



directing council

PAN AMERICAN
SANITARY
ORGANIZATION
VI MEETING

regional committee

WORLD
HEALTH
ORGANIZATION
IV MEETING



*Havana, Cuba
15-24 September 1952*

CD6/63 (Eng.)
21 September 1952
ORIGINAL: ENGLISH

Topic 16: REPORT OF THE PERMANENT COMMITTEE OF THE EXECUTIVE
COMMITTEE ON REVISION OF THE CONSTITUTION OF THE
PAN AMERICAN SANITARY ORGANIZATION

Report of the Committee on
Inter-American Organizations of the Council
of the Organization of American States

A copy of the attached Report on the Proposed Revision of the Constitution of the Pan American Sanitary Organization, submitted by the Committee on Inter-American Organizations to the Council of the OAS and approved by the Council on 9 September 1952 (Document C-i-175-E, Rev.2), with the accompanying letter of transmittal from the Secretary of the Council of the OAS to the Director of the PASB, has been distributed to each Representative on the Directing Council.

This report and the letter of transmittal have been reproduced as a document of the Directing Council, so that they might be more widely distributed.

CD6/63 (Eng.)
ANNEX I
ORIGINAL: ENGLISH

ORGANIZATION OF AMERICAN STATES

THE COUNCIL
PAN AMERICAN UNION
Washington 6, D.C., U.S.A.

September 9, 1952

My dear Dr. Soper:

I take pleasure in sending to you herewith copies of the report on the Constitution of the Pan American Sanitary Organization, which was approved by the Council of the Organization of American States at the meeting held this morning. As you will observe from the resolution appearing at the end of the report, the Council of the Organization approved the report of the Committee on Inter-American Organizations and directed that copies be transmitted to the Pan American Sanitary Organization in order that it may be taken into consideration in accordance with Article 97 of the Charter of the Organization of American States.

In transmitting this report, I was also requested to convey to the Directing Council, through you, the suggestion of the Council of the Organization that at its forthcoming meeting in Havana the Directing Council consider the desirability of not taking definitive action on the revision of the Constitution; that, following consideration of the matter by the Directing Council, the pertinent documents be submitted to the Governments of the Member States for further study; and that final action on the Constitution be deferred to a subsequent meeting of an appropriate organ of the Sanitary Organization.

I beg to remain, my dear Dr. Soper,

Most sincerely yours,

(signed) WILLIAM MANGER
Secretary

Dr. Fred L. Soper
Director, Pan American Sanitary Bureau
1501 New Hampshire Avenue, N.W.
Washington, D.C.

Attachment: Doc. C-i-175, Rev.2 (Council Series of the OAS)

CD6/63 (Eng.)
ANNEX II
ORIGINAL: SPANISH

REPORT ON THE PROPOSED REVISION OF THE CONSTITUTION
OF THE PAN AMERICAN SANITARY ORGANIZATION
SUBMITTED BY THE
COMMITTEE ON INTER-AMERICAN ORGANIZATIONS

Approved by the
Council of the Organization of American States
at the meeting of
September 9, 1952

REPORT ON THE PROPOSED REVISION OF THE CONSTITUTION
OF THE PAN AMERICAN SANITARY ORGANIZATION
SUBMITTED BY THE
COMMITTEE ON INTER-AMERICAN ORGANIZATIONS

The Council of the Organization, at its meeting of July 16, 1952, took cognizance of a note dated July 9 from the Director of the Pan American Sanitary Bureau, transmitting the proposed Constitution of the Pan American Sanitary Organization. The Council asked the Committee on Inter-American Organizations to study this draft and authorized the Chairman of the Committee to keep the Director of the Pan American Sanitary Bureau informed on the matter.

On July 22, 1952, the Committee on Inter-American Organizations began consideration of the proposed revision of the Constitution. After a general discussion of the matter, the Committee appointed a Work Group, composed of the Representatives of Chile, the Dominican Republic, and the United States. This group was requested to prepare a document setting forth in parallel columns the articles of the existing Constitution and those proposed in the new draft, thereby making it easier to compare and study the two texts. The subsequent work of the Committee is based in large measure on the report submitted by this Work Group.

Background Information

In order that the members of the Council may be informed of the steps leading to the preparation of the document now before it, it has been thought advisable to present the following background information:

At the XIII Pan American Sanitary Conference held in Ciudad Trujillo in October 1950, a Resolution (XXV) was adopted on the Revision of the Constitution of the Pan American Sanitary Organization. The Resolution took note of a preliminary draft revision of the present Constitution, a draft prepared by the Directing Council at its IV meeting; authorized the Executive Committee to submit the draft, after due examination, to the Directing Council, together with the opinions of the Member Governments, the Members of the Regional Committee of the World Health Organization, and the Council of the Organization of American States; and authorized the Directing Council to

decide on the amendments and to incorporate them in the Constitution.

The Executive Committee of the Pan American Sanitary Organization, at a meeting held in Ciudad Trujillo immediately following the XIII Pan American Sanitary Conference, appointed a Committee to revise the draft Constitution and to submit the ensuing text to the members of the Executive Committee. The Executive Committee met again in April and May 1951, in Washington, and adopted a resolution appointing a Permanent Committee composed of representatives of Chile, the Dominican Republic, and the United States, to consider the proposed revisions and the opinions of the various Governments and international organizations that had been consulted.

Further consideration was given to the revision of the Constitution at the meeting of the Executive Committee of the Pan American Sanitary Organization in Washington in April 1952. At that time a resolution was adopted, reading as follows:

THE EXECUTIVE COMMITTEE,

Taking into account the provisions of Resolution XXV of the XIII Pan American Sanitary Conference,

RESOLVES:

To recommend to the Permanent Committee on Revision of the Constitution that it submit, as soon as possible, the new draft of the Constitution of the Pan American Sanitary Organization to the Council of the Organization of American States for an opinion.

Competence of the Council in this matter

The proposed revision of the Constitution of the Pan American Sanitary Organization has been transmitted to the Council of the Organization in accordance with the above-mentioned resolution. Moreover, the Agreement between the Council of the Organization of American States and the Directing Council of the Pan American Sanitary Organization provides in Article XIX that "whenever a project contemplating substantial changes in the structure or financial basis of the Pan American Sanitary Organization is to be submitted to the competent organs of that Organization, it will first be submitted in due

time to the Council of the Organization of American States".

Furthermore, the Charter of the OAS grants certain authority to the Council of the Organization in relation to Inter-American Specialized Organizations. Thus, Article 97 of the Charter provides that the Specialized Organizations, as defined in Article 95 of the Charter, shall enjoy the fullest technical autonomy, "and shall take into account the recommendations of the Council". This article is applicable to the Pan American Sanitary Organization, since it is an Inter-American Specialized Organization, as provided in the May 3, 1950 Resolution of the Council of the OAS, and Article 1 of the aforesaid Agreement.

Therefore, the Council of the OAS is competent to express its views on the proposed revision of the Constitution of the Pan American Sanitary Organization.

Scope of Council's Examination

From the foregoing quotations, it is clear that the Council has the authority to examine all parts of the proposed revision submitted to it, and to express its views thereon.

The Committee on Inter-American Organizations, however, believes that the primary purpose of the consultation is to obtain the opinion of the Council on those provisions of the draft Constitution dealing with the structure and the general policy of the Organization of American States. By the terms of the Charter of the Organization, the Council exercises certain functions having to do with the other Organs of the Organization, and it logically follows that one of its inherent functions is to exercise a general supervision over measures that might affect the nature and character of the Organization, and to inform the Member States and the other interested Organs of the Organization thereof.

The proposed Constitution submitted to the Council is not definitive; it is, rather, a work document (a preliminary draft), which will be submitted to Governments, so that they will be in a position to give pertinent instructions to the Delegates they send to the next meeting of the Directing Council of the Sanitary Organization, where the proposed text will be discussed. Nor are the points of view expressed in the aforesaid

draft document definitive, and the three member Governments on the Permanent Committee are not bound to these same views subsequently. It was in this climate of opinion that the Committee on Inter-American Organizations worked, since the Governments will have an opportunity to express their definitive opinions at the meeting of the Pan American Sanitary Organization that will consider the new Constitution of the Organization. The opinion of the Council, based on this criterion, will doubtless be most helpful to the Governments in preparing instructions to their representatives.

The Committee on Inter-American Organizations would like to make one further observation with respect to the scope of the examination of the proposed Constitution by the Council. As previously stated, it is clear that the Council has competence to study every part of the Constitution, and Article 97 of the Charter specifically states that the Specialized Organizations "shall take into account the recommendations of the Council". This same Article, however, also stipulates that the "Specialized Organizations shall enjoy the fullest technical autonomy".

Consequently, this report contains opinions on questions dealing with the structure and general policy of the OAS, and omits comment on technical matters and those falling within the domestic competence of the Pan American Sanitary Organization.

The document accompanying this Report^{1/} sets forth in parallel columns the text of the existing Constitution and the proposed text prepared by the Permanent Committee on the Revision of the Constitution of the Pan American Sanitary Organization. In some cases the order of the articles in the proposed revision has been changed, to facilitate comparison with the present Constitution, and, too, some comments have been made on the most important changes. In addition to these comments, the Committee wishes to call special attention to two aspects of the proposed revision of the Constitution, inasmuch as they deal with the structure and the general policy of the Organization of American States. These are as follows:

1. The position of dependent territories of non-American States in relation to the Pan American Sanitary Organization.

^{1/} Issued in Spanish only See Doc. C-i-175 (Spanish), SUPLEMENTO 1.
Note: The English text of the proposed constitution is issued as a document of the Pan American Sanitary Organization, Doc. CPR/14 (Eng.).

2. The relations between the Pan American Sanitary Organization and the Organization of American States.

Position of Dependent Territories of non-American States

In the articles relating to dependent territories of non-American States, an attempt has been made to reconcile certain fundamental principles with practical considerations. The Charter of the Organization contains basic provisions relative to the Members of the Organization, which naturally are applicable to the Pan American Sanitary Organization. Actually, the Inter-American Specialized Organizations are one of the Organs of the OAS and, pursuant to Article 2 of the Charter, "All Member States that ratify the present Charter" are Members of the Organization. It is logical to conclude, therefore, that a State or territory that is not a Member of the OAS and that has no right to become a Member, does not have the prerequisites for becoming a Member of an Organ of the Organization. On the other hand, it is obvious, that much of the effectiveness of Pan American Sanitary Organization activities would be lost, if there were no opportunity to discuss measures for solving common health problems and actively collaborating in the application of such measures.

The draft Constitution deals with both aspects of the problem. Article 2 provides that "the Members of the Organization are the twenty-one American Republics" and that "membership in the Organization shall be open to other American States which shall be admitted as Members when their application has been approved by the Conference by a two-thirds vote of the Members present and voting". Article 3 provide that territories or groups of territories within the Western Hemisphere that are not responsible for the conduct of their international relations may be represented and may participate in the Sanitary Conference, of course within the very definite limits established in Article 3 itself and in other articles of the Constitution.

Thus, no non-American State and no territory or group of territories not responsible for the conduct of its international relations may be a member of the Pan American Sanitary Organization. Neither may they be members of the Executive Committee of the Conference, representation on which is limited to Member States of the Organization (Art. 22). Furthermore, their participation in the Sanitary Conference is also limited, since they may not participate in the voting on the relations between the Sanitary Organization and the Organization of American States or

the World Health Organization (Art. 44); in the voting on amendments to the Constitution (Art. 50), on the admission of new Members (Art. 2b), or on determining the nature and scope of the representation of dependent territories in the Organization (Art. 3). Moreover, in proposing new texts for articles 49 and 51, the Committee suggested two new limitations.

The Committee on Inter-American Organizations is in complete agreement with the fundamental principles that are the basis of Articles 2 and 3 of the proposed Constitution, although it recognizes the importance and the necessity of distinguishing states that may become Members of the Pan American Sanitary Organization from those that may not. In analyzing Article 2 of the proposed Constitution, however, the Committee concluded that this text could be altered and improved. In the first place, it is thought that one of the conditions a State aspiring to become a Member should fulfill is that it ratify the Pan American Sanitary Code, which is the basic instrument of the Sanitary Organization. Inasmuch as all the American Republics have ratified the Code, the foregoing suggestion implies merely a verbal change in the text of Article 2 (a). In connection with paragraph (b) providing for the admission of other American States to the Pan American Sanitary Organization, the Committee believes that, in view of the fact that the acceptance of this would involve a fundamental change in the organization and structure of the Pan American Sanitary Organization, the request should first be submitted to the Council of the Organization of American States for consideration. The Committee is also of the opinion that the admission of other American States as Members of the Pan American Sanitary Organization should be preceded by ratification of the Sanitary Code. With this in mind, the Committee recommends that Article 2 of the Constitution be amended to read as follows:

Article 2

- a) All American States that have heretofore ratified the Pan American Sanitary Code are Members of the Pan American Sanitary Organization.
- b) Any other American State may become a Member of the Pan American Sanitary Organization when the Members of the Pan American Sanitary Organization, after consultation with the Council of the Organization of American States, have approved its request for admission, and it has ratified the Pan American Sanitary Code.

The Committee on Inter-American Organizations was informed that, in drafting Articles 2 and 3 of the revised Constitution, the concept that prevailed was that the territories of non-American States should participate in the essentially technical aspects of the Pan American Sanitary Organization, but that the right of decision on fundamental questions and matters affecting the standards and policy of this Specialized Organization should be reserved to the Member States of the Organization exclusively.

This criterion was carefully analyzed by the Committee on Inter-American Organizations, especially with regard to Article 2, and in general with respect to the other articles on the representation and participation of dependent territories of non-American States in the Pan American Sanitary Conference. A majority of the Committee considers this a sound criterion, inasmuch as it respects the fundamental principle that only the American States can be Members of the Organs of the OAS, and also enables all the peoples of the Western Hemisphere to cooperate on the technical level in a field of activity that is of vital interest and importance to all Member States of the Organization.

In discussing the point relative to dependent territories, the Delegations of Argentina, Cuba and Mexico wished to go on record particularly as believing that although it is advisable and desirable to offer these territories the fullest opportunity to participate in the technical activities of the Pan American Sanitary Organization, it does not, however, follow that they should be given the right to vote, inasmuch as the Organization of American States, of which the Specialized Organizations are a part - has always been, and should always continue to be, a political group composed only of absolutely independent American States, and this requisite of American sovereignty is the basic characteristic of the Organization of American States.

In accordance with Article 50 of the proposed text, amendments to the Constitution shall come into force when adopted by the Conference by two-thirds of the Members present and voting. Following the principle that only the Member States should participate in the adoption of amendments to the Constitution, the Committee on Inter-American Organizations suggests that this criterion should govern approval given by the Conference to revisions or amendments to the Pan American Sanitary Code, which, since it is an international treaty, must be ratified by the Contracting States, and it would also govern in instances where decisions were taken on any question or dispute as to the interpretation or application of the Constitution.

To this effect, the Committee believes that Articles 49 (b) and 51 might be drafted as follows:

Article 49 (b)

The revisions and amendments to this Code that are approved by the Members of the Organization at the Conferences shall be incorporated in the corresponding Diplomatic Instrument, which shall be submitted to the Contracting Parties for ratification.

Article 51.

The Members of the Organization, at the Conference, shall decide any question or dispute concerning the interpretation or application of this Constitution.

It would also be advisable to make a change in Article 10 (b), which refers to the voting procedure for territories or groups of territories, in order to make its meaning more precise. It might be worded thus:

Article 10.

(b) Territories or groups of territories under the jurisdiction of the same non-American State shall vote as a single unit on these matters on which the Conference has granted them this right. Only one vote may be cast in the name of each unit.

Relations of the Pan American Sanitary Organization
with the OAS and WHO

Chapter VIII, Article 44, of the proposed Constitution refers to the relations of the Pan American Sanitary Organization with the Organization of American States and the World Health Organization. In the form in which it is now drafted, this article might perhaps give the impression that the Pan American Sanitary Organization is something separate and apart from the Organization of American States, when in reality it is an integral part thereof. It is an Inter-American Specialized Organization, as defined in Chapter XV of the Bogotá Charter; it is also the Specialized Organization of the OAS that covers everything in the field of public health and sanitation. In order to establish this relationship in clear and juridical terms, it would be advisable for Chapter VIII to include the following article:

Article 44.

(a) The Pan American Sanitary Organization is an Inter-American Specialized Organization under the Charter of the Organization of American States, signed at Bogotá on May 2, 1948. Its position in and relations with the OAS are governed by the terms of the Bogotá Charter and the Agreement concluded with the Council of the Organization in accordance with Article 53 (c) of the aforesaid Charter.

(b) Any new agreement or any revision of the present Agreement of 23 May 1950 between the Pan American Sanitary Organization and the Council of the Organization of American States, shall require a two-thirds vote of the Members of the Organization present at the Conference. Proposals concerning any new Agreement or revision shall be submitted to the Members at least three months in advance of the Conference.

The undersigned also believe that the relations between the World Health Organization and the Pan American Sanitary Organization should be defined in the Constitution just as was done, pursuant to Article 54 of the former's Constitution, by the two organizations in Article 2 of the Agreement signed on May 24, 1949. Therefore it would be advisable to include the following article in Chapter VIII:

Article 44 - A.

(a) The Pan American Sanitary Conference and the Pan American Sanitary Bureau shall serve, respectively, as the Regional Committee and the Regional Office of the World Health Organization for the Western Hemisphere, in accordance with the latter's Constitution and the Agreement concluded between the two organizations.

(b) Any new Agreement or any revision of the present Agreement of 23 May 1950 between the Pan American Sanitary Organization and the World Health Organization, shall require a two-thirds vote of the Members of the Organization represented at the Conference. Proposals concerning any such new Agreement or revision shall be submitted to the Members at least three months before the Conference.

Other Amendments

The Committee also wishes to suggest other amendments, as follows:

Article 12.- In the manner in which it is now drafted, Article 12 makes it possible for three consecutive Sanitary Conferences to meet at the headquarters of the Pan American Sanitary Organization. This is contrary to the principle of having the activities of the Organization distributed over as wide a geographic area as possible. The Committee, therefore, mindful of this principle and the provisions of Article 7 (a) of the existing Constitution and Article 12 of the proposed text, suggests that Article 12 of the revised Constitution read as follows:

The Conference shall meet in regular session every two years in the country selected at the preceding meeting, on the date fixed by the host Government in consultation with the Director. As far as possible, an effort shall be made not to hold two successive meetings of the Conference in the same country. If the meeting cannot be held in the country previously selected, the Director shall make the necessary arrangements for the Conference to meet at the seat of the Organization.

Article 22. The Committee studied this article in conjunction with Article 21 and concluded that it would be advisable to eliminate from Article 22 the phrase "to act on its behalf" (in the name of the Conference), since it could be interpreted to mean that the Executive Committee may act in the name of the Conference even in the cases where this authority is not expressly delegated to the Committee by the Conference. The Committee therefore suggests that Article 22 of the revised Constitution read as follows:

The Executive Committee shall be composed of each of the seven Member States elected by the Conference. Member States shall be elected for overlapping terms of three years and shall not be eligible for re-election until one year has elapsed.

New article.- In its study of the proposed Constitution, the Committee found no provision with regard to the withdrawal of Member States from the Pan American Sanitary Organization. It believes, however, that the Constitution should contain a provision of this kind. Taking as a basis the Additional Protocol of

the Pan American Sanitary Code on adherence to and ratification and denunciation of, the Convention by Member States, the Committee prepared the following article, which it recommends be included in a suitable place in the revised Constitution.

A Member State may cease to be a Member of the Pan American Sanitary Organization by denouncing the Pan American Sanitary Code, giving due note thereof, one year in advance, to the Government of the Republic of Cuba, in accordance with the stipulation of the Additional Protocol to the Code, signed at Lima on October 20, 1927.

In accordance with the decision taken by the Council at its meeting of July 16, 1952, the Chairman of the Committee on Inter-American Organizations has sent a copy of the Committee's Report to the Director of the Pan American Sanitary Bureau, so that the Pan American Sanitary Organization can be kept informed of the progress of the Committee's studies. At the same time, the Committee submits the following draft resolution to the Council for consideration:

THE COUNCIL OF THE ORGANIZATION OF AMERICAN STATES,

Having seen the Report of the Committee on Inter-American Organizations on the draft Constitution of the Pan American Sanitary Organization, which draft the Permanent Committee for the Revision of the Constitution of the said Organization submitted to the Council for an opinion, pursuant to Resolution VIII of the XVI Meeting of the Executive Committee of the Pan American Sanitary Organization,

RESOLVES:

1. To approve the Report on the Revision of the Constitution of the Pan American Sanitary Organization submitted by the Committee on Inter-American Organizations (Doc. C-i-175, Rev. 2).
2. To transmit the said report to the Pan American Sanitary Organization so that it may be taken into account in

conformity with Article 97 of the Charter of the Organization
of American States.

August 2, 1952.

Luis Quintanilla
Ambassador, Representative of Mexico

Joseph L. Déjean
Ambassador, Representative
of Haiti

Luis F. Thomen
Ambassador, Representative of the
Dominican Republic

César Tulio Delgado
Ambassador, Representative
of Colombia

Jayme Azevedo Rodrigues
Representative of Brazil

Nicasio Silverio y Sainz
Representative of Cuba

Douglas S. de Olano
Representative of Argentina

Félix Polleri Carrió
Representative of Uruguay

Edward A. Janison
Representative of United States