



SECOND INFORMAL CONSULTATION ON ORGAN TRANSPLANTATION

(WHO Headquarters, Geneva, 3-4 October 1990)

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SECOND INFORMAL CONSULTATION ON ORGAN TRANSPLANTATION

(Geneva, 3-4 October 1990)

REPORT OF THE CONSULTATION

OPENING OF THE CONSULTATION

1. Dr J.-P. JARDEL, Assistant Director-General, opened the Consultation by welcoming the participants. He indicated that Dr Zbigniew Bankowski and Professor Bernard Dickens were unable to attend. The purpose of the meeting was to analyse the materials that had been prepared for inclusion in the report to be submitted to the forthcoming eighty-seventh session of the Executive Board (Geneva, 14-25 January 1991). He indicated that particular attention should be paid to the Draft Guiding Principles, and that all comments received thereon to date should, as far as possible, be taken into consideration. He expressed the view that the draft document dealing with commercial transactions in human organs should present no difficulties in its present form. Noting that the discussions at the Executive Board might well be difficult, given the sensitivity of the subject-matter, he indicated that he would welcome suggestions as how to minimize foreseeable problems.
2. Mr Russell SCOTT (Australia) was elected Moderator of the Consultation. It was decided that the Secretariat would perform the functions of Rapporteur.
3. The Provisional Agenda was adopted; the Agenda is attached as Annex 1. A list of participants in the Consultation is attached as Annex 2.

REVIEW OF PROGRESS IN IMPLEMENTATION OF RESOLUTION WHA40.13 (Development of guiding principles for human organ transplants) (Agenda Item 3)

4. A lengthy and fruitful discussion ensued on the Draft Guiding Principles for Human Organ Transplants (see Annex 3 for the text of the resolution in response to which these had been prepared). The draft submitted to the Consultation had been developed by Professor Dickens on the basis of the deliberations at and outcome of the first Informal Consultation on Organ Transplantation, which had been convened by WHO and held in Geneva on 2-4 May 1990 (see document WHO/HLE/90.1). That document had subsequently been discussed at an internal meeting of all WHO staff concerned. Moreover, it had been sent for comment to all those who had attended the May Consultation, as well as to all persons included in a List of Contact Points that had been developed by the Secretariat

on the basis of internal and external advice. A substantial number of comments had in fact been received.

5. A consensus was reached that the title of the document should be modified to "Draft Guiding Principles on Human Organ Transplantation". The document would comprise an Introduction, a Preamble, the Guiding Principles themselves, and Commentaries on the Guiding Principles.

6. A substantial and substantive discussion ensued on each of the Draft Guiding Principles and agreement was reached on all major points, it being understood that the text would be sent to all participants and to Professor Dickens prior to finalization.

7. It was generally agreed that the Annex that had been prepared by the Secretariat, providing an interpretation of the term "organs and tissues" in existing international and national legal instruments on organ transplantation, need not be appended to the text to be submitted to the Executive Board. However, consideration might be given to having it available as an Information Document, if required.

REVIEW OF PROGRESS IN IMPLEMENTATION OF RESOLUTION WHA42.5 (Preventing the purchase and sale of human organs) (Agenda Item 4)

8. The Secretariat had made good progress on the preparation of the Director-General's report on the implementation of resolution WHA42.5 (see Annex 4). The report was entitled "Commercial transactions in human organs and tissues for therapeutic purposes: a review of international and national legislation, codes, and other measures". Reference was made to the fact that the Health Legislation unit had prepared a computerized data bank containing the titles, and bibliographical references, where appropriate, for all items of national legislation, as well as relevant international instruments, dealing with organ transplantation. It was pointed out that such legislation did not necessarily deal, either directly or indirectly, with commerce in human organs and tissues. The unit had likewise prepared a one-page tabular listing of jurisdictions known to have legislation on organ transplantation.

9. A proposal was made by the Moderator that the Secretariat continue its efforts to monitor published communications and literature describing or alleging commercial transactions in human organs. The Secretariat indicated that it would continue its previous efforts in this area, and would maintain its cooperation with the United Nations Centre for Human Rights and the Special Rapporteur, Mr Vitit Muntarbhorn, who had been assigned the task of writing a report on this and allied subjects on behalf of the United Nations Sub-Commission on Prevention of Discrimination and Protection of Minorities.

FOLLOW-UP TO CONSULTATION

10. It was decided that the Health Legislation unit, in close cooperation with the Office of the Legal Counsel, would ensure that the views expressed at the Consultation, and those of Professor Dickens, would be taken into account in the final versions of both documents. It was recalled that these would be submitted to the Office of Governing Bodies and Protocol, in accordance with standard WHO procedures (following clearance by the Director of the Division of Health and Biomedical Information and Dr J.-P. Jardel, Assistant Director-General).

11. The final report of the Consultation would be sent to all participants, as well as to the persons included in the List of Contact Points. Furthermore, all of the above persons would receive a copy of the final version of the document to be submitted to the Executive Board in January 1991.\*

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\* This document (EB87/12) was issued on 19 November 1990, under the title "Human organ transplantation: report by the Director-General". It comprises two Parts: 1. Draft Guiding Principles on Human Organ Transplantation; and 2. Commercial transactions in human organs and tissues for therapeutic purposes: a review of international and national legislation, codes and other measures.

ANNEX 1

WORLD HEALTH ORGANIZATION

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SECOND INFORMAL CONSULTATION ON ORGAN TRANSPLANTATION

Geneva, 3-4 October 1990

(Location: WHO Headquarters, Room L 14)

AGENDA

1. Opening
  - Adoption of the Provisional Agenda
  - Discussion of working procedures
2. Presentation by Secretariat on nature and objectives of Consultation
3. Review of progress in implementation of resolution WHA40.13  
(Development of guiding principles for human organ transplants)
4. Review of progress in implementation of resolution WHA42.5 (Preventing the purchase and sale of human organs)
5. Follow-up to Consultation
6. Any other business
7. Closure of Consultation

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WORLD HEALTH ORGANIZATION

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SECOND INFORMAL CONSULTATION ON ORGAN TRANSPLANTATION

Geneva, 2-4 October 1990

LIST OF PARTICIPANTS

Professor Bernard M. DICKENS [unable to attend]  
Faculty of Law, University of Toronto, 78 Queen's Park, Toronto,  
Ontario M5S 2C5, Canada  
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Professor Henri KREIS  
Past President, Commission Nationale d'Hémodialyse et de Transplantation,  
Département de Néphrologie, Service de Transplantation et Réanimation,  
Hôpital Necker, 161 rue de Sèvres, 75743 Paris Cedex 15, France.  
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Professor Peter J. MORRIS [present on 4 October 1990 only]  
Nuffield Professor of Surgery, Oxford University, Nuffield Department of  
Surgery, John Radcliffe Hospital, Headington, Oxford OX3 9DU, United  
Kingdom; Past President: The Transplantation Society and British  
Transplantation Society  
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Mr Russell SCOTT [Moderator]  
Consultant, Mallesons Stephen Jaques, Attorneys, Solicitors and Notaries,  
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LIST OF PARTICIPANTS (continued)

WHO SECRETARIAT

Mr S. S. Fluss, Chief, Health Legislation [Secretary]  
Dr J.-P. Jardel, Assistant Director-General  
Dr S. Levine, Office of Governing Bodies and Protocol [unable to attend]  
Miss G. Pinet, Office of the Legal Counsel  
Dr F. Simon, Health Legislation  
Dr J. Szczerban, Chief, Office of Research Promotion and Development  
Dr C.-H. Vignes, Legal Counsel  
Mrs M. Vogel, Health Legislation  
Mr A. Yagami, Office of the Legal Counsel

COUNCIL FOR INTERNATIONAL ORGANIZATIONS OF MEDICAL SCIENCES (CIOMS)

Dr Z. Bankowski, Secretary-General [unable to attend]

ANNEX 3. RESOLUTION WHA40.13 (Development of guiding  
principles for human organ transplants)

**WHA40.13** The Fortieth World Health Assembly,

Recognizing the scientific progress achieved in human organ transplants in many Member States;

Concerned at the trade for profit in human organs among living human beings;

Affirming that such trade is inconsistent with the most basic human values and contravenes the Universal Declaration of Human Rights and the spirit of the WHO Constitution;

Commending the measures taken by some Member States to regulate human organ transplants and their decision to develop a unified legal instrument to regulate these operations;<sup>1</sup>

REQUESTS the Director-General:

- (1) to study, in collaboration with other organizations concerned, the possibility of developing appropriate guiding principles for human organ transplants;
- (2) to report to the Health Assembly on the action taken in this regard.

May 1987 WHA40/1987/REC/1, 11

<sup>1</sup> Document WHA40/1987/REC/1, p. 47

ANNEX 4. RESOLUTION WHA42.5 (Preventing the  
purchase and sale of human organs)

WHA42.5 The Forty-second World Health Assembly,

Concerned by the commercial trafficking in the organs of healthy donors, which exploits human distress and puts at increased risk the health of the donors;

Aware that commercial arrangements for organ transplants are nevertheless being undertaken and that to date there has been little success in preventing trafficking in human organs;

Anxious to prevent the exploitation of human distress, particularly in children and other vulnerable groups, and to further the recognition of the ethical principles which condemn the buying and selling of organs for purposes of transplantation;

1. CALLS UPON Member States to take appropriate measures to prevent the purchase and sale of human organs for transplantation;
2. RECOMMENDS that Member States introduce legislation to prohibit trafficking in organs where this cannot effectively be prevented by other measures;
3. URGES Member States, in close cooperation with professional health organizations and supervising health authorities, to discourage all practices which facilitate commercial trafficking in organs;
4. REQUESTS Member States to report as soon as possible to WHO on action taken with respect to this resolution;
5. REQUESTS the Director-General to report to the Forty-fourth World Health Assembly the measures taken by the governments of Member States in furtherance of this resolution.

May 1989 WHA42/1989/REC/1, 7