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SUMMARY OF REMARKS OF THE OBSERVER OF THE ORGANIZATION OF
AMERICAN STATES ON THE PROPOSED REVISION OF THE CONSTITUTION
OF THE PAN AMERICAN SANITARY ORGANIZATION

(Made at Third Plenary Session held 19 September 1952)

At the outset, the Observer of the Organization of American States requested that the report of the Committee on Inter-American Organizations on the proposed revision of the Constitution of the Pan American Sanitary Organization, which had been approved by the Council of the Organization at the meeting of September 9, 1952, be made available to all the representatives on the Directing Council.

He then stated that the study of the proposed revision of the Constitution had been undertaken by the Council of the Organization of American States in accordance with the Charter of the Organization. The Charter was signed at the Ninth International Conference of American States held at Bogotá in 1948 by all the American Republics; it has been ratified by nearly all of them, and is now in full force and effect. Under the provisions of the Charter, the Pan American Sanitary Organization is an Inter-American Specialized Organization, and the Charter gives to the Council of the Organization certain faculties with respect to such organizations.

Article 97 of the Charter stipulates that the Inter-American Specialized Organizations "shall enjoy the fullest technical autonomy and shall take into account the recommendations of the Council". With a view to respecting this provision of the Charter, the Council in its study of the Constitution decided to limit itself to certain basic questions relating to the structure and general policy of the Organization of American States, omitting comment on technical matters and those falling within the domestic competence of the Pan American Sanitary Organization.

The two basic questions dealt with by the Council in its report are: 1) The position of territories of non-American States in relation to the Pan American Sanitary Organization; and 2) The relations between the Pan American Sanitary Organization and the Organization of American States.

On the first point there is no substantial difference between the report of the Council of the Organization and the draft Constitution submitted by the Permanent Committee. Both recognize that there must be a difference in the status of the Member States and of the territories.

The position of the Council of the Organization on this point is based on the provision of the Charter, which in Article 2 stipulates that "All American States that ratify the present charter are Members of the Organization". The effect of this article is that only those American States that have control over their international relations can become members of the Organization of American States. It follows, therefore, that if a state cannot become a member of the Organization, it likewise cannot become a Member of one of the Specialized Organizations.

Within this limitation and with a respect for this basic principle of the inter-American system, the Council of the Organization recognizes the desirability and the necessity of the highest degree of collaboration in all technical matters with those territories that cannot become members of the Organization. This is particularly true in the field of public health and sanitation.

In the course of the discussion on the extent of the participation by territories in the technical work of the Pan American Sanitary Organization, different points of view were expressed in the Committee on Inter-American Organizations. Some delegations expressed the opinion that such participation should not carry with it the right to vote even on the technical activities of the Sanitary Organization, inasmuch as the privilege of voting is an inherent right of membership. The majority opinion, however, was to the effect that in technical matters the territories should have the right to participate in the discussion and to vote. It was the unanimous opinion of the Council, however, that territories that do not have control of their international relations cannot become Members of the Pan American Sanitary Organization, and that they should not vote on matters affecting policy, structural organization, or relations.

The Representative of Mexico had requested an exploration of the modification of Article 2 of the Constitution proposed in the report of the Council of the Organization of American States.

The observer of the Organization of American States explained this modification by stating that it was made in order that it might conform to the provisions of the Charter of the Organization. At the present time only the American Republics are Members of the Organization of American States, but under the term of Article 2 of the Charter, any other American State that has control over its international relations and that ratifies the Charter may likewise become a Member State of the Organization of American States.

The provision in the report of the Council that ratification of the Pan American Sanitary Code should be a condition precedent to becoming a member of the Pan American Sanitary Organization, is based on the understanding that the Code is the basic, fundamental instrument of the Pan American Sanitary Organization. The Code is an international treaty, signed and ratified by all the present Member States. It therefore appeared to the Council of the Organization that if any other American State having control over its international relations should wish to become a Member of the Pan American Sanitary Organization, it should be willing to adhere to and ratify the basic document of the Organization.

The provision in the proposed new Article 2 (b) of the Constitution, providing for consultation with the Council of the Organization before a new Member State is admitted to membership in the Pan American Sanitary Organization, is based in the concept that such action would involve a substantial change in the structure of the Pan American Sanitary Organization. This is especially true if the State under consideration is not now a Member of the Organization of American States. This provision is based on Article XIX of the Agreement between the Council of the Organization of American States and the Pan American Sanitary Organization, which stipulates that any step involving a substantial change in the structure of the Sanitary Organization shall first be submitted to the Council of the Organization of American States.

The second basic point dealt with in the text proposed by the Council of the Organization has to do with the relations of the Pan American Sanitary Organization to the Organization of American States. Article 44 of the proposed Constitution prepared by the Permanent Committee states that the relations between the Pan American Sanitary Organization and the Organization of American States shall be governed by the agreements celebrated in conformity with the charter of the organization.

In the concept of the Council of the Organization, this article is vague and ambiguous and needs to be clarified. The relations between the Pan American Sanitary Organization and the Organization of American States are not dependent upon any agreement. The status of the Pan American Sanitary Organization as an Inter-American Specialized Organization emanates from the Charter itself and not from any agreement. The Pan American Sanitary Organization is an Inter-American Specialized Organization with or without an agreement.

Considering, therefore, that the Pan American Sanitary Organization is an Inter-American Specialized Organization, the Council was of the opinion that this should be set forth in the Constitution. It is a declaration of fact, and serves to define in clear terms the relationship of the Pan American Sanitary Organization to the Organization of American States.

In conclusion, the Observer of the Organization of American States pointed out that the reference to and the characterization of the Pan American Sanitary Organization as an Inter-American Specialized Organization is not intended in any way to take anything away from or to impose anything upon the Pan American Sanitary Organization. On the contrary, it is designed to emphasize the very important and the privileged position that it holds within the Organization of American States. In this field of public health and sanitation, the Pan American Sanitary Organization is the Organization of American States. It has the authority to speak for the Organization in matters that come within its competence, and it is its responsibility to do so. The text of Article 44 (a) proposed by the Council is intended to reflect this preeminent position of the Pan American Sanitary Organization within the Organization of American States.

The observer of the Organization of American States finally remarked that the draft resolution submitted by the Representative of Mexico reflects the view of the Council of the Organization; namely, that no definite action on the Constitution should be taken at this meeting of the Directing Council, but that all the documents relating thereto should be transmitted to the Governments, and final action taken at a future meeting of an appropriate organ of the Organization.