

OSP.CD2.M/-4

PRELIMINARY NOTE IN RELATION TO DOCUMENTS OF THE WORLD HEALTH ORGANIZATIONREGARDINGASSOCIATE MEMBERS

Dr. Brock Chisholm, Director General of the World Health Organization, under date of August 5, 1948, sent to all countries with membership in the Organization (with copy to the Pan American Sanitary Bureau) the following telegram:

"HEALTH ASSEMBLY RESOLUTION OF 21 JULY REQUEST EXECUTIVE BOARD SUBMIT REPORT WITH RECOMMENDATIONS TO NEXT ASSEMBLY REGARDING ARTICLE 47 WHO CONSTITUTION AND COMMENTS OR RECOMMENDATIONS FROM MEMBERS AND REGIONAL ORGANIZATIONS CONCERNING RIGHTS AND OBLIGATIONS IN REGIONAL ORGANIZATIONS OF ASSOCIATE MEMBERS AND TERRITORIES OR GROUPS OF TERRITORIES NOT RESPONSIBLE FOR CONDUCT OF INTERNATIONAL RELATIONS AND WHICH ARE NOT ASSOCIATE MEMBERS STOP REQUEST YOU FORWARD IF POSSIBLE BEFORE FIFTH SEPTEMBER COMMENTS OR RECOMMENDATIONS FOR INCLUSION PROVISIONAL AGENDA OCTOBER MEETING EXECUTIVE BOARD". (Sgd.) CHISHOLM.

The following pages present the documents of the World Health Organization regarding Associate Members.

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Documents of the World Health
Organization Regarding
Associate Members

Geneva, June-July 1948

SUPPLEMENTARY REPORT

S.63

OTHER BUSINESS: ASSOCIATE MEMBERS

(PROVISIONAL AGENDA) 19: Off.Rec.WHO 10, 1)

Status of Associate Members

The last sentence of Article 8 of the Constitution of the World Health Organization provides that

"....The nature and extent of the rights and obligations of associate members shall be determined by the Health Assembly."

Article 47 of the Constitution, which deals with the composition of the regional committees in which the associate members in the region concerned may participate, provides that

"The nature and extent of the rights and obligations of these territories or groups of territories in regional committees shall be determined by the Health Assembly in consultation with the member or other authority having responsibility for the international relations of these territories and with the member States in the region."

It is thus incumbent upon the Health Assembly to define the status of associate members, in regard to the central organization as well as to the regional centres to be established.

The New York arrangement of 22 July 1946 gives the Interim Commission no instructions whatever to undertake an investigation - even of a preliminary character - of the status of associate members.

This is a complex and difficult problem and, although up to the present time, no request for the admission of a territory likely to become an associate member has yet been submitted to the Assembly, the Interim Commission considered that it might be well to draw the Assembly's attention to this important question.

A/46
5 July 1948

19. Other business: Associate Members
(Off.Rec.WHO, 10, page 1)

PAPER SUBMITTED BY THE DELEGATION OF THE UNITED KINGDOM
ON ARTICLE 8 OF THE CONSTITUTION OF WHO

1. In the Report of the Preparatory Meeting of the Interim Commission¹, it is stated that document S.63 was referred to the Assembly for consideration. This document dealt with the status of Associate Members. The Legal Committee, in view of the important constitutional questions involved, may desire to refer the following suggestions to a special committee.

2. Not all specialized agencies of the United Nations make provision for Associate Members. The constitution of the World Health Organization, however, provides in Article 8, that:

Territories or groups of territories which are not responsible for the conduct of their international relations may be admitted as Associate Members by the Health Assembly upon application made on behalf of such territory or group of territories by the Member or other Authority having responsibility for their international relations. Representatives of Associate Members to the Health Assembly should be qualified by their technical competence in the field of health and should be chosen from the native population. The nature and extent of the rights and obligations of Associate Members shall be determined by the Health Assembly.

3. The delegation of the United Kingdom considers this an important provision of the constitution, because many non-self-governing territories are in comparatively unhealthy parts of the world, and the promotion of health is a major preoccupation of their governments and peoples. Many of their health problems also differ from those of the parent country, and it is therefore not always easy for the parent government to represent the views of the territory concerned to the World Health Organization on technical matters which are of importance to these territories.

4. Article 8 says that the nature and extent of the rights and obligations of Associate Members shall be determined by the Health Assembly. It is important, therefore, that these rights and obligations should be settled during this Assembly, for otherwise Associate Members will not be able to take part in the proceedings of the Assembly and article 8 of the constitution will remain ineffective until the year 1950. It is to be expected that many territories to which article 8 applies will not decide whether they desire to be Associate Members until they know the rights and liabilities which Associate Membership involves.

1. Doc. A.9, page 8, item 10.

5. The delegation of the United Kingdom therefore puts forward the following proposals. These fall under two heads: (a) the admission of Associate Members and (b) the rights and obligations of Associate Members.

6. As to (a) association with the World Health Organization is a valuable privilege and should not be indiscriminately bestowed. It is suggested that, in considering applications, the Assembly should have regard to such points as the state of development of a territory's medical and health services and the extent to which representatives of that territory can contribute to the deliberations of the Assembly. The association of the territory and the Assembly should be profitable to both parties.

7. As to (b), it is clear that the constitution of the World Health Organization attaches importance to the views of territories to which article 8 applies or the provisions of that article would not have been included in the constitution. It appears also that the intention was that the rights and obligations of such territories should be something less than those of members of the organization or the article would have provided for admission to membership. The delegation of the United Kingdom thinks, however, that the distinction between Members and Associate Members should not be excessive. They propose that the representatives of such territories or groups of territories as are admitted to Associate Membership should be entitled to take part in the proceedings of the Assembly and of its Committees, but that such representatives should not be entitled to vote at plenary sessions of the Assembly or in meetings of its main committees, or to be eligible for representation on the Executive Board.

8. The delegation of the United Kingdom considers also that, to establish a proper feeling of responsibility, Associate Members should contribute to the funds of the World Health Organization. In view, however, of the fact that their rights are more restricted than those of Members, they feel that the contribution should not be on the same scale as that required of Members. They suggest for consideration that the rate of contribution of an Associate Member should be determined by first calculating the rate at which territory would be assessed if it were a Member of the World Health Organization and then taking a fraction of the figure so calculated. It is suggested as a basis for discussion that the fraction should be 60% of the rate which a Member of similar position and resources would pay.

9. Similar questions will no doubt arise under Article 47 of the constitution in regard to membership in regional committees of territories or groups of territories which are not responsible for the conduct of their international relations and which are not Associate Members.

The delegation of the United Kingdom suggests that the position in regional committees of such territories or groups of territories should be analogous to that of Associate Members in WHO, that is, if the suggestions made above in regard to Associate Members of WHO are adopted, (a) representatives of such territories or groups of territories should be entitled to take part in the proceedings of the regional committee or of any of its committees but should not vote on the regional committee or its main committees, (b) if the members of the regional committee contribute towards the expenses of that committee, the contributions of the territories or groups of territories concerned should be scaled down in the same manner as is proposed above for the contributions of Associate Members to the World Health Organization.

10 The delegation of the United Kingdom consider that in regional committees there should be no distinction between the rights and obligations of Members and Associate Members of the World Health Organization.

A/L/20
14 July 1948

12.5.8. Other Business
Associate Members
(Doc. A.46 and S.63)

LEGAL COMMITTEE

Report of the Sixth Working Party to the
Legal Committee

At its meeting on Wednesday, 14 July, the Legal Committee appointed a Working Party to consider the question of the determination by the Assembly of the extent and nature of the rights and obligations of Associate Members in accordance with the provisions of articles 8 and 47 of the Constitution.

The Working Party consisted of the following representatives from the Legal Committee:

Mr. L. GEERAERTS (Belgium)
Mr. A. H. BAGHDADI (Egypt)
Dr. H. VAUCEL (France)
Sir DHIREN MITRA (India)
Dr. J. N. TOGBA (Liberia)
Mr. C. J. GOUDSMIT (Netherlands)
Dr. A. DA SILVA TRAVASSOS (Portugal)
Mr. C. B. CREER (United Kingdom)
Mr. D. V. SANDLER (U.S.A.)
Mr. F.L. PEIBERTHY (Union of South Africa)
Dr. C. van den BERG (Netherlands) took the Chair.

Mr. A. H. ZARB and Mr. Fr. GUTTENRIDGE acted as secretaries.

The Working Party had before it for consideration document S-63, a part of the supplementary report of the Interim Commission, and a paper submitted by the Delegation of the United Kingdom on Article 8 of the Constitution¹. During the course of the discussions of the Working Party draft resolutions were submitted by the Delegations of France, the United Kingdom and the United States of America.

After a very thorough discussion of the problems involved in this important question, the Working Party reached unanimous agreement on the resolution set forth below. There was a general concensus that the Assembly might from time to time review the statement of the extent and nature of the rights and obligations of Associate Members.

Attention was also called to the question of the privileges and immunities of the representatives of Associate Members under the general Convention on Privileges and Immunities of Specialized Agencies, and the Annex thereto and to the necessity for amendments in the rules of procedure. It was agreed that the Executive Board should consider these two questions.

Attention was drawn to a possible constitutional question arising from the definition of the rights and duties of Associate Members; there was general agreement in the Working Party that in view of the authority conferred upon the Health Assembly by Article 8 and 47 of the Constitution to define the rights and obligations of Associate Members and of territories or groups of territories which are not self-governing and which are not associate members, there can be no doubt of the authority of the Assembly to adopt reasonable provisions on this subject.

The Working Party accordingly submits to the Legal Committee the following resolution:

WHEREAS Article 8 of the Constitution of the World Health Organization provides that the nature and extent of the **rights** and obligations of Associate Members shall be determined by the Health Assembly, and

WHEREAS there is need for further study in connexion with Article 8 and 47 of the Constitution of the rights and obligations in regional organizations of Associate Members and of territories and groups of territories which are **not** responsible for the conduct of their international relations, which are not associate Members.

THE HEALTH ASSEMBLY RESOLVES

a) that Associate Members shall have:

- (i) the right to participate without vote in the deliberations of the Health Assembly and its main Committees;
- (ii) the right to participate with vote and to hold office in other committees or sub-committees of the Assembly, except the General Committee, the Credentials Committee, and the Nominations Committee;
- (iii) the right to participate equally with Members, subject to the limitation on voting in paragraph (i) above, in matters pertaining to the conduct of business of meetings of the Assembly and its committees in accordance with Rules 39 to 53, and 62 to 63, of the Rules of Procedure of the Assembly;
- (iv) the right to propose items for inclusion in the provisional agenda of the Assembly;
- (v) the right to receive equally with members all notices, documents, reports and records;
- (vi) the right to participate equally with members in the procedure for convening special sessions.

b) that Associate Members shall have the right, equally with Members, to submit proposals to the Executive Board, and to participate, in accordance with regulations established by the Board, in Committees established by it, but they shall not be eligible for membership on the Board.

c) that the Associate Members shall be subject to the same obligations as Members except that the difference in their status shall be taken into account in determining the amount of their contribution to the budget of the Organization.

d) that the Executive Board be requested to submit a report with recommendations to the next Health Assembly taking into account Article 47 of the Constitution and any comments or recommendations from Members and from regional organizations concerning the rights and obligations in regional organizations of associate Members and of representatives of territories or groups of territories which are not responsible for the conduct of their international relations and which are not Associate Members, the report to be transmitted to the Members at least two months in advance of the convening of the Assembly.