

INTERNATIONAL HEALTH CONFERENCE

COMMITTEE III (LEGAL QUESTIONS)

Summary Record of the Second Meeting held at Hunter College
on Thursday 27 June 1946

Interpreters

The meeting was opened at 2:15 p.m. by Dr. Karl EVANG (Norway), Chairman of the Committee. The CHAIRMAN began by recalling the decision taken by the General Committee on the previous day to the effect that any amendments which delegations might wish to propose should be submitted in writing before 1 July. The Conference had managed to secure the services of a Spanish interpreter, but unfortunately there was no Russian interpreter to take the present meeting. In the absence of such an interpreter, the Russian-speaking delegates had agreed to withhold their observations until the next meeting.

Rapporteur

The CHAIRMAN called upon the Committee to appoint a rapporteur. Dr. Cavaillon (France), having been duly proposed and seconded, was elected unanimously.

Members (Continuation of the general discussion)

Mr. VALLATT (United Kingdom) referring to the proposal submitted on the previous day by the Chinese delegation with regard to "associate members" (Doc. E/H/L/W.4), pointed out that it introduced fresh elements which called for some comments and deserved close study. He was of the opinion that the colonies should be admitted to the new organization only at the regional, and not at the central, level. It seemed to him, moreover, that the criteria chosen to determine which of the political communities not possessing full sovereignty should be admitted as associate members of the future organization were open to criticism. For example, the size of the territory or population of a given

community could not constitute a conclusive argument. A colony whose territory was small, but which included an important communications centre, was more vital from the health standpoint than one whose territory was vast but of no particular interest from the point of view of communications or, for instance, epidemiology. Furthermore, it would be well to find some means of differentiating between the various colonies which sought admission. The gravity of the problems raised called for detailed study and must be discussed thoroughly

Dr. CHEFIC TREFI (Syria) pointed out that in the preamble to the Experts' Report it was stated that "the right to health is one of the fundamental rights" and that Chapter II, entitled "Aims and Objectives" contained the phrase "to achieve the highest possible state of physical and mental health for all peoples". These statements, he thought, were in contradiction with the footnote on page 141 of the Journal of the Economic and Social Council dated 22 May 1946, which stated that "the Conference is asked to consider whether such territories should be able to take separate action.... for example, acceding to international sanitary conventions". Health, like security, being indivisible, he maintained that all peoples without exception, and irrespective of race, creed or political status, should be eligible to form part of an organization whose objective was the protection of health.

Dr. VAUCEL (France), referring to the Chinese proposal, agreed that the criterion of the territory or population of a country was not conclusive. He recalled the complexity of political status of the various members of the French community, and pointed out that some countries not possessing full sovereignty had already been authorized by the home government to sign international instruments on their own behalf, and would continue to benefit by such authorization. It was not for a technical body like the future organization to adopt criteria determining the state or degree of independence of political communities. He thought that a technical organization of the kind which was being set up could not deal with matters involving political and legal problems which the United Nations was better qualified to solve. Among the three delegates who would represent her, France proposed to appoint one member from a

trust territory. The health organization which was being set up must be able to benefit all peoples, and to that end the mandated territories should be authorized to conclude regional agreements and should be represented on regional organizations.

Mr. SANDIFER (United States) recalled that, although the Economic and Social Council had made no special recommendation on the question of "members", it had nevertheless taken into account the Technical Preparatory Committee's recommendations to invite observers from ex-enemy or neutral countries. The attitude taken by the Economic and Social Council had been strongly supported by the United States representatives. His delegation had been favourably impressed by, and had warmly seconded, the Technical Preparatory Committee's recommendation to the effect that the health organization should be placed on a universal basis, membership being open to every country in the world.

Dr. Parran's report on the Technical Preparatory Committee's report had likewise stressed that it was absolutely necessary to bring all states together with a view to fighting disease effectively, since the increased rapidity of communications might well result in a quick spread of disease over large areas. The report of the Legal Committee of the Office International d'Hygiene Publique (Doc. E/H/L/W.1) strongly emphasized the same concern. Moreover, the invitations sent out for the present Conference had taken account of these principles and nearly all countries which were not members of the United Nations, and even occupied territories, had been asked to send observers.

It therefore followed that the problem of membership of the future organization would undoubtedly have to be dealt with on a world-wide basis. Indeed, where health was concerned, political considerations must take second place, and technical matters were of prime importance.

He wished to emphasize very strongly, however, that in conformity with established general principles, the fact that a country took part in the founding of the Health Organization could in no way affect the question of its recognition or non-recognition by other participating States.

He then commented on the document submitted by his delegation, (Doc. E/H/L/W.3). Paragraph 3 of this document provided that the instrument for setting up the Health Organization would remain open for signature until 31 August 1946. This would enable States represented by observers to become members on signing the instrument. The last paragraph of the draft, in connection with non-self-governing members, had been drawn up before the Chinese proposal on associate members was circulated, and the American delegation endorsed the views set forth therein. Nevertheless, it should be understood that governments not exercising full sovereignty could be admitted only with the consent and on the responsibility of the State towards whom they owed some measure of allegiance.

To facilitate the work of the drafting sub-committee, he submitted certain proposals which he read:

- (a) Membership of the world health organization should be open to all States;
- (b) The instrument setting up the organization should be open to all States for signature or accession, and should remain open until 31 August 1946.

Announcement of the death of the President of the Republic of Chile

Dr. de PAULA SOUZA (Brazil), on behalf of the Mexican delegation as well as his own, requested the Committee to observe a minute's silence, as he had just learnt of the death of Mr. J. A. Rios, President of the Republic of Chile. This suggestion was seconded by the Venezuelan delegation, and acted upon by the Committee.

Members. (Continuation of the discussion)

Dr. MORA OTERO (Uruguay), as soon as the meeting had been resumed, said he was in favour of the Chinese proposal and wished to endorse what had been said by the delegate of Syria. He suggested that the procedure established by the Universal Postal Convention be taken into consideration in dealing with problems arising in connection with admission to the World Health Organization.

Dr. GEAR (Union of South Africa) agreed with the United Kingdom delegation that political communities not possessing full sovereignty should be admitted at the regional, and not at the central, level. He likewise agreed with the United States delegation that the trustee country should assume responsibility for any action on the part of political communities administered by it.

Dr. YUAN (China), bearing in mind the remarks of the United Kingdom and United States delegates, read a revised proposal concerning Chapter IV of the Report of the Technical Preparatory Committee (Doc. E/H/L/W.7).

Mr. VALLATT (United Kingdom) agreed with the United States delegation that health was a world-wide problem, but pointed out that the present case was that of a specialized organization and although that organization was of a technical character, it would be impossible to set aside certain considerations relating to rules of international law. The question whether or not a given territory constituted a State from the standpoint of international law undoubtedly gave rise to difficulties in certain cases. He mentioned the example of Sarawak, a territory whose political status had recently undergone a change. He was doubtful whether the Health Organization could alone decide whether a given political community possessed the necessary attributes of a State. He suggested that the question be solved by a competent section of the United Nations. He recalled that paragraph 2 of Article II of the UNESCO constitution had already solved the problem, and suggested adopting a similar text in the present instance.

Mr. Vallatt then discussed the idea of "accession". He doubted whether this procedure could be open to colonies.

Dr. McCORMACK (Eire) said he would like to know whether the procedure advocated by the United Kingdom delegate in connection with the admission of States applied also to sovereign States, or only to political communities which had not full sovereignty. He pointed out that his country, a sovereign State, could not consent to be subjected to the approval of both the UN and of the World Health Organization.

The CHAIRMAN, after consulting the meeting, declared the discussion on Chapter IV closed, it being understood that the Russian-speaking delegations could make known their attitude at a later meeting, with the help of an interpreter.

Legal Status

The CHAIRMAN then opened the general discussion on Chapter XVI (Legal Status), and read the passage on page 148 of the Journal of the Economic and Social Council dated 20 May 1946.

Mr. COTE (Canada) expounded the draft he proposed to substitute for that appearing in the Report of the Preparatory Committee concerning the legal status of the World Health Organization. He read and explained the proposal published in Document E/H/L/W.5.

Mr. SANDIFER (United States) referred to the footnote concerning Chapter XVI now under consideration, as well as to the resolutions adopted by the General Assembly of the United Nations in the same connection. He maintained that it was not indispensable that a specialized agency should benefit from all the privileges granted to the United Nations institution itself. Each of these agencies would have privileges in keeping with its own individual position. He agreed, too, with the first two paragraphs of the motion submitted by the Canadian delegation (Doc. E/H/L/W.5), but not with the third, which he proposed should be deleted.

The CHAIRMAN, after consulting the Committee declared the close of the discussion on Chapter XVI - on the understanding, of course, that the Russian Russian-speaking delegates would be entitled to take the floor on a later occasion.

Amendments

The CHAIRMAN opened the discussion on Chapter XVIII (Amendments to the Experts' Report) and recalled that the Preparatory Committee, considering this a purely legal question, had decided to reserve the matter for study by the competent experts.

Mr. COTE (Canada) read and explained a document drawn up by his delegation on this subject. (Document E/H/L/W.7).

The general discussion on Chapter XVIII was then declared closed, and the meeting rose at 4:30 p.m.
