



directing council

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VII Meeting

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WORLD
HEALTH
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V Meeting



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Topic 20: RETAINMENT OF POSITIONS IN THEIR OWN COUNTRIES BY THE
INTERNATIONAL STAFF OF THE PAN AMERICAN SANITARY BUREAU

In compliance with Resolution IX of the VI Meeting of the Directing Council, the Director of the Pan American Sanitary Bureau has the honor to report the following:

At the VI Meeting of the Directing Council, the Representative of Chile presented a draft resolution recommending that the Director approach the Member Governments of the Organization with the suggestion that they take the proper measures to enable staff members of the Pan American Sanitary Organization and the World Health Organization to retain their positions in the national public health service during the period of their international service and to enjoy the legal benefits of provisions protecting civil servants.

This proposal was placed before the Directing Council at its third plenary session ^{1/} and, at the request of the Representative of Brazil, was included on the agenda for immediate discussion.

The Representatives of Panama, Brazil, the United States, and the Dominican Republic expressed their opinions on the matter, and the latter proposed that the resolution contain merely a request that the Director of the Bureau ask the Member Governments for an opinion on this question and report to the next meeting of the Directing Council.

The proposal of the Representative of the Dominican Republic was approved and the Directing Council adopted Resolution IX, as follows:

^{1/} Précis Minutes of the VI Meeting of the Directing Council (Document CD6/95), page 35.

"WHEREAS:

The fundamental purposes of the Pan American Sanitary Organization are to promote and coordinate efforts of the countries of the Western Hemisphere in order to combat disease, lengthen life, and promote the physical and mental health of the people;

The World Health Organization states, in Article 1 of its Constitution, that its objective shall be the attainment by all peoples of the highest possible level of health;

The accomplishment of these objectives requires the combined experience and knowledge of experts selected for their efficiency and integrity, experts working in an executive secretariat of a permanent nature, as is the Pan American Sanitary Bureau, the Regional Office of the World Health Organization;

Due consideration should be given the international character of the staff and its geographical distribution, thus ensuring the participation of all the countries in the achievement of the aims pursued by the aforementioned Organizations;

The activities of the international staff, in accordance with the principles that shape the efforts of the Organizations, benefit all the countries of the Hemisphere;

The ultimate aim with regard to staff is the creation of an international career service of public health workers; and

A more effective performance of their duties would be assured if the experts could retain their positions in their own countries and remain subject to the legal provisions protecting civil servants,

THE DIRECTING COUNCIL

RESOLVES:

To instruct the Director to request the Member Governments to submit opinions on the question of retainment of positions in their own countries by the international staff of the Pan American Sanitary Bureau, Regional Office of the World Health Organization."

In compliance with the above resolution, the Director of the Bureau, in circular letters of 21 November 1952, 8 January 1953, and 24 June 1953, requested the Member Governments for an opinion on this question.

Nineteen replies have been received. These replies, the full texts of which appear in Annex I, can be summarized as follows:

Argentina: Replied that experts retain their positions and receive their salaries while working abroad for international organizations.

Bolivia: Deems it advisable that the positions be retained.

Brazil: Is in favor of assuring the retainment of positions, as this is a policy that has been established by Brazilian legislation since 1946.

Chile: Replied that positions are retained by such civil servants without benefit of salary.

Colombia: Replied that the law authorizes civil servants to take only 90 days leave of absence.

Costa Rica: Makes a reservation as to the application of the resolution (provided always that retention is without benefit of salary and the staff member is appointed in agreement with the Government.)

Dominican Republic: Is opposed to the approval of any resolution concerning the retainment of positions in the country of origin.

Ecuador: Replied that the problem does not affect Ecuador.

El Salvador: Deems the resolution advisable, but the enforcement of such provisions would remain pending until approval of a civil service law.

Guatemala: Retains the positions by filling them with substitutes appointed for temporary periods.

Haiti: Agrees with the principle set forth in the resolution.

Honduras: Is in complete agreement with the retainment of the positions.

Mexico: Is in agreement, provided that only the "basic" posts are retained and not the specific assignments held by the personnel at the time of their appointment to the international organization.

Nicaragua: Favors the retainment of positions.

Panama: Expresses its approval of the retainment of positions.

Paraguay: Agrees with the retainment of positions.

United States: Explains the policies established in the current regulations and laws relating to the retainment of certain rights by employees serving with international organizations.

Uruguay: Replied that current legal provisions present obstacles to the retainment of positions.

Venezuela: Replied that the policy of ensuring tenure of office to technical personnel is traditional in Venezuela, but there are no legal provisions that make it possible to guarantee the retainment of positions.

This report, pursuant to Resolution IX of the VI Meeting, is now placed before the Directing Council for consideration.

REPLIES TO CIRCULAR LETTERS OF 21 NOVEMBER 1952, 8 JANUARY 1953, AND 24 JUNE 1953, TRANSMITTED BY THE DIRECTOR OF THE PAN AMERICAN SANITARY BUREAU IN COMPLIANCE WITH RESOLUTION IX OF THE VI MEETING OF THE DIRECTING COUNCIL

Argentina

"...our country has been very much in favor of such retention rights, In effect, Article 13 of Decree 26.942/47, on vacation and leave, provides: 'Leave may be granted with complete or partial benefit of salary to persons engaging in studies, investigations or work of a scientific, technical or artistic nature abroad, under the auspices of the Government of the Nation. In such cases the terms and conditions with which the beneficiary must comply will be determined at the time the leave is granted.'

"The matter on which you have consulted us is covered by this Decree, the scope of which is clear enough to make further comment unnecessary. Up to the present, all experts who have gone to work abroad for international organizations not only have retained their positions, but have also received their salaries while engaged in such work."

(Letter from the Director, International Health Policy, dated 4 December 1952.)

Bolivia

"...the Ministry of Hygiene and Public Health of Bolivia deems it advisable that the international staff working in the Pan American Sanitary Bureau be retained in their positions, it being desirable that all countries be duly represented."

(Letter from the Minister of Hygiene and Public Health, dated 14 April 1953.)

Brazil

"This matter is already the object of special legislation. In fact, under the terms of Decree-Law No. 9.538 of 1 August 1946, now in force:

'A public servant of the Republic, through the express authorization of the President of the Republic, is permitted to absent himself from the country in order to execute work entrusted to him by any international organization with which Brazil cooperates.'

"Under the circumstances, it is the opinion of this Department that a reply may be made to the inquiry of the Pan American Sanitary Organization to the effect that the Government of Brazil is in favor of assuring to civil servants who have become members of the international staff of that

Organization, the retainment of their positions in their own countries, as this is a policy that has been established by Brazilian legislation since 1946."

(Letter from the Director General, Ministry of Education and Health, dated 31 December 1952.)

Colombia

"...I have carefully read the Resolution and found the proposal it contains highly interesting. Unfortunately, however, in view of the legal provisions in force in our country, civil servants may not be granted more than ninety days leave of absence from the positions they hold. The Government of Colombia, therefore, cannot enter into any consideration of the aforementioned resolution."

(Letter from the Minister of Health, dated 9 December 1952.)

Costa Rica

"It is our opinion that when an official leaves his post to accept temporary employment with an international organization, by mutual consent of the organization and the government concerned, he should retain the position he holds in his own country without, however, the benefit of either partial or total salary payment for the latter position. A provision such as this will facilitate his functions as an international employee and at the same time will afford another official of his country the opportunity to occupy the position temporarily and receive the complete salary of that post. The practice heretofore followed whereby a staff member of the Bureau received part of the salary for the position held in his own country, is not acceptable.

"Naturally, there are many international employees who request positions in specialized agencies for personal reasons: either because they encounter difficulties in the positions they hold, in their own countries or because they wish to change posts or increase their earnings, or for some other reason. Such employees, who have not been engaged by mutual agreement between organization and the government, or at the request of the agency concerned, should not retain their positions in their country of origin.

"As regards pension and retirement benefits, each case should be adjusted according to the laws in force in the country of origin."

(Letter from the Director General of Public Health, dated 3 December 1952.)

Chile

"As you will recall, it was the Representative of Chile who presented the proposal on this subject at the VI Meeting of the Directing Council of the Pan American Sanitary Organization. Our country, in keeping with its unchanging policy of cooperation with international organizations, has always retained in their positions the civil servants who have had the opportunity to work in the international field. In this way, we are able subsequently to make use of the experience they acquire abroad, for the development of our own national services.

"Naturally, positions are retained by such civil servants without benefit of salary, from the moment they occupy a paid position in any international organization. But on returning to their positions, they are reinstated with all the rights that have been retained for them."

(Letter from the Minister of Public Health and Social Welfare, dated 20 April 1953.)

Dominican Republic

"...I wish to state that I have been authorized to inform you that our Government is opposed to the approval of any resolution of the Directing Council of the Pan American Sanitary Organization concerning the retainment of positions in their own countries by the international staff of the Pan American Sanitary Bureau."

(Letter from the Secretary of State for Public Health, dated 22 January 1953.)

Ecuador

"...I wish to inform you that this problem does not affect the Republic of Ecuador and I therefore have no comments to make on the matter."

(Letter from the Minister of Social Welfare, dated 2 December 1952.)

El Salvador

"...Resolution IX of the VI Meeting of the Directing Council of the Pan American Sanitary Organization instructed the Director of the Bureau to request the opinions of Member Governments on the question of retainment of positions in their own countries by the international staff of the Pan American Sanitary Organization, Regional Office of the World Health Organization. This resolution expresses the wishes of the Representatives

of the American Governments present at that Meeting to the effect that professional public health personnel accepting posts in the Pan American Sanitary Organization retain the rights granted them under the Civil Service Laws of their respective countries during the time they are serving with the international agency.

"Although Civil Service Laws have not yet been enacted in our country, nor have any legal provisions for the career service of public health workers been discussed, it is my opinion that our Government should concur in the views of those countries which have already adopted a Civil Service Law, and that it should endorse the decision taken by the Directing Council and express its willingness to put the decision into effect as soon as our country adopts the pertinent laws."

(Letter from the Minister of Public Health and Social Welfare, dated 8 May 1953.)

Guatemala

"...the Government of Guatemala has followed the policy of granting leave of absence to technical personnel called upon to collaborate with international agencies, retaining for them the positions they hold in the country by filling them with substitutes appointed for temporary periods."

(Letter from the Minister of Public Health and Social Welfare, dated 20 February 1953.)

Republic of Haiti

"The officials of this Ministry have carefully studied the matter and have given it their entire approval. It is their opinion that a physician or expert employed by the Pan American Sanitary Bureau is on a temporary mission and should therefore have the assurance of being able to resume his position when he returns to his country of origin.

"Moreover, Resolution IX of the Directing Council will certainly have the effect of aiding your Organization in the recruiting of select personnel."

(Letter from the Secretary of State for Public Health, dated 23 December 1952.)

Honduras

"...the Government of Honduras is in complete agreement with the principle that the international staff of the Pan American Sanitary Bureau, Regional Office of the World Health Organization, should retain the positions they occupy in their own countries."

(Letter from the Secretary of State for Interior, Justice and Welfare, dated 10 April 1953.)

Mexico

"...in principle, we are in agreement with Resolution IX of the VI Meeting of the Directing Council, provided it is kept in mind that it will be possible to guarantee only the retainment of "basic" posts in the country of origin, and not the specific assignments held by the personnel at the time of their appointment to the international organization."

(Letter from the Chief, Office of International Affairs, Ministry of Public Health and Welfare, dated 17 August 1953.)

Nicaragua

"...the Government of Nicaragua is in agreement with Resolution IX adopted by the Directing Council of the Pan American Sanitary Organization on 19 September 1952, at Havana, Cuba. Accordingly, my Government wishes to state that it favors the retainment of positions in their own countries by the international staff of the Pan American Sanitary Bureau, Regional Office of the World Health Organization."

(Letter from the Minister of Public Health, dated 30 June 1953.)

Panama

"... the Government of Panama has made a careful study of the matter and has decided to express its approval, because it believes that such a measure will benefit all the countries of the Hemisphere."

(Letter from the Minister of Labor, Welfare and Public Health, dated 14 April 1953.)

Paraguay

"...I wish to inform you that my country is in agreement with the point raised concerning the retainment, by international employees of the Pan American Sanitary Bureau, of the positions they occupied in their respective countries prior to assuming these international posts."

(Letter from the Minister of Public Health, dated 12 December 1952.)

United States

"The United States' position on this subject can best be illustrated by the current policy of the Civil Service Commission. Under the authority of Executive Orders 9721, 9862, and 10103, the Civil Service Commission has issued regulations relating to this subject. The World Health Organization and the Pan American Sanitary Bureau fall within the scope of these regulations.

"In general, the Civil Service regulations on this subject provide that when such a transfer is desired, a request for it shall be submitted by the public international organization, in writing, directly to the department or agency of this Government in which the employee is serving. The head of the department or agency concerned or his designated representative shall, at his option, give such consent in writing to the requesting organization. The employee transferred in this way, in order to have a right to re-employment with this Government, must: (1) have been serving under a probational or permanent Civil Service appointment prior to his transfer to the public international organization or, if he was serving under a war service indefinite appointment, he must have been reached in regular order for probational appointment from a Civil Service Register appropriate for filling the position in which he was serving; (2) have been terminated without prejudice by the public international organization within three years of the date of his transfer to such organization; (3) apply for re-employment to his former agency or department of this government within ninety days of his termination by the public international organization; and (4) be qualified physically to perform the duties of his former position or one of like seniority status and pay. Upon re-employment by this Government, such an employee is considered as having been on leave of absence during his period of service with the public international organization.

"The Mutual Security Act of 1951 (Public Law 165, 82nd Congress) states in Section 509 that the head of a government agency, under certain conditions, is authorized to detail employees of his agency to serve with or as a member of the international staff of international organizations. The employee's privileges, rights and seniority as a member of the United States Government are maintained.

"The Foreign Service Act of 1946 (Public Law 724, 79th Congress) permits the Secretary of State to detail Foreign Service employees to international organizations under the same conditions that such employees can be detailed to a foreign government.

"The Public Health Service Act (Public Law 410, 78th Congress), as amended, provides for the detail of commissioned officers of the Public Health Service to other executive departments of the Government, to state health authorities, and to nonprofit institutions engaged in health activities. The law provides that such personnel while detailed shall not lose certain benefits, including seniority to which they would be entitled if their duty were performed in the Service. The interpretation of this law with respect to international organizations requires additional clarification and is now under study."

(Letter from the Assistant Secretary, Department of State, dated 13 April 1953.)

Uruguay

"...I quote below the report on this question prepared by the undersigned, which is at present being considered by the National Council of Government:

'IX) RETAINMENT OF POSITIONS BY INTERNATIONAL STAFF IN THEIR OWN COUNTRIES. - The purposes of this measure are very sound, for with the formation within the Organization of a group or team of workers who, besides being specialists, know the problems of their own countries well, there will be a nucleus of experts thoroughly familiar with the over-all problem of the Continent. But it is necessary to understand that to give such workers assurance of being retained on the payroll in their own countries may, in certain cases, create serious problems for the public health administration. There are numerous reasons for this: their absence from the country may be an extended one; the country may be deprived of experts it needs permanently; the retainment of their positions may impede the promotion of other highly qualified workers within the country, etc. Aside from this, almost all the countries have legal provisions which present obstacles to such retention rights. In our country, for example, no leave with pay may exceed three months, except in cases of officially certified illness. It would be necessary to consider that the official assuming a position in an international agency is on a special mission, but legislation would be required for this purpose, I believe, therefore, that the reply of our Government to the Pan American Sanitary Bureau should be based on these considerations."

(Letter from the Chief, Division of Hygiene, Ministry of Public Health, dated 10 December 1952.)

Venezuela

"...I wish to inform you that although the policy of ensuring **tenure** of office to technical personnel is traditional in our country, we have no legal provisions that would enable us to assure the retainment of positions to persons called upon to serve in international health organizations."

(Letter from the Director of Public Health and Social Welfare, dated 8 January 1953.)