territory concerned, or required by custom. In such case the Party shall endeavour to secure the needed consent of the territory within the shortest period possible, and when that consent is obtained the Party shall notify the Secretary-General. This Convention shall apply to the territory or territories named in such notification from the date of its receipt by the Secretary-General. In those cases where the previous consent of the non-metropolitan territory is not required, the Party concerned shall, at the time of signature, ratification or accession, declare the non-metropolitan territory or territories to which this Convention applies.

*Article 43.* TERRITORIES FOR THE PURPOSES OF ARTICLES 19, 20, 21 AND 31

1. Any Party may notify the Secretary-General that, for the purposes of articles 19, 20, 21 and 31, one of its territories is divided into two or more territories, or that two or more of its territories are consolidated into a single territory.

2. Two or more Parties may notify the Secretary-General that, as the result of the establishment of a customs union between them, those Parties constitute a single territory for the purposes of articles 19, 20, 21 and 31.

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

*Article 44.* TERMINATION OF PREVIOUS INTERNATIONAL TREATIES

1. The provisions of this Convention, upon its coming into force, shall, as between Parties hereto, terminate and replace the provisions of the following treaties:

- (a) International Opium Convention, signed at The Hague on 23 January 1912;<sup>1</sup>
- (b) Agreement concerning the Manufacture of, Internal Trade in and Use of Prepared Opium, signed at Geneva on 11 February 1925;<sup>2</sup>
- (c) International Opium Convention, signed at Geneva on 19 February 1925;<sup>3</sup>

<sup>1</sup> League of Nations, *Treaty Series*, vol. VIII, p. 187.

<sup>2</sup> *Ibid.*, vol. LI, p. 337.

<sup>3</sup> *Ibid.*, vol. LXXXI, p. 317.

- (d) Convention for Limiting the Manufacture and Regulating the Distribution of Narcotic Drugs, signed at Geneva on 13 July 1931;<sup>1</sup>
- (e) Agreement for the Control of Opium Smoking in the Far East, signed at Bangkok on 27 November 1931;<sup>2</sup>
- (f) Protocol signed at Lake Success on 11 December 1946,<sup>3</sup> amending the Agreements, Conventions and Protocols on Narcotic Drugs concluded at The Hague on 23 January 1912, at Geneva on 11 February 1925 and 19 February 1925 and 13 July 1931, at Bangkok on 27 November 1931 and at Geneva on 26 June 1936, except as it affects the last-named Convention;
- (g) The Conventions and Agreements referred to in subparagraphs (a) to (e) as amended by the Protocol of 1946 referred to in subparagraph (f);
- (h) Protocol signed at Paris on 19 November 1948<sup>4</sup> 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 on 11 December 1946;
- (i) 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,<sup>5</sup> should that Protocol have come into force.

2. Upon the coming into force of this Convention, article 9 of the Convention for the Suppression of the Illicit Traffic in Dangerous Drugs, signed at Geneva on 26 June 1936,<sup>6</sup> shall, between the Parties thereto which are also Parties to this Convention, be terminated, and shall be replaced by paragraph 2 (b) of article 36 of this Convention; provided that such a Party may, by notification to the Secretary-General continue in force the said article 9.

#### Article 45. TRANSITIONAL PROVISIONS

1. The functions of the Board provided for in article 9 shall, as from the date of the coming into force of this Convention (article 41, paragraph 1), be provisionally carried out by the Permanent Central Board constituted under chapter VI of the Convention referred to in article 44 (c) as amended, and by the Supervisory Body constituted under chapter II of the Convention referred to in article 44 (d) as amended, as such functions may respectively require.

2. The Council shall fix the date on which the new Board referred to in article 9 shall enter upon its duties. As from that date that Board shall, with respect to the States Parties to the treaties enumerated in article 44 which are not Parties to this Convention, undertake the functions of the Permanent Central Board and of the Supervisory Body referred to in paragraph 1.

#### Article 46. DENUNCIATION

1. After the expiry of two years from the date of the coming into force of this Convention (article 41, paragraph 1) any Party may, on its own behalf or on behalf of a territory for which it has international responsibility, and which has

<sup>1</sup> League of Nations, *Treaty Series*, vol. CXXXIX, p. 301.

<sup>2</sup> *Ibid.*, vol. CLXXVII, p. 373.

<sup>3</sup> United Nations, *Treaty Series*, vol. 12, p. 179.

<sup>4</sup> *Ibid.*, vol. 44, p. 277.

<sup>5</sup> *Ibid.*, vol. 436, p. 3.

<sup>6</sup> League of Nations, *Treaty Series*, vol. CXCVIII, p. 299.

withdrawn its consent given in accordance with article 42, denounce this Convention by an instrument in writing deposited with the Secretary-General.

2. The denunciation, if received by the Secretary-General on or before the first day of July in any year, shall take effect on the first day of January in the succeeding year, and, if received after the first day of July, shall take effect as if it had been received on or before the first day of July in the succeeding year.

3. This Convention shall be terminated if, as a result of denunciations made in accordance with paragraph 1, the conditions for its coming into force as laid down in article 41, paragraph 1, cease to exist.

#### Article 47. AMENDMENTS

1. Any Party may propose an amendment to this Convention. The text of any such amendment and the reasons therefor shall be communicated to the Secretary-General who shall communicate them to the Parties and to the Council. The Council may decide either:

- (a) That a conference shall be called in accordance with Article 62, paragraph 4, of the Charter of the United Nations to consider the proposed amendment; or
- (b) That the Parties shall be asked whether they accept the proposed amendment and also asked to submit to the Council any comments on the proposal.

2. If a proposed amendment circulated under paragraph 1 (b) of this article has not been rejected by any Party within eighteen months after it has been circulated, it shall thereupon enter into force. If, however, a proposed amendment is rejected by any Party, the Council may decide, in the light of comments received from Parties, whether a conference shall be called to consider such amendment.

#### Article 48. DISPUTES

1. If there should arise between two or more Parties a dispute relating to the interpretation or application of this Convention, the said Parties shall consult together with a view to the settlement of the dispute by negotiation, investigation, mediation, conciliation, arbitration, recourse to regional bodies, judicial process or other peaceful means of their own choice.

2. Any such dispute which cannot be settled in the manner prescribed shall be referred to the International Court of Justice for decision.

#### Article 49. TRANSITIONAL RESERVATIONS

1. A Party may at the time of signature, ratification or accession reserve the right to permit temporarily in any one of its territories:

- (a) The quasi-medical use of opium;
- (b) Opium smoking;
- (c) Coca leaf chewing;
- (d) The use of cannabis, cannabis resin, extracts and tinctures of cannabis for non-medical purposes; and
- (e) The production and manufacture of and trade in the drugs referred to under (a) to (d) for the purposes mentioned therein.

2. The reservations under paragraph 1 shall be subject to the following restrictions:

- (a) The activities mentioned in paragraph 1 may be authorized only to the extent that they were traditional in the territories in respect of which the reservation is made, and were there permitted on 1 January 1961;
- (b) No export of the drugs referred to in paragraph 1 for the purposes mentioned therein may be permitted to a non-party or to a territory to which this Convention does not apply under article 42;
- (c) Only such persons may be permitted to smoke opium as were registered by the competent authorities to this effect on 1 January 1964;
- (d) The quasi-medical use of opium must be abolished within 15 years from the coming into force of this Convention as provided in paragraph 1 of article 41;
- (e) Coca leaf chewing must be abolished within twenty-five years from the coming into force of this Convention as provided in paragraph 1 of article 41;
- (f) The use of cannabis for other than medical and scientific purposes must be discontinued as soon as possible but in any case within twenty-five years from the coming into force of this Convention as provided in paragraph 1 of article 41;
- (g) The production and manufacture of and trade in the drugs referred to in paragraph 1 for any of the uses mentioned therein must be reduced and finally abolished simultaneously with the reduction and abolition of such uses.

3. A Party making a reservation under paragraph 1 shall:

- (a) Include in the annual report to be furnished to the Secretary-General, in accordance with article 18, paragraph 1 (a), an account of the progress made in the preceding year towards the abolition of the use, production, manufacture or trade referred to under paragraph 1; and
- (b) Furnish to the Board separate estimates (article 19) and statistical returns (article 20) in respect of the reserved activities in the manner and form prescribed by the Board.

4. (a) If a Party which makes a reservation under paragraph 1 fails to furnish:

- (i) The report referred to in paragraph 3 (a) within six months after the end of the year to which the information relates;
- (ii) The estimates referred to in paragraph 3 (b) within three months after the date fixed for that purpose by the Board in accordance with article 12, paragraph 1;
- (iii) The statistics referred to in paragraph 3 (b) within three months after the date on which they are due in accordance with article 20, paragraph 2.

the Board or the Secretary-General, as the case may be, shall send to the Party concerned a notification of the delay, and shall request such information within a period of three months after the receipt of that notification.

(b) If the Party fails to comply within this period with the request of the Board or the Secretary-General, the reservation in question made under paragraph 1 shall cease to be effective.

5. A State which has made reservations may at any time by notification in writing withdraw all or part of its reservations.

**Article 50. OTHER RESERVATIONS**

1. No reservations other than those made in accordance with article 49 or with the following paragraphs shall be permitted.

2. Any State may at the time of signature, ratification or accession make reservations in respect of the following provisions of this Convention: Article 12, paragraphs 2 and 3; article 13, paragraph 2; article 14, paragraphs 1 and 2; article 31, paragraph 1 (b), and article 48.

3. A State which desires to become a Party but wishes to be authorized to make reservations other than those made in accordance with paragraph 2 of this article or with article 49 may inform the Secretary-General of such intention. Unless by the end of twelve months after the date of the Secretary-General's communication of the reservation concerned, this reservation has been objected to by one third of the States that have ratified or acceded to this Convention before the end of that period, it shall be deemed to be permitted, it being understood, however, that States which have objected to the reservation need not assume towards the reserving State any legal obligation under this Convention which is affected by the reservation.

4. A State which has made reservations may at any time by notification in writing withdraw all or part of its reservations.

**Article 51. NOTIFICATIONS**

The Secretary-General shall notify to all the States referred to in paragraph 1 of article 40:

- (a) Signatures, ratifications and accessions in accordance with article 40;
- (b) The date upon which this Convention enters into force in accordance with article 41;
- (c) Denunciations in accordance with article 46; and
- (d) Declarations and notifications under articles 42, 43, 47, 49 and 50.

Text established by the Secretary-General on 8 August 1975, in accordance with article 22 of the Protocol of 25 March 1972.

For the Secretary-General:

The Legal Counsel,

[Signed]<sup>1</sup>

**SCHEDULES**

**LIST OF DRUGS INCLUDED IN SCHEDULE I**

Acetylmethadol (3-acetoxy-6-dimethylamino-4, 4-diphenylheptane)  
Allylprodine (3-allyl-1-methyl-4-phenyl-4-propionoxypiperidine)  
Alphacetylmethadol (alpha-3-acetoxy-6-dimethylamino-4, 4-diphenylheptane)

<sup>1</sup> Signed by Eric Suy.



Alphameprodine (alpha-3-ethyl-1-methyl-4-phenyl-4-propionoxypiperidine)  
Alphamethadol (alpha-6-dimethylamino-4,4-diphenyl-3-heptanol)  
Alphaprodine (alpha-1,3-dimethyl-4-phenyl-4-propionoxypiperidine)  
Anileridine (1-*para*-aminophenethyl-4-phenylpiperidine-4-carboxylic acid ethyl ester)  
Benzethidine (1-(2-benzyloxyethyl)-4-phenylpiperidine-4-carboxylic acid ethyl ester)  
Benzylmorphine (3-benzylmorphine)  
Betacetylmethadol (beta-3-acetoxy-6-dimethylamino-4,4-diphenylheptane)  
Betameprodine (beta-3-ethyl-1-methyl-4-phenyl-4-propionoxypiperidine)  
Betamethadol (beta-6-dimethylamino-4,4-diphenyl-3-heptanol)  
Betaprodine (beta-1,3-dimethyl-4-phenyl-4-propionoxypiperidine)  
Cannabis and cannabis resin and extracts and tinctures of cannabis  
Clonitazene (2-*para*-chlorbenzyl-1-diethylaminoethyl-5-nitrobenzimidazole)  
Coca leaf  
Cocaine (methyl ester of benzoylecgonine)  
Concentrate of poppy straw (the material arising when poppy straw has entered into a process for the concentration of its alkaloids when such material is made available in trade)  
Desomorphine (dihydrodeoxymorphine)  
Dextromoramide ((+)-4-[2-methyl-4-oxo-3,3-diphenyl-4-(1-pyrrolidinyl) butyl] morpholine)  
Diampromide (N-[2-methylphenethylamino] propyl] propionanilide)  
Diethylthiambutene (3-diethylamino-1,1-di-(2'-thienyl)-1-butene)  
Dihydromorphine  
Dimenoxadol (2-dimethylaminoethyl-1-ethoxy-1,1-diphenylacetate)  
Dimepheptanol (6-dimethylamino-4,4-diphenyl-3-heptanol)  
Dimethylthiambutene (3-dimethylamino-1,1-di-(2'-thienyl)-1-butene)  
Dioxaphetyl butyrate (ethyl 4-morpholino-2,2-diphenylbutyrate)  
Diphenoxylate (1-(3-cyano-3,3-diphenylpropyl)-4-phenylpiperidine-4-carboxylic acid ethyl ester)  
Dipipanone (4,4-diphenyl-6-piperidine-3-heptanone)  
Ecgonine, its esters and derivatives which are convertible to ecgonine and cocaine  
Ethylmethylthiambutene (3-ethylmethylamino-1,1-di-(2'-thienyl)-1-butene)  
Etonitazene (1-diethylaminoethyl-2-*para*-ethoxybenzyl-5-nitrobenzimidazole)  
Etoxidine (1-[2-(2-hydroxyethoxy) ethyl]-4-phenylpiperidine-4-carboxylic acid ethyl ester)  
Furethidine (1-(2-tetrahydrofurfuryloxyethyl)-4-phenylpiperidine-4-carboxylic acid ethyl ester)  
Heroin (diacetylmorphine)  
Hydrocodone (dihydrocodeinone)  
Hydromorphenol (14-hydroxydihydromorphine)  
Hydromorphone (dihydromorphinone)  
Hydroxypethidine (4-*meta*-hydroxyphenyl-1-methylpiperidine-4-carboxylic acid ethyl ester)  
Isomethadone (6-dimethylamino-5-methyl-4,4-diphenyl-3-hexanone)  
Ketobemidone (4-*meta*-hydroxyphenyl-1-methyl-4-propionylpiperidine)  
Levomethorphan\* ((-)-3-methoxy-N-methylmorphinan)  
Levomoramide ((-)-4-[2-methyl-4-oxo-3,3-diphenyl-4-(1-pyrrolidinyl) butyl] morpholine)  
Levophenacymorphan ((-)-3-hydroxy-N-phenacymorphinan)  
Levorphanol\* ((-)-3-hydroxy-N-methylmorphinan)  
Metazocine (2'-hydroxy-2,5,9-trimethyl-6,7-benzomorphan)  
Methadone (6-dimethylamino-4,4-diphenyl-3-heptanone)  
Methyldesorphine (6-methyl-delta 6-deoxymorphine)  
Methyldihydromorphine (6-methyldihydromorphine)  
1-methyl-4-phenylpiperidine-4-carboxylic acid  
Metopon (5-methyldihydromorphinone)  
Morpheridine (1-(2-morpholinoethyl)-4-phenylpiperidine-4-carboxylic acid ethyl ester)  
Morphine

\* Dextromethorphan ((+)-3-methoxy-N-methylmorphinan) and dextrorphan ((+)-3-hydroxy-N-methylmorphinan) are specifically excluded from this Schedule.

Morphine methobromide and other pentavalent nitrogen morphine derivatives  
Morphine-n-oxide  
Myrophine (myristylbenzylmorphine)  
Nicomorphine (3,6-dinicotinylmorphine)  
Norlevorphanol ((-)-3-hydroxymorphinan)  
Normethadone (6-dimethylamino-4,4-diphenyl-3-hexanone)  
Normorphine (demethylmorphine)  
Opium  
Oxycodone (14-hydroxydihydrocodeinone)  
Oxymorphone (14-hydroxydihydromorphinone)  
Pethidine (1-methyl-4-phenylpiperidine-4-carboxylic acid ethyl ester)  
Phenadoxone (6-morpholino-4,4-diphenyl-3-heptanone)  
Phenampromide (N-(1-methyl-2-piperidinoethyl) propionanilide)  
Phenazocine (2'-hydroxy-5,9-dimethyl-2-phenethyl-6,7-benzomorphan)  
Phenomorphin (3-hydroxy-N-phenethylmorphinan)  
Phenoperidine (1-(3-hydroxy-3-phenylpropyl)-4-phenylpiperidine-4-carboxylic acid ethyl ester)  
Piminodine (4-phenyl-1-(3-phenylaminopropyl) piperidine-4-carboxylic acid ethyl ester)  
Proheptazine (1,3-dimethyl-4-phenyl-4-propionoxyazacycloheptane)  
Roperidine (1-methyl-4-phenylpiperidine-4-carboxylic acid isopropyl ester)  
Racemethorphan ((±)-3-methoxy-N-methylmorphinan)  
Racemoramide ((±)-4-[2-methyl-4-oxo-3,3-diphenyl-4-(1-pyrrolidiny)] butyl] morpholine)  
Racemorphan ((±)-3-hydroxy-N-methylmorphinan)  
Thebacon (acetyldihydrocodeinone)  
Thebaine  
Trimeperidine (1,2,5-trimethyl-4-phenyl-4-propionoxypiperidine); and  
The isomers, unless specifically excepted, of the drugs in this Schedule whenever the existence of such isomers is possible within the specific chemical designation;  
The esters and ethers, unless appearing in another Schedule, of the drugs in this Schedule whenever the existence of such esters or ethers is possible;  
The salts of the drugs listed in this Schedule, including the salts of esters, ethers and isomers as provided above whenever the existence of such salts is possible.

#### LIST OF DRUGS INCLUDED IN SCHEDULE II

Acetyldihydrocodeine  
Codeine (3-methylmorphine)  
Dextropropoxyphene ((+)-4-dimethylamino-3-methyl-1,2-diphenyl-2-propionoxybutane)  
Dihydrocodeine  
Ethylmorphine (3-ethylmorphine)  
Norcodeine (N-demethylcodeine)  
Pholcodine (morpholinylethylmorphine); and  
The isomers, unless specifically excepted, of the drugs in this Schedule whenever the existence of such isomers is possible within the specific chemical designation;  
The salts of the drugs listed in this Schedule, including the salts of the isomers as provided above whenever the existence of such salts is possible.

#### LIST OF PREPARATIONS INCLUDED IN SCHEDULE III

1. Preparations of acetyldihydrocodeine, codeine, dextropropoxyphene, dihydrocodeine, ethylmorphine, norcodeine, and pholcodine when
  - (a) Compounded with one or more other ingredients in such a way that the preparation has no, or a negligible, risk of abuse, and in such a way that the drug cannot be recovered by readily applicable means or in a yield which would constitute a risk to public health; and
  - (b) Containing not more than 100 milligrammes of the drug per dosage unit and with a concentration of not more than 2.5 per cent in undivided preparations.

2. Preparations of cocaine containing not more than 0.1 per cent of cocaine calculated as cocaine base and preparations of opium or morphine containing not more than 0.2 per cent of morphine calculated as anhydrous morphine base and compounded with one or more other ingredients in such a way that the preparation has no, or a negligible, risk of abuse, and in such a way that the drug cannot be recovered by readily applicable means or in a yield which would constitute a risk to public health.

3. Solid dose preparations of diphenoxylate containing not more than 2.5 milligrammes of diphenoxylate calculated as base and not less than 25 micrograms of atropine sulphate per dosage unit.

4. *Pulvis ipecacuanhae et opii compositus*

- 10 per cent opium in powder
- 10 per cent ipecacuanha root, in powder well mixed with
- 80 per cent of any other powdered ingredient containing no drug.

5. Preparations conforming to any of the formulae listed in this Schedule and mixtures of such preparations with any material which contains no drug.

LIST OF DRUGS INCLUDED IN SCHEDULE IV

Cannabis and cannabis resin

Desomorphine (dihydrodeoxymorphine)

Heroin (diacetylmorphine)

Ketobemidone (4-*meta*-hydroxyphenyl-1-methyl-4-propionylpiperidine); and

The salts of the drugs listed in this Schedule whenever the formation of such salts is possible.

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CONVENTION ON PSYCHOTROPIC SUBSTANCES  
(WITH LISTS OF SUBSTANCES).  
CONCLUDED AT VIENNA ON 21 FEBRUARY 1971

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CONVENTION ON PSYCHOTROPIC SUBSTANCES

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PREAMBLE

The Parties,

Being concerned with the health and welfare of mankind,

Noting with concern the public health and social problems resulting from the abuse of certain psychotropic substances,

Determined to prevent and combat abuse of such substances and the illicit traffic to which it gives rise,

Considering that rigorous measures are necessary to restrict the use of such substances to legitimate purposes,

Recognizing that the use of psychotropic substances for medical and scientific purposes is indispensable and that their availability for such purposes should not be unduly restricted,

Believing that effective measures against abuse of such substances require co-ordination and universal action,

Acknowledging the competence of the United Nations in the field of control of psychotropic substances and desirous that the international organs concerned should be within the framework of that Organization,

Recognizing that an international convention is necessary to achieve these purposes,

Agree as follows:

*Article 1. USE OF TERMS*

Except where otherwise expressly indicated, or where the context otherwise requires, the following terms in this Convention have the meanings given below:

(a) "Council" means the Economic and Social Council of the United Nations.

(b) "Commission" means the Commission on Narcotic Drugs of the Council.

(c) "Board" means the International Narcotics Control Board provided for in the Single Convention on Narcotic Drugs, 1961.<sup>1</sup>

(d) "Secretary-General" means the Secretary-General of the United Nations.

(e) "Psychotropic substance" means any substance, natural or synthetic, or any natural material in Schedule I, II, III or IV.

(f) "Preparation" means:

(i) any solution or mixture, in whatever physical state, containing one or more psychotropic substances, or

(ii) one or more psychotropic substances in dosage form.

(g) "Schedule I", "Schedule II", "Schedule III" and "Schedule IV" mean the correspondingly numbered lists of psychotropic substances annexed to this Convention, as altered in accordance with article 2.

(h) "Export" and "import" mean in their respective connotations the physical transfer of a psychotropic substance from one State to another State.

(i) "Manufacture" means all processes by which psychotropic substances may be obtained, and includes refining as well as the transformation of psychotropic substances into other psychotropic substances. The term also includes the making of preparations other than those made on prescription in pharmacies.

(j) "Illicit traffic" means manufacture of or trafficking in psychotropic substances contrary to the provisions of this Convention.

(k) "Region" means any part of a State which pursuant to article 28 is treated as a separate entity for the purposes of this Convention.

(l) "Premises" means buildings or parts of buildings, including the appertaining land.

<sup>1</sup> United Nations, *Treaty Series*, vol. 520, p. 151, and vol. 557, p. 280 (corrigendum to vol. 520, p. 309).



*Article 2. SCOPE OF CONTROL OF SUBSTANCES*

1. If a Party or the World Health Organization has information relating to a substance not yet under international control which in its opinion may require the addition of that substance to any of the Schedules of this Convention, it shall notify the Secretary-General and furnish him with the information in support of that notification. The foregoing procedure shall also apply when a Party or the World Health Organization has information justifying the transfer of a substance from one Schedule to another among those Schedules, or the deletion of a substance from the Schedules.

2. The Secretary-General shall transmit such notification, and any information which he considers relevant, to the Parties, to the Commission and, when the notification is made by a Party, to the World Health Organization.

3. If the information transmitted with such a notification indicates that the substance is suitable for inclusion in Schedule I or Schedule II pursuant to paragraph 4, the Parties shall examine, in the light of all information available to them, the possibility of the provisional application to the substance of all measures of control applicable to substances in Schedule I or Schedule II, as appropriate.

4. If the World Health Organization finds:

- (a) that the substance has the capacity to produce
  - (i) (1) a state of dependence, and
  - (2) central nervous system stimulation or depression, resulting in hallucinations or disturbances in motor function or thinking or behaviour or perception or mood, or
  - (ii) similar abuse and similar ill effects as a substance in Schedule I, II, III or IV, and
- (b) that there is sufficient evidence that the substance is being or is likely to be abused so as to constitute a public health and social problem warranting the placing of the substance under international control,

the World Health Organization shall communicate to the Commission an assessment of the substance, including the extent or likelihood of abuse, the degree of seriousness of the public health and social problem and the degree of usefulness of the substance in medical therapy, together with recommendations on control measures, if any, that would be appropriate in the light of its assessment.

5. The Commission, taking into account the communication from the World Health Organization, whose assessments shall be determinative as to medical and scientific matters, and bearing in mind the economic, social, legal, administrative and other factors it may consider relevant, may add the substance to Schedule I, II, III or IV. The Commission may seek further information from the World Health Organization or from other appropriate sources.

6. If a notification under paragraph 1 relates to a substance already listed in one of the Schedules, the World Health Organization shall communicate to the Commission its new findings, any new assessment of the substance it may make in accordance with paragraph 4 and any new recommendations on control measures it may find appropriate in the light of that assessment. The Commis-

sion, taking into account the communication from the World Health Organization as under paragraph 5 and bearing in mind the factors referred to in that paragraph, may decide to transfer the substance from one Schedule to another or to delete it from the Schedules.

7. Any decision of the Commission taken pursuant to this article shall be communicated by the Secretary-General to all States Members of the United Nations, to non-member States Parties to this Convention, to the World Health Organization and to the Board. Such decision shall become fully effective with respect to each Party 180 days after the date of such communication, except for any Party which, within that period, in respect of a decision adding a substance to a Schedule, has transmitted to the Secretary-General a written notice that, in view of exceptional circumstances, it is not in a position to give effect with respect to that substance to all of the provisions of the Convention applicable to substances in that Schedule. Such notice shall state the reasons for this exceptional action. Notwithstanding its notice, each Party shall apply, as a minimum, the control measures listed below:

(a) A Party having given such notice with respect to a previously uncontrolled substance added to Schedule I shall take into account, as far as possible, the special control measures enumerated in article 7<sup>1</sup> and, with respect to that substance, shall:

- (i) require licences for manufacture, trade and distribution as provided in article 8 for substances in Schedule II;
- (ii) require medical prescriptions for supply or dispensing as provided in article 9 for substances in Schedule II;
- (iii) comply with the obligations relating to export and import provided in article 12, except in respect to another Party having given such notice for the substance in question;
- (iv) comply with the obligations provided in article 13 for substances in Schedule II in regard to prohibition of and restrictions on export and import;
- (v) furnish statistical reports to the Board in accordance with paragraph 4 (a) of article 16; and
- (vi) adopt measures in accordance with article 22 for the repression of acts contrary to laws or regulations adopted pursuant to the foregoing obligations.

(b) A Party having given such notice with regard to a previously uncontrolled substance added to Schedule II shall, with respect to that substance:

- (i) require licences for manufacture, trade and distribution in accordance with article 8;
- (ii) require medical prescriptions for supply or dispensing in accordance with article 9;
- (iii) comply with the obligations relating to export and import provided in article 12, except in respect to another Party having given such notice for the substance in question;
- (iv) comply with the obligations of article 13 in regard to prohibition of and restrictions on export and import;

<sup>1</sup> See footnote 1, p. 175 of this volume.

- (v) furnish statistical reports to the Board in accordance with paragraphs 4 (a), (c) and (d) of article 16; and
- (vi) adopt measures in accordance with article 22 for the repression of acts contrary to laws or regulations adopted pursuant to the foregoing obligations.
  - (c) A Party having given such notice with regard to a previously uncontrolled substance added to Schedule III shall, with respect to that substance:
    - (i) require licences for manufacture, trade and distribution in accordance with article 8;
    - (ii) require medical prescriptions for supply or dispensing in accordance with article 9;
    - (iii) comply with the obligations relating to export provided in article 12, except in respect to another Party having given such notice for the substance in question;
    - (iv) comply with the obligations of article 13 in regard to prohibition of and restrictions on export and import; and
    - (v) adopt measures in accordance with article 22 for the repression of acts contrary to laws or regulations adopted pursuant to the foregoing obligations.
  - (d) A Party having given such notice with regard to a previously uncontrolled substance added to Schedule IV shall, with respect to that substance:
    - (i) require licences for manufacture, trade and distribution in accordance with article 8;
    - (ii) comply with the obligations of article 13 in regard to prohibition of and restrictions on export and import; and
    - (iii) adopt measures in accordance with article 22 for the repression of acts contrary to laws or regulations adopted pursuant to the foregoing obligations.
  - (e) A Party having given such notice with regard to a substance transferred to a Schedule providing stricter controls and obligations shall apply as a minimum all of the provisions of this Convention applicable to the Schedule from which it was transferred.

8. (a) The decisions of the Commission taken under this article shall be subject to review by the Council upon the request of any Party filed within 180 days from receipt of notification of the decision. The request for review shall be sent to the Secretary-General together with all relevant information upon which the request for review is based.

(b) The Secretary-General shall transmit copies of the request for review and the relevant information to the Commission, to the World Health Organization and to all the Parties, inviting them to submit comments within ninety days. All comments received shall be submitted to the Council for consideration.

(c) The Council may confirm, alter or reverse the decision of the Commission. Notification of the Council's decision shall be transmitted to all States Members of the United Nations, to non-member States Parties to this Convention, to the Commission, to the World Health Organization and to the Board.

(d) During pendency of the review, the original decision of the Commission shall, subject to paragraph 7, remain in effect.

9. The Parties shall use their best endeavours to apply to substances which do not fall under this Convention, but which may be used in the illicit manufacture of psychotropic substances, such measures of supervision as may be practicable.

*Article 3. SPECIAL PROVISIONS REGARDING THE CONTROL OF PREPARATIONS*

1. Except as provided in the following paragraphs of this article, a preparation is subject to the same measures of control as the psychotropic substance which it contains, and, if it contains more than one such substance, to the measures applicable to the most strictly controlled of those substances.

2. If a preparation containing a psychotropic substance other than a substance in Schedule I is compounded in such a way that it presents no, or a negligible, risk of abuse and the substance cannot be recovered by readily applicable means in a quantity liable to abuse, so that the preparation does not give rise to a public health and social problem, the preparation may be exempted from certain of the measures of control provided in this Convention in accordance with paragraph 3.

3. If a Party makes a finding under the preceding paragraph regarding a preparation, it may decide to exempt the preparation, in its country or in one of its regions, from any or all of the measures of control provided in this Convention except the requirements of:

- (a) article 8 (licences), as it applies to manufacture;
- (b) article 11 (records), as it applies to exempt preparations;
- (c) article 13 (prohibition of and restrictions on export and import);
- (d) article 15 (inspection), as it applies to manufacture;
- (e) article 16 (reports to be furnished by the Parties), as it applies to exempt preparations; and
- (f) article 22 (penal provisions), to the extent necessary for the repression of acts contrary to laws or regulations adopted pursuant to the foregoing obligations.

A Party shall notify the Secretary-General of any such decision, of the name and composition of the exempt preparation, and of the measures of control from which it is exempted. The Secretary-General shall transmit the notification to the other Parties, to the World Health Organization and to the Board.

4. If a Party or the World Health Organization has information regarding a preparation exempted pursuant to paragraph 3 which in its opinion may require the termination, in whole or in part, of the exemption, it shall notify the Secretary-General and furnish him with the information in support of the notification. The Secretary-General shall transmit such notification, and any information which he considers relevant, to the Parties, to the Commission and, when the notification is made by a Party, to the World Health Organization. The World Health Organization shall communicate to the Commission an assessment of the preparation in relation to the matters specified in paragraph 2, together with a recommendation of the control measures, if any, from which the preparation should cease to be exempted. The Commission, taking into account the communication from the World Health Organization, whose assessment shall be determinative as to medical and scientific matters, and bearing in mind the

economic, social, legal, administrative and other factors it may consider relevant, may decide to terminate the exemption of the preparation from any or all control measures. Any decision of the Commission taken pursuant to this paragraph shall be communicated by the Secretary-General to all States Members of the United Nations, to non-member States Parties to this Convention, to the World Health Organization and to the Board. All Parties shall take measures to terminate the exemption from the control measure or measures in question within 180 days of the date of the Secretary-General's communication.

*Article 4. OTHER SPECIAL PROVISIONS REGARDING THE SCOPE OF CONTROL*

In respect of psychotropic substances other than those in Schedule I, the Parties may permit:

- (a) the carrying by international travellers of small quantities of preparations for personal use; each Party shall be entitled, however, to satisfy itself that these preparations have been lawfully obtained;
- (b) the use of such substances in industry for the manufacture of non-psychotropic substances or products, subject to the application of the measures of control required by this Convention until the psychotropic substances come to be in such a condition that they will not in practice be abused or recovered;
- (c) the use of such substances, subject to the application of the measures of control required by this Convention, for the capture of animals by persons specifically authorized by the competent authorities to use such substances for that purpose.

*Article 5. LIMITATION OF USE TO MEDICAL AND SCIENTIFIC PURPOSES*

1. Each Party shall limit the use of substances in Schedule I as provided in article 7.

2. Each Party shall, except as provided in article 4, limit by such measures as it considers appropriate the manufacture, export, import, distribution and stocks of, trade in, and use and possession of, substances in Schedules II, III and IV to medical and scientific purposes.

3. It is desirable that the Parties do not permit the possession of substances in Schedules II, III and IV except under legal authority.

*Article 6. SPECIAL ADMINISTRATION*

It is desirable that for the purpose of applying the provisions of this Convention, each Party establish and maintain a special administration, which may with advantage be the same as, or work in close co-operation with, the special administration established pursuant to the provisions of conventions for the control of narcotic drugs.

*Article 7. SPECIAL PROVISIONS REGARDING SUBSTANCES IN SCHEDULE I*

In respect of substances in Schedule I, the Parties shall:

- (a) prohibit all use except for scientific and very limited medical purposes by duly authorized persons, in medical or scientific establishments which are

- directly under the control of their Governments or specifically approved by them;
- (b) require that manufacture, trade, distribution and possession be under a special licence or prior authorization;
  - (c) provide for close supervision of the activities and acts mentioned in paragraphs (a) and (b);
  - (d) restrict the amount supplied to a duly authorized person to the quantity required for his authorized purpose;
  - (e) require that persons performing medical or scientific functions keep records concerning the acquisition of the substances and the details of their use, such records to be preserved for at least two years after the last use recorded therein; and
  - (f) prohibit export and import except when both the exporter and importer are the competent authorities or agencies of the exporting and importing country or region, respectively, or other persons or enterprises which are specifically authorized by the competent authorities of their country or region for the purpose. The requirements of paragraph 1 of article 12 for export and import authorizations for substances in Schedule II shall also apply to substances in Schedule I.

*Article 8. LICENCES*

1. The Parties shall require that the manufacture of, trade (including export and import trade) in, and distribution of substances listed in Schedules II, III and IV be under licence or other similar control measure.

2. The Parties shall:

- (a) control all duly authorized persons and enterprises carrying on or engaged in the manufacture of, trade (including export and import trade) in, or distribution of substances referred to in paragraph 1;
- (b) control under licence or other similar control measure the establishments and premises in which such manufacture, trade or distribution may take place; and
- (c) provide that security measures be taken with regard to such establishments and premises in order to prevent theft or other diversion of stocks.

3. The provisions of paragraphs 1 and 2 of this article relating to licensing or other similar control measures need not apply to persons duly authorized to perform and while performing therapeutic or scientific functions.

4. The Parties shall require that all persons who obtain licences in accordance with this Convention or who are otherwise authorized pursuant to paragraph 1 of this article or sub-paragraph (b) of article 7 shall be adequately qualified for the effective and faithful execution of the provisions of such laws and regulations as are enacted in pursuance of this Convention.

*Article 9. PRESCRIPTIONS*

1. The Parties shall require that substances in Schedules II, III and IV be supplied or dispensed for use by individuals pursuant to medical prescrip-

tion only, except when individuals may lawfully obtain, use, dispense or administer such substances in the duly authorized exercise of therapeutic or scientific functions.

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

3. Notwithstanding paragraph 1, a Party may, if in its opinion local circumstances so require and under such conditions, including record-keeping, as it may prescribe, authorize licensed pharmacists or other licensed retail distributors designated by the authorities responsible for public health in its country or part thereof to supply, at their discretion and without prescription, for use for medical purposes by individuals in exceptional cases, small quantities, within limits to be defined by the Parties, of substances in Schedules III and IV.

#### *Article 10.* WARNINGS ON PACKAGES, AND ADVERTISING

1. Each Party shall require, taking into account any relevant regulations or recommendations of the World Health Organization, such directions for use, including cautions and warnings, to be indicated on the labels where practicable and in any case on the accompanying leaflet of retail packages of psychotropic substances, as in its opinion are necessary for the safety of the user.

2. Each Party shall, with due regard to its constitutional provisions, prohibit the advertisement of such substances to the general public.

#### *Article 11.* RECORDS

1. The Parties shall require that, in respect of substances in Schedule I, manufacturers and all other persons authorized under article 7 to trade in and distribute those substances keep records, as may be determined by each Party, showing details of the quantities manufactured, the quantities held in stock, and, for each acquisition and disposal, details of the quantity, date, supplier and recipient.

2. The Parties shall require that, in respect of substances in Schedules II and III, manufacturers, wholesale distributors, exporters and importers keep records, as may be determined by each Party, showing details of the quantities manufactured and, for each acquisition and disposal, details of the quantity, date, supplier and recipient.

3. The Parties shall require that, in respect of substances in Schedule II, retail distributors, institutions for hospitalization and care and scientific institutions keep records, as may be determined by each Party, showing, for each acquisition and disposal, details of the quantity, date, supplier and recipient.

4. The Parties shall ensure, through appropriate methods and taking into account the professional and trade practices in their countries, that information regarding acquisition and disposal of substances in Schedule III by retail

distributors, institutions for hospitalization and care and scientific institutions is readily available.

5. The Parties shall require that, in respect of substances in Schedule IV, manufacturers, exporters and importers keep records, as may be determined by each Party, showing the quantities manufactured, exported and imported.

6. The Parties shall require manufacturers of preparations exempted under paragraph 3 of article 3 to keep records as to the quantity of each psychotropic substance used in the manufacture of an exempt preparation, and as to the nature, total quantity and initial disposal of the exempt preparation manufactured therefrom.

7. The Parties shall ensure that the records and information referred to in this article which are required for purposes of reports under article 16 shall be preserved for at least two years.

*Article 12. PROVISIONS RELATING TO INTERNATIONAL TRADE*

1. (a) Every Party permitting the export or import of substances in Schedule I or II shall require a separate import or export authorization, on a form to be established by the Commission, to be obtained for each such export or import whether it consists of one or more substances.

(b) Such authorization shall state the international non-proprietary name, or, lacking such a name, the designation of the substance in the Schedule, the quantity to be exported or imported, the pharmaceutical form, the name and address of the exporter and importer, and the period within which the export or import must be effected. If the substance is exported or imported in the form of a preparation, the name of the preparation, if any, shall additionally be furnished. The export authorization shall also state the number and date of the import authorization and the authority by whom it has been issued.

(c) Before issuing an export authorization the Parties shall require an import authorization, issued by the competent authority of the importing country or region and certifying that the importation of the substance or substances referred to therein is approved, and such an authorization shall be produced by the person or establishment applying for the export authorization.

(d) A copy of the export authorization shall accompany each consignment, and the Government issuing the export authorization shall send a copy to the Government of the importing country or region.

(e) The Government of the importing country or region, when the importation has been effected, shall return the export authorization with an endorsement certifying the amount actually imported, to the Government of the exporting country or region.

2. (a) The Parties shall require that for each export of substances in Schedule III exporters shall draw up a declaration in triplicate, on a form to be established by the Commission, containing the following information:

- (i) the name and address of the exporter and importer;
- (ii) the international non-proprietary name, or, failing such a name, the designation of the substance in the Schedule;



- (iii) the quantity and pharmaceutical form in which the substance is exported, and, if in the form of a preparation, the name of the preparation, if any; and
- (iv) the date of despatch.

(b) Exporters shall furnish the competent authorities of their country or region with two copies of the declaration. They shall attach the third copy to their consignment.

(c) A Party from whose territory a substance in Schedule III has been exported shall, as soon as possible but not later than ninety days after the date of despatch, send to the competent authorities of the importing country or region, by registered mail with return of receipt requested, one copy of the declaration received from the exporter.

(d) The Parties may require that, on receipt of the consignment, the importer shall transmit the copy accompanying the consignment, duly endorsed stating the quantities received and the date of receipt, to the competent authorities of his country or region.

3. In respect of substances in Schedules I and II the following additional provisions shall apply:

(a) The Parties shall exercise in free ports and zones the same supervision and control as in other parts of their territory, provided, however, that they may apply more drastic measures.

(b) Exports of consignments to a post office box, or to a bank to the account of a person other than the person named in the export authorization, shall be prohibited.

(c) Exports to bonded warehouses of consignments of substances in Schedule I are prohibited. Exports of consignments of substances in Schedule II to a bonded warehouse are prohibited unless the Government of the importing country certifies on the import authorization, produced by the person or establishment applying for the export authorization, that it has approved the importation for the purpose of being placed in a bonded warehouse. In such case the export authorization shall certify that the consignment is exported for such purpose. Each withdrawal from the bonded warehouse shall require a permit from the authorities having jurisdiction over the warehouse and, in the case of a foreign destination, shall be treated as if it were a new export within the meaning of this Convention.

(d) Consignments entering or leaving the territory of a Party not accompanied by an export authorization shall be detained by the competent authorities.

(e) A Party shall not permit any substances consigned to another country to pass through its territory, whether or not the consignment is removed from the conveyance in which it is carried, unless a copy of the export authorization for consignment is produced to the competent authorities of such Party.

(f) The competent authorities of any country or region through which a consignment of substances is permitted to pass shall take all due measures to prevent the diversion of the consignment to a destination other than that named in the accompanying copy of the export authorization, unless the Government of the country or region through which the consignment is passing authorizes the diversion. The Government of the country or region of transit shall treat any

requested diversion as if the diversion were an export from the country or region of transit to the country or region of new destination. If the diversion is authorized, the provisions of paragraph 1 (e) shall also apply between the country or region of transit and the country or region which originally exported the consignment.

(g) No consignment of substances, while in transit or whilst being stored in a bonded warehouse, may be subjected to any process which would change the nature of the substance in question. The packing may not be altered without the permission of the competent authorities.

(h) The provisions of sub-paragraphs (e) to (g) relating to the passage of substances through the territory of a Party do not apply where the consignment in question is transported by aircraft which does not land in the country or region of transit. If the aircraft lands in any such country or region, those provisions shall be applied so far as circumstances require.

(i) The provisions of this paragraph are without prejudice to the provisions of any international agreements which limit the control which may be exercised by any of the Parties over such substances in transit.

*Article 13. PROHIBITION OF AND RESTRICTIONS ON EXPORT AND IMPORT*

1. A Party may notify all the other Parties through the Secretary-General that it prohibits the import into its country or into one of its regions of one or more substances in Schedule II, III or IV, specified in its notification. Any such notification shall specify the name of the substance as designated in Schedule II, III or IV.

2. If a Party has been notified of a prohibition pursuant to paragraph 1, it shall take measures to ensure that none of the substances specified in the notification is exported to the country or one of the regions of the notifying Party.

3. Notwithstanding the provisions of the preceding paragraphs, a Party which has given notification pursuant to paragraph 1 may authorize by special import licence in each case the import of specified quantities of the substances in question or preparations containing such substances. The issuing authority of the importing country shall send two copies of the special import licence, indicating the name and address of the importer and the exporter, to the competent authority of the exporting country or region, which may then authorize the exporter to make the shipment. One copy of the special import licence, duly endorsed by the competent authority of the exporting country or region, shall accompany the shipment.

*Article 14. SPECIAL PROVISIONS CONCERNING THE CARRIAGE OF PSYCHOTROPIC SUBSTANCES IN FIRST-AID KITS OF SHIPS, AIRCRAFT OR OTHER FORMS OF PUBLIC TRANSPORT ENGAGED IN INTERNATIONAL TRAFFIC*

1. The international carriage by ships, aircraft or other forms of international public transport, such as international railway trains and motor coaches, of such limited quantities of substances in Schedule II, III or IV as may be needed during their journey or voyage for first-aid purposes or emergency cases

shall not be considered to be export, import or passage through a country within the meaning of this Convention.

2. Appropriate safeguards shall be taken by the country of registry to prevent the improper use of the substances referred to in paragraph 1 or their diversion for illicit purposes. The Commission, in consultation with the appropriate international organizations, shall recommend such safeguards.

3. Substances carried by ships, aircraft or other forms of international public transport, such as international railway trains and motor coaches, in accordance with paragraph 1 shall be subject to the laws, regulations, permits and licences of the country of registry, without prejudice to any rights of the competent local authorities to carry out checks, inspections and other control measures on board these conveyances. The administration of such substances in the case of emergency shall not be considered a violation of the requirements of paragraph 1 of article 9.

#### *Article 15. INSPECTION*

The Parties shall maintain a system of inspection of manufacturers, exporters, importers, and wholesale and retail distributors of psychotropic substances and of medical and scientific institutions which use such substances. They shall provide for inspections, which shall be made as frequently as they consider necessary, of the premises and of stocks and records.

#### *Article 16. REPORTS TO BE FURNISHED BY THE PARTIES*

1. The Parties shall furnish to the Secretary-General such information as the Commission may request as being necessary for the performance of its functions, and in particular an annual report regarding the working of the Convention in their territories including information on:

- (a) important changes in their laws and regulations concerning psychotropic substances; and
- (b) significant developments in the abuse of and the illicit traffic in psychotropic substances within their territories.

2. The Parties shall also notify the Secretary-General of the names and addresses of the governmental authorities referred to in sub-paragraph (f) of article 7, in article 12 and in paragraph 3 of article 13. Such information shall be made available to all Parties by the Secretary-General.

3. The Parties shall furnish, as soon as possible after the event, a report to the Secretary-General in respect of any case of illicit traffic in psychotropic substances or seizure from such illicit traffic which they consider important because of:

- (a) new trends disclosed;
- (b) the quantities involved;
- (c) the light thrown on the sources from which the substances are obtained;  
or
- (d) the methods employed by illicit traffickers.

Copies of the report shall be communicated in accordance with sub-paragraph (b) of article 21.

4. The Parties shall furnish to the Board annual statistical reports in accordance with forms prepared by the Board:

- (a) in regard to each substance in Schedules I and II, on quantities manufactured, exported to and imported from each country or region as well as on stocks held by manufacturers;
- (b) in regard to each substance in Schedules III and IV, on quantities manufactured, as well as on total quantities exported and imported;
- (c) in regard to each substance in Schedules II and III, on quantities used in the manufacture of exempt preparations; and
- (d) in regard to each substance other than a substance in Schedule I, on quantities used for industrial purposes in accordance with sub-paragraph (b) of article 4.

The quantities manufactured which are referred to in sub-paragraphs (a) and (b) of this paragraph do not include the quantities of preparations manufactured.

5. A Party shall furnish the Board, on its request, with supplementary statistical information relating to future periods on the quantities of any individual substance in Schedules III and IV exported to and imported from each country or region. That Party may request that the Board treat as confidential both its request for information and the information given under this paragraph.

6. The Parties shall furnish the information referred to in paragraphs 1 and 4 in such a manner and by such dates as the Commission or the Board may request.

#### *Article 17. FUNCTIONS OF THE COMMISSION*

1. The Commission may consider all matters pertaining to the aims of this Convention and to the implementation of its provisions, and may make recommendations relating thereto.

2. The decisions of the Commission provided for in articles 2 and 3 shall be taken by a two-thirds majority of the members of the Commission.

#### *Article 18. REPORTS OF THE BOARD*

1. The Board shall prepare annual reports on its work containing an analysis of the statistical information at its disposal, and, in appropriate cases, an account of the explanations, if any, given by or required of Governments, together with any observations and recommendations which the Board desires to make. The Board may make such additional reports as it considers necessary. The reports shall be submitted to the Council through the Commission, which may make such comments as it sees fit.

2. The reports of the Board shall be communicated to the Parties and subsequently published by the Secretary-General. The Parties shall permit their unrestricted distribution.

*Article 19.* MEASURES BY THE BOARD TO ENSURE THE EXECUTION  
OF THE PROVISIONS OF THE CONVENTION

1. (a) If, on the basis of its examination of information submitted by governments to the Board or of information communicated by United Nations organs, the Board has reason to believe that the aims of this Convention are being seriously endangered by reason of the failure of a country or region to carry out the provisions of this Convention, the Board shall have the right to ask for explanations from the Government of the country or region in question. Subject to the right of the Board to call the attention of the Parties, the Council and the Commission to the matter referred to in sub-paragraph (c) below, it shall treat as confidential a request for information or an explanation by a government under this sub-paragraph.

(b) After taking action under sub-paragraph (a), the Board, if satisfied that it is necessary to do so, may call upon the Government concerned to adopt such remedial measures as shall seem under the circumstances to be necessary for the execution of the provisions of this Convention.

(c) If the Board finds that the Government concerned has failed to give satisfactory explanations when called upon to do so under sub-paragraph (a), or has failed to adopt any remedial measures which it has been called upon to take under sub-paragraph (b), it may call the attention of the Parties, the Council and the Commission to the matter.

2. The Board, when calling the attention of the Parties, the Council and the Commission to a matter in accordance with paragraph 1 (c), may, if it is satisfied that such a course is necessary, recommend to the Parties that they stop the export, import, or both, of particular psychotropic substances, from or to the country or region concerned, either for a designated period or until the Board shall be satisfied as to the situation in that country or region. The State concerned may bring the matter before the Council.

3. The Board shall have the right to publish a report on any matter dealt with under the provisions of this article, and communicate it to the Council, which shall forward it to all Parties. If the Board publishes in this report a decision taken under this article or any information relating thereto, it shall also publish therein the views of the Government concerned if the latter so requests.

4. If in any case a decision of the Board which is published under this article is not unanimous, the views of the minority shall be stated.

5. Any State shall be invited to be represented at a meeting of the Board at which a question directly interesting it is considered under this article.

6. Decisions of the Board under this article shall be taken by a two-thirds' majority of the whole number of the Board.

7. The provisions of the above paragraphs shall also apply if the Board has reason to believe that the aims of this Convention are being seriously endangered as a result of a decision taken by a Party under paragraph 7 of article 2.

**Article 20. MEASURES AGAINST THE ABUSE OF PSYCHOTROPIC SUBSTANCES**

1. The Parties shall take all practicable measures for the prevention of abuse of psychotropic substances and for the early identification, treatment, education, after-care, rehabilitation and social reintegration of the persons involved, and shall co-ordinate their efforts to these ends.

2. The Parties shall as far as possible promote the training of personnel in the treatment, after-care, rehabilitation and social reintegration of abusers of psychotropic substances.

3. The Parties shall assist persons whose work so requires to gain an understanding of the problems of abuse of psychotropic substances and of its prevention, and shall also promote such understanding among the general public if there is a risk that abuse of such substances will become widespread.

**Article 21. ACTION AGAINST THE ILLICIT TRAFFIC**

Having due regard to their constitutional, legal and administrative systems, the Parties shall:

- (a) make arrangements at the national level for the co-ordination of preventive and repressive action against the illicit traffic; to this end they may usefully designate an appropriate agency responsible for such co-ordination;
- (b) assist each other in the campaign against the illicit traffic in psychotropic substances, and in particular immediately transmit, through the diplomatic channel or the competent authorities designated by the Parties for this purpose, to the other Parties directly concerned, a copy of any report addressed to the Secretary-General under article 16 in connexion with the discovery of a case of illicit traffic or a seizure;
- (c) co-operate closely with each other and with the competent international organizations of which they are members with a view to maintaining a co-ordinated campaign against the illicit traffic;
- (d) ensure that international co-operation between the appropriate agencies be conducted in an expeditious manner; and
- (e) ensure that, where legal papers are transmitted internationally for the purpose of judicial proceedings, the transmittal be effected in an expeditious manner to the bodies designated by the Parties; this requirement shall be without prejudice to the right of a Party to require that legal papers be sent to it through the diplomatic channel.

**Article 22. PENAL PROVISIONS**

1. (a) Subject to its constitutional limitations, each Party shall treat as a punishable offence, when committed intentionally, any action contrary to a law or regulation adopted in pursuance of its obligations under this Convention, and shall ensure that serious offences shall be liable to adequate punishment, particularly by imprisonment or other penalty of deprivation of liberty.

(b) Notwithstanding the preceding sub-paragraph, when abusers of psychotropic substances have committed such offences, the Parties may provide, either

as an alternative to conviction or punishment or in addition to punishment, that such abusers undergo measures of treatment, education, after-care, rehabilitation and social reintegration in conformity with paragraph 1 of article 20.

2. Subject to the constitutional limitations of a Party, its legal system and domestic law:

(a) (i) If a series of related actions constituting offences under paragraph 1 has been committed in different countries, each of them shall be treated as a distinct offence;

(ii) Intentional participation in, conspiracy to commit and attempts to commit, any of such offences, and preparatory acts and financial operations in connexion with the offences referred to in this article, shall be punishable offences as provided in paragraph 1;

(iii) Foreign convictions for such offences shall be taken into account for the purpose of establishing recidivism; and

(iv) Serious offences heretofore referred to committed either by nationals or by foreigners shall be prosecuted by the Party in whose territory the offence was committed, or by the Party in whose territory the offender is found if extradition is not acceptable in conformity with the law of the Party to which application is made, and if such offender has not already been prosecuted and judgement given.

(b) It is desirable that the offences referred to in paragraph 1 and paragraph 2 (a) (ii) be included as extradition crimes in any extradition treaty which has been or may hereafter be concluded between any of the Parties, and, as between any of the Parties which do not make extradition conditional on the existence of a treaty or on reciprocity, be recognized as extradition crimes; provided that extradition shall be granted in conformity with the law of the Party to which application is made, and that the Party shall have the right to refuse to effect the arrest or grant the extradition in cases where the competent authorities consider that the offence is not sufficiently serious.

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

4. The provisions of this article shall be subject to the provisions of the domestic law of the Party concerned on questions of jurisdiction.

5. Nothing contained in this article shall affect the principle that the offences to which it refers shall be defined, prosecuted and punished in conformity with the domestic law of a Party.

**Article 23. APPLICATION OF STRICTER CONTROL MEASURES THAN THOSE REQUIRED BY THIS CONVENTION**

A Party may adopt more strict or severe measures of control than those provided by this Convention if, in its opinion, such measures are desirable or necessary for the protection of the public health and welfare.

**Article 24. EXPENSES OF INTERNATIONAL ORGANS INCURRED  
IN ADMINISTERING THE PROVISIONS OF THE CONVENTION**

The expenses of the Commission and the Board in carrying out their respective functions under this Convention shall be borne by the United Nations in such manner as shall be decided by the General Assembly. The Parties which are not Members of the United Nations shall contribute to these expenses such amounts as the General Assembly finds equitable and assesses from time to time after consultation with the Governments of these Parties.

**Article 25. PROCEDURE FOR ADMISSION, SIGNATURE,  
RATIFICATION AND ACCESSION**

1. Members of the United Nations, States not Members of the United Nations which are members of a specialized agency of the United Nations or of the International Atomic Energy Agency or Parties to the Statute of the International Court of Justice, and any other State invited by the Council, may become Parties to this Convention:

- (a) by signing it; or
- (b) by ratifying it after signing it subject to ratification; or
- (c) by acceding to it.

2. The Convention shall be open for signature until 1 January 1972 inclusive. Thereafter it shall be open for accession.

3. Instruments of ratification or accession shall be deposited with the Secretary-General.

**Article 26. ENTRY INTO FORCE**

1. The Convention shall come into force on the ninetieth day after forty of the States referred to in paragraph 1 of article 25 have signed it without reservation of ratification or have deposited their instruments of ratification or accession.

2. For any other State signing without reservation of ratification, or depositing an instrument of ratification or accession after the last signature or deposit referred to in the preceding paragraph, the Convention shall enter into force on the ninetieth day following the date of its signature or deposit of its instrument of ratification or accession.

**Article 27. TERRITORIAL APPLICATION**

The Convention shall apply to all non-metropolitan territories for the international relations of which any Party is responsible except where the previous consent of such a territory is required by the Constitution of the Party or of the territory concerned, or required by custom. In such a case the Party shall endeavour to secure the needed consent of the territory within the shortest period possible, and when the consent is obtained the Party shall notify the Secretary-General. The Convention shall apply to the territory or territories named in such a notification from the date of its receipt by the



Secretary-General. In those cases where the previous consent of the non-metropolitan territory is not required, the Party concerned shall, at the time of signature, ratification or accession, declare the non-metropolitan territory or territories to which this Convention applies.

*Article 28. REGIONS FOR THE PURPOSES OF THIS CONVENTION*

1. Any Party may notify the Secretary-General that, for the purposes of this Convention, its territory is divided into two or more regions, or that two or more of its regions are consolidated into a single region.
2. Two or more Parties may notify the Secretary-General that, as the result of the establishment of a customs union between them, those Parties constitute a region for the purposes of this Convention.
3. Any notification under paragraph 1 or 2 shall take effect on 1 January of the year following the year in which the notification was made.

*Article 29. DENUNCIATION*

1. After the expiry of two years from the date of the coming into force of this Convention any Party may, on its own behalf or on behalf of a territory for which it has international responsibility, and which has withdrawn its consent given in accordance with article 27, denounce this Convention by an instrument in writing deposited with the Secretary-General.
2. The denunciation, if received by the Secretary-General on or before the first day of July of any year, shall take effect on the first day of January of the succeeding year, and if received after the first day of July it shall take effect as if it had been received on or before the first day of July in the succeeding year.
3. The Convention shall be terminated if, as a result of denunciations made in accordance with paragraphs 1 and 2, the conditions for its coming into force as laid down in paragraph 1 of article 26 cease to exist.

*Article 30. AMENDMENTS*

1. Any Party may propose an amendment to this Convention. The text of any such amendment and the reasons therefor shall be communicated to the Secretary-General, who shall communicate them to the Parties and to the Council. The Council may decide either:
  - (a) that a conference shall be called in accordance with paragraph 4 of Article 62 of the Charter of the United Nations to consider the proposed amendment; or
  - (b) that the Parties shall be asked whether they accept the proposed amendment and also asked to submit to the Council any comments on the proposal.
2. If a proposed amendment circulated under paragraph 1 (b) has not been rejected by any Party within eighteen months after it has been circulated, it shall thereupon enter into force. If, however, a proposed amendment is rejected

by any Party, the Council may decide, in the light of comments received from Parties, whether a conference shall be called to consider such amendment.

*Article 31. DISPUTES*

1. If there should arise between two or more Parties a dispute relating to the interpretation or application of this Convention, the said Parties shall consult together with a view to the settlement of the dispute by negotiation, investigation, mediation, conciliation, arbitration, recourse to regional bodies, judicial process or other peaceful means of their own choice.

2. Any such dispute which cannot be settled in the manner prescribed shall be referred, at the request of any one of the parties to the dispute, to the International Court of Justice for decision.

*Article 32. RESERVATIONS*

1. No reservation other than those made in accordance with paragraphs 2, 3 and 4 of the present article shall be permitted.

2. Any State may at the time of signature, ratification or accession make reservations in respect of the following provisions of the present Convention:

(a) article 19, paragraphs 1 and 2;

(b) article 27; and

(c) article 31.

3. A State which desires to become a Party but wishes to be authorized to make reservations other than those made in accordance with paragraphs 2 and 4 may inform the Secretary-General of such intention. Unless by the end of twelve months after the date of the Secretary-General's communication of the reservation concerned, this reservation has been objected to by one third of the States that have signed without reservation of ratification, ratified or acceded to this Convention before the end of that period, it shall be deemed to be permitted, it being understood, however, that States which have objected to the reservation need not assume towards the reserving State any legal obligation under this Convention which is affected by the reservation.

4. A State on whose territory there are plants growing wild which contain psychotropic substances from among those in Schedule I and which are traditionally used by certain small, clearly determined groups in magical or religious rites, may, at the time of signature, ratification or accession, make reservations concerning these plants, in respect of the provisions of article 7, except for the provisions relating to international trade.

5. A State which has made reservations may at any time by notification in writing to the Secretary-General withdraw all or part of its reservations.

*Article 33. NOTIFICATIONS*

The Secretary-General shall notify to all the States referred to in paragraph 1 of article 25:

(a) signatures, ratifications and accessions in accordance with article 25;

- (b) the date upon which this Convention enters into force in accordance with article 26;
- (c) denunciations in accordance with article 29; and
- (d) declarations and notifications under articles 27, 28, 30 and 32.

IN WITNESS WHEREOF, the undersigned, duly authorized, have signed this Convention on behalf of their respective Governments.

DONE at Vienna, this twenty-first day of February one thousand nine hundred and seventy-one, in a single copy in the Chinese, English, French, Russian and Spanish languages, each being equally authentic. The Convention shall be deposited with the Secretary-General of the United Nations, who shall transmit certified true copies thereof to all the Members of the United Nations and to the other States referred to in paragraph 1 of article 25.

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