AMENDMENTS TO THE CONSTITUTION

The circular letters annexed contain the text of several amendments to the Constitution proposed by the Governments of the following countries and transmitted for information to States Members:

India, Denmark, Australia, Norway and Sweden.

These circular letters are placed before the Executive Board for information.

The Director-General is already in receipt of replies from some Governments and further replies are expected.

These will be communicated to Members before the question is decided at the Third World Health Assembly.
Sir,


"CONSTITUTION OF THE WORLD HEALTH ORGANIZATION
NOTICE OF PROPOSAL BY THE DELEGATION OF THE
GOVERNMENT OF INDIA TO AMEND THE CONSTITUTION
UNDER ARTICLE 73 OF THE CONSTITUTION

Article 25

In the first sentence, first line,
Delete "may be re-elected"
Insert a period after "three years"

At the end of the article add:

"No Member shall be nominated nor become eligible for re-election until one year has elapsed after the end of the term for which that Member has been elected, unless such restriction is removed by a two-thirds vote of the Health Assembly."

I would be grateful if you would inform me of any comments that your Government may wish to make on this proposal.

I have the honour to be,
Sir,
Your obedient Servant,
For the Director-General

R. Gauthier, M.D.
Assistant Director-General
Geneva, 8 November 1949

Sir,

In accordance with Article 73 of the Constitution of the World Health Organization, I have the honour to transmit to you the text of amendments to the Constitution proposed by the Danish Government.

It is stated by the Danish Government that these amendments are proposed in order to reduce the expenses of the Organization.

I have the honour to be,

Sir,

Your obedient Servant,

R. Gautier, M.D.
Acting Director-General

ENCL.: Draft amendments to the Constitution.
ANNEX

DRAFT AMENDMENTS TO THE CONSTITUTION
OF THE WORLD HEALTH ORGANIZATION

Article 1

Article 13 of the Constitution shall read as follows: "The Health Assembly shall meet in regular session every two years and in such special sessions as may be necessary. Special sessions shall be convened at the request of the Board or of a majority of the Members."

Article 14 of the Constitution shall read as follows: "The Health Assembly, at each regular session, shall select the country or region, in which the next regular session shall be held, the Board subsequently fixing the place. The Board shall determine the place where a special session shall be held."

Article 15 of the Constitution shall read as follows: "The Board, after consultation with the Secretary-General of the United Nations, shall determine the date of each regular and special session."

Article 16 of the Constitution shall read as follows: "The Health Assembly shall elect its President and other officers at the beginning of each regular session. They shall hold office until their successors are elected."

Article 25 of the Constitution shall read as follows: "These members shall be elected for six years and may be re-elected."

Article 34 of the Constitution shall be framed as follows: "The Director-General shall prepare and submit every other year to the Board the financial statements and budget estimates of the Organization."

Article 55 of the Constitution shall read as follows: "The Director-General shall prepare and submit to the Board the budget estimates of the Organization for a period of two years. The Board shall consider and submit to the Health Assembly such budget estimates, together with any recommendations the Board may deem advisable."

Article 2

The members of the Board whose term of office may not expire in pursuance of the provisions hitherto in force shall retire from the Board at the first regular session of the Health Assembly convened after the coming into force of the above amendments, and election of members of the Board shall then take place in accordance with article 25 as amended; provided that of the members elected at the said session, the terms of six members shall be for two years and the terms of six members shall be for four years, as determined by lot.
Sir,

In accordance with Article 73 of the Constitution of the World Health Organization, I have the honour to transmit to you the text of the following amendments to the Constitution proposed by the Australian Government which has notified its desire to place these amendments on the agenda of the Third World Health Assembly:

a) Article 24 to read: "The Board shall consist of eighteen Members of the Organization. The Health Assembly, taking into account an equitable geographical distribution, shall elect the Members entitled to be represented on the Board. Each of these Members should be represented on the Board by a person technically qualified in the field of health who may be accompanied by alternates and advisers."

b) Article 55 to read: "The Director-General shall prepare and submit to the Board the annual budget estimates of the Organization. The Board shall consider and submit to the Health Assembly such budget estimates together with its comments and such amendments as the Board may deem advisable to recommend to the Assembly."

I have the honour to be,
Sir,
Your obedient Servant,

R. Gauthier, M.D.
Acting Director-General
Sir,

Further to circular letter No. 53 of 8 November 1949 informing you of amendments to the Constitution of the World Health Organization proposed by the Government of Australia, I have the honour to transmit to you a commentary by the Australian Government concerning these amendments.

I have the honour to be,

Sir,

Your obedient Servant

Dr. R. Galtier
Acting Director-General
The Australian Government proposes that Articles 24 and 55 be amended by omitting the words shown in brackets and substituting the words underlined in the following texts:

**Article 24:**

The Board shall consist of eighteen (persons designated by as many Members) Members of the Organization. The Health Assembly, taking into account an equitable geographical distribution, shall elect the Members entitled to (designate a person to serve) to be represented on the Board. Each of these Members should (appoint to the Board) be represented on the Board by a person who is technically qualified in the field of health, who may be accompanied by alternates and advisers.

This amendment provides for the Executive Board to be composed of eighteen Member Governments instead of eighteen "persons designated by as many Members". The requirement of technical qualifications in the field of health for representatives serving on the Board is retained.

**Article 55:**

The Director-General shall prepare, and submit to the Board the annual budget estimates of the Organization. The Board shall consider and submit to the Health Assembly such budget estimates, together with (any recommendations the Board may deem advisable) its comments and such amendments as the Board may deem advisable to recommend to the Assembly.

This amendment broadens and makes more specific the financial responsibility of the Executive Board by enabling it to comment on the budget estimates and to recommend to the Health Assembly amendments to the estimates. The Board at present has the general power of making recommendations to the Assembly.

The Australian Government has proposed its amendments to Articles 24 and 55 for the following reasons:

1. Recommendations of international organizations have to be carried out by Member Governments. The experience of international organizations in many fields has shown that such recommendations are most likely to be accepted and implemented by governments if the governments themselves, through their representatives, have had a voice in shaping them at all decisive stages. Such recommendations should be drawn up, having regard not only to what is desirable but also to what is attainable in practice in terms of national administrative organization and domestic policies. There is a danger of lack of balance between these two considerations if the Executive Board of the Organization, which has considerable influence in determining the details of far-reaching proposals which come for final decision before the full Conference (in this case, the Health Assembly), is not representative of some of the governments which will be asked to carry them out.
2. At the same time, it is not the desire of the Australian Government to interfere with the principle (retained in Article 24) that the persons representing governments should be technically qualified in the field of professional and scientific knowledge with which the World Health Organization is concerned.

3. In the view of the Australian Government, there should be a Board of Government representatives who would watch the interests of the membership in respect of the finances of the Organization and advise the Director-General. The proposals to clarify the functions of the Executive Board are discussed in the comments on Article 55 below. An essential requirement in the exercise of the functions proposed is that the Board should be composed of representatives who have behind them the authority, the accumulated experience, and the administrative and financial knowledge of governments.

4. While all Member Governments participate annually in the formulation of the Organization's policy at the Health Assembly, changing events and conditions require the constant review of policy. In practice, much discretion must inevitably and properly be left with the Executive Board to develop the practical implementation of policy decisions of the Health Assembly. The Executive Board, as a body exercising powers delegated by the Health Assembly and acting on its behalf, should reflect as closely as possible the Assembly itself.

5. Article 29 will continue to require that the Board exercise its powers on behalf of the whole Health Assembly (which itself represents all Member Governments of the Organization). The Australian Government wishes to establish firmly the principle that, as in most other intergovernmental organizations, the Board is a group of elected Member Governments which acts on behalf of the total membership of the Organization, and not a group of individuals which so acts.

6. The Australian Government believes that experts serving in an individual capacity on a body such as the Executive Board are placed in an anomalous position. Some, under the interpretation given to the Constitution by themselves and their governments, will accept an official responsibility to their governments and register their opinions and votes in accordance with this conception. Other members of the Board do not hold this view, and likewise the Administration is conducted on a contrary assumption. The proposed amendment will clarify this situation.

Article 55:

1. Under the proposed amendment the Director-General, drawing his authority from Articles 34 and 55, will present budget estimates to the Executive Board for transmission to the Health Assembly. The Health Assembly has full authority to amend the Budget in whatever way it considers necessary in the interests of the Organization.

2. In practice it is a fact that neither the Health Assembly nor the Annual Conference of any other Specialized Agency can, in the few days at its disposal, analyse in detail the financial implications of various alternative programme proposals, the accuracy of estimates of costs and the possibilities of achieving greater economy or improved efficiency through alternative administrative methods.

3. It is the view of the Australian Government that the Executive Board should undertake the task of making a detailed examination of the budget estimates, using subordinate machinery for appropriate purposes, to assist the Health Assembly.
4. There should be no limit on the right of the Executive Board to express its views to the Health Assembly on administrative and budgetary questions. In order that the views of the Executive Board may be presented to the Health Assembly in a way which is unambiguous, precise and amenable to prompt decision by the Health Assembly, there should be no doubt that the power of recommendation to the Health Assembly includes the power of recommending specific amendments to the Budget presented by the Director-General.

5. The foregoing deals with powers. In practice, the power to recommend an amendment to the Budget may not be used. The Executive Board may not wish to suggest amendments. Another possibility is that the Director-General, after hearing the views of the Executive Board, may decide to amend his proposals to the Health Assembly to accord with the views of the Executive Board. Alternatively, the Director-General may decide (and it is completely within his discretion so to do) to maintain his view as to the most effective programme for the Organization and his estimate of what constitutes the wisest spending programme for the ensuing year. In such a case the Health Assembly will make the decision, in the light of the arguments maintained by the Director-General and any contrary views and amendments submitted by the Board.

6. In no other Specialized Agency is the view accepted that the power of the Executive Board is limited in the assistance which it can give the full conference of Members by way of comment or precise recommendation on the proposals of the Chief Administrator of the Organization.
Sir,

In accordance with Article 73 of the Constitution of the World Health Organization, I have the honour to transmit to you the texts of amendments to the Constitution proposed by the Governments of Norway and Sweden:

(a) AMENDMENTS PROPOSED BY THE GOVERNMENT OF NORWAY

Article 13: "The Health Assembly shall meet in regular biennial session and in such special sessions as may be necessary. Special sessions shall be convened at the request of the Board or of a majority of the Members."

Article 14: "The Health Assembly, at each regular session, shall select the country or region in which the next regular session shall be held, the Board subsequently fixing the place. The Board shall determine the place where a special session shall be held."

Article 25: "The Members shall be elected for four years and may be re-elected."

Article 34: "The Director-General shall prepare and submit to the Board the financial statements and budget estimates of the Organization."

Article 55: "The Director-General shall prepare and submit to the Board the biennial budget estimates of the Organization. The Board shall consider and submit to the Health Assembly such budget estimates, together with any recommendations which the Board may deem advisable.

(b) AMENDMENTS PROPOSED BY THE GOVERNMENT OF SWEDEN

Article 13: "The Health Assembly shall meet in regular session every two years and in such special sessions as may be necessary. Special sessions shall be convened at the request of the Board or of a majority of the Members."

Article 14: "The Health Assembly, at each regular session, shall select the country or region in which the next regular session shall be held, the Board subsequently fixing the place. The Board shall determine the place where a special session shall be held."
The Board, after consultation with the Secretary-General of the United Nations, shall determine the date of each regular and special session.

The Health Assembly shall elect its President and other officers at the beginning of each regular session. They shall hold office until their successors are elected.

These Members shall be elected for six years and may be re-elected.

The Director-General shall prepare and submit every two years to the Board the financial statements and budget estimates of the Organization.

The Director-General shall prepare and submit to the Board the biennial budget estimates of the Organization. The Board shall consider and submit to the Health Assembly such budget estimates, together with any recommendations the Board may deem advisable.

Transitional provisions: "At the first regular session of the Health Assembly, after the entry into force of the proposed amendments to this Constitution, elections shall be held for all the Members entitled to designate a person to serve on the Board. Such elections shall be held in accordance with Article 25 as amended; provided that of the Members elected at such first session, the terms of six Members shall be for two years and the terms of six Members shall be for four years, as determined by lot."

I have the honour to be,

Sir,
Your obedient Servant,

Dr. R. Gautier,
Acting Director-General.
AMENDMENT OF THE CONSTITUTION

The various proposals made by the Governments of India, Denmark, Australia, Norway and Sweden for the amendment of the Constitution have been examined by the Director-General.

These proposals fall into two groups; those affecting the Executive Board and those affecting the World Health Assembly. The proposed amendments of Chapter V of the Constitution (and certain other Articles) are largely similar insofar as it is proposed that the Assembly should in future meet in biennial session and not as hitherto annually.

Such studies as have been made in the time available indicate that these proposals give rise to important consideration affecting the programme and budget of the Organization, relationships, constitutional and legal aspects, etc., and warrant careful examination and comment.

In addition only a few replies have been received from Governments indicating their views on the proposal made by the Government of India, and no replies concerning the other propositions. This absence of opinion, due to the short lapse of time since the proposals were circulated, renders it difficult to formulate a considered report.

Therefore, unless the Executive Board should desire to make any specific comments or recommendations to the World Health Assembly concerning this matter, it is suggested that in view of the complexity of the considerations arising out of the proposals for amendment, further study be made. The following resolution is therefore submitted to the Board for consideration:

THE EXECUTIVE BOARD

HAVING NOTED the proposals for the amendment of the Constitution made by the Governments of India, Denmark, Australia, Norway and Sweden,

REQUESTS the Director-General to make further study regarding the considerations arising out of these proposals and to present a report thereon to the Third World Health Assembly.