

WORLD HEALTH
ORGANIZATION

ORGANISATION MONDIALE
DE LA SANTÉ

W3-4/SR/Min/20
24 April 1951

ORIGINAL: ENGLISH

SPECIAL COMMITTEE TO CONSIDER
DRAFT INTERNATIONAL SANITARY REGULATIONS

PROVISIONAL MINUTES OF THE TWENTIETH MEETING

Palais des Nations, Geneva

Tuesday, 24th April 1951 at 2.00 p.m.

CHAIRMAN: Dr. M.T. MORGAN (United Kingdom)

CONTENTS

Articles in the Main Body of the Regulations

Part III: Revised amendments to Articles 12-17 submitted by the United Kingdom delegation.
New proposed Articles 18 and 19.

Appendix 6

Part VII: Article 94

Part VIII: Articles 95 to 98 inclusive and 106

Deratting Certificate, Appendix 1.

Note: Corrections to these provisional minutes should be submitted in writing to Miss Chadwick, Room A.571, within 48 hours of their distribution.

1. ARTICLES IN THE MAIN BODY OF THE REGULATIONS

Revised Amendments to Articles 12-17 submitted by the United Kingdom delegation. New proposed Articles 18 and 19 (Document A3-4/SR/41)
(continued)

Revised Article 17

Dr. van de CALSEYDE (Belgium) proposed that "sanitary airports" should be defined and that in the French text the first sentence of paragraph 2 should read "Chaque aéroport sanitaire doit pouvoir disposer" to concord more precisely with the English text.

It was agreed that by implication a sanitary airport was an airport that complied with the provisions of paragraph 2.

Decisions:

- (1) It was agreed that in the French text the first line of paragraph 2 should be redrafted as suggested by the delegate for Belgium.
- (2) On the proposal of Dr. RAJA (India) it was agreed to amend paragraph 2(c) to read "facilities for efficient disinfection, disinsecting and destruction of rodents, and for any" .
- (3) A vote was taken and the proposal of Dr. SLOTBOOM (Netherlands) was adopted that paragraph 2(f) should apply to every airport open to international traffic.
- (4) Article 17 was adopted subject to the above amendments and referred to the Drafting Sub-Committee for revision.

New Proposed Article 18

Dr. DUREN (Belgium) proposed deletion of paragraph 2(c) and paragraph 3.

Mr. STOWMAN (United States of America) felt that paragraph 2 should be maintained and thought the provisions would be feasible if the word "sanitary" were added before "airport" in the first line.

Dr. DUREN (Belgium) while agreeing to the addition, maintained his proposal. Paragraph 2(c), would be very difficult of application and was in any case covered by sub-paragraph (b). Paragraph 3 was a matter for the local police and need not appear in international regulations.

Decisions:

- (1) A vote was taken on the United States proposal which was adopted.
- (2) A vote was taken on the proposal of the delegate of Belgium which was adopted.
- (3) A proposal by Dr. HALAWANI (Egypt) to delete the words "as far as practicable" in paragraph 1, line 3, was adopted by 13 votes to 5.
- (4) A vote was taken and a proposal by Dr. RAJA (India) to add "and runways and landing ground" at the end of paragraph 4 was adopted.

New Proposed Article 19

Mr. STOWMAN (United States of America), seconded by Dr. van de CALSEYDE (Belgium), proposed that a new sub-paragraph (c) should be added in paragraph 1 requiring that a list of airports provided with transit areas should be furnished as soon as practicable.

Decisions:

- (1) A vote was taken and the proposal was adopted.
- (2) Article 19 was adopted subject to the above amendment.

Consequential amendments:

Decisions:

- (1) In the absence of observations the consequential amendments were approved.
- (2) Document A3-4/SR/41 was approved as amended and referred to the Drafting Sub-Committee.

Appendix 6 - Health Part of the Aircraft General Declaration

Dr. BARRETT (United Kingdom) suggested that paragraph (a) should be brought into line with the Maritime Declaration of Health and should read "illness suspected of being of an infectious nature that has occurred on board during the flight" because there were physiological conditions that might be due to the height and rapidity of the flight which need not be included. Moreover he suggested that to draw attention to air sickness was not a good advertisement for civil aviation.

The CHAIRMAN suggested that as it would be a layman who would interpret the health part of the Aircraft General Declaration it might be advisable to add a note on the lines of that included under question 5 in the Maritime Declaration (Appendix 5).

Replying to Dr. EL-FAR, Bey (Egypt) who asked that information on the number of passengers on board and passengers disembarking should be included, the CHAIRMAN explained that the declaration under discussion formed part of a book which included all such information.

Decision: Appendix 6 was adopted subject to the amendment suggested by the delegate for the United Kingdom and was referred to the Drafting Sub-Committee.

Part VII - Sanitary Charges

Article 94

Mr. BERGMAN (Sweden) recalled that during a discussion on Article 46 at an earlier meeting the Swedish delegation had raised the point whether the preliminary inspection of a vessel before granting a deratting exemption certificate was to be considered as a medical examination for the purposes of Article 94, paragraph 1(a).

The definition of "medical examination" included "visit to and inspection of a vessel".

Dr. HALWANI (Egypt) said that charges should not be abolished. If they were, the health authority might be obliged to limit the number of medical officers with a resulting delay in inspection of vessels. Moreover, WHO should not infringe on the domain of the finance ministers who might have included such charges in the national budget nor would it be just to expect the taxpayer to contribute towards international trade. He therefore proposed the deletion of paragraph 1 and the reference thereto in paragraph 2.

Mr. STOWMAN (United States of America) said the United States Government based its approval of Article 94 on the principle that the various measures were prescribed for the protection of the national community. Medical examination of persons arriving in a country was carried out to protect the population of that country, as was vaccination which was included in paragraph 1(b) of Article 94, so that it would not be proper to charge the cost to the persons arriving. It might be argued that when a ship was infested with rats the shipowners should pay, but his Government felt that examination for the presence of rats was a matter of national protection. Therefore, although he would not call it a medical examination, he proposed that the inspection should be exempted from charges.

Dr. MALAN (Italy), while agreeing in principle with Article 94, felt that payment of indemnities to personnel in special circumstances, for instance, in the case of night work, should be envisaged.

Dr. HALAWANI (Egypt) wished to make it clear that he was not asking for the deletion of paragraph 1(b), since vaccination was a general protective measure,

but that it should be possible to charge for medical examination and especially night work involving laboratory expenses which might be a heavy burden to a State which had a large expenditure for health schemes.

Mr. HASELGROVE (United Kingdom) was in general agreement with the observations of the United States delegate. He felt that the Article in its present form struck a very fair balance in respect of the levying of charges.

Dr. MACLEAN (New Zealand) said that paragraph 1 appeared to refer to persons. If the committee was not in favour of charges in the case under discussion, a new sub-paragraph should be added to the following effect: "Any inspection of a ship before the granting of a deratting exemption certificate".

Mr. BERGMAN (Sweden) proposed that the definition of "medical examination" (page 8) should be amended by inclusion of the words "does not include periodic examination of vessels for the granting of certificates under Article 46".

Decision: It was decided by 14 votes to 6 that States should have the right to charge for the inspection of a ship before the issue of a periodic deratting exemption certificate. The question whether there should be a sub-paragraph to Article 94, paragraph 1, or whether the definition of "medical examination" should be amended was referred to the Drafting Sub-Committee.

Dr. HALAWAN (Egypt) reverting to his proposal to delete paragraph 1 and the reference thereto in paragraph 2, pointed out that in the case of the Suez Canal which was a waterway through which as many as forty ships a day passed on their way to various countries, the measures taken were for the protection of all those countries.

Decision: A vote was taken and the proposal of the delegate of Egypt was rejected.

In reply to a question by Dr. PADUA (Philippines), it was agreed that "the actual cost of the service rendered" in paragraph 2(b) included the costs of the materials used.

Dr. LENTJES (Netherlands), seconded by M. MASPETIOL (France) suggested that the second sentence of paragraph 2(c) was redundant and could be deleted.

Mr. GUTTERIDGE (Secretariat) speaking at the invitation of the CHAIRMAN, explained that the second sentence had been inserted in order to make it clear that there was not only to be no distinction between one foreign person or vessel and another but also between a national person or vessel and a foreign person or vessel.

M. MASPETIOL (France) suggested a draft on the following lines: "be levied without distinction as to nationality, domicile or residence in the case of persons, or as to nationality, flag, registry or ownership, and without distinction being made as between national and foreign vessels, aircraft, carriages, wagons and road vehicles" (original in French - unofficial translation).

Decision: It was agreed that the text should be referred to the Drafting Sub-Committee for revision.

Dr. MALAN (Italy) said that as a result of the decisions taken his proposal was no longer appropriate.

Decision: Article 94 was approved as amended and referred to the Drafting Sub-Committee for revision in the light of the discussion.

Part VIII - Various Provisions

Article 95

Dr. LENTJES (Netherlands) proposed the addition, after the words "these Regulations" in the first line, of the words "including Annexes A and B".

Dr. RAJA (India) asked what were the words "discriminate against any other such State" intended to mean. He said that quite often, even in the application of the Regulations, one country might wish to apply measures against another country so far as travellers and goods were concerned.

Mr. GUTTERIDGE (Secretariat) thought that the words could be read in conjunction with Article 94, paragraph 2(o). That paragraph, however, dealt merely with discrimination against private persons, so that it was necessary to have a special provision to deal with the question of discrimination between States.

He believed the intention of the wording in Article 95 was that, for example, if State A were applying certain measures it should apply them equally against State B and State C.

Dr. MACLEAN (New Zealand) suggested the following explanation: if State A were a yellow-fever receptive area and States B and C were in endemic areas, and State B was considered by State A to have a better health service than State C, State A might be tempted to impose restrictions on persons coming from State C.

M. MASPETIOL (France) thought there could be two interpretations: either a rigid one or the admission of a distinction justified by medical considerations. He suggested that the final phrase be amended on the following lines: after "provisions hereof", "make any distinction not justified by health conditions" (original in French - unofficial translation).

Dr. RAJA (India) thought that, given the same conditions with respect to more than one country, a State wishing to impose any measures should not make a distinction between, say, either of two other States. It would appear that, where provisions in the Regulations were of a permissive character, a State could act as envisaged by the delegate of New Zealand. The use of the word "shall" in Article 95, however, made it mandatory on States not to do so.

Dr. Raja said that it had repeatedly been stated that the purposes of the Regulations was to ensure minimum obstruction to the transportation of persons and goods. Where the provisions were permissive, a State could relax the measures: such relaxation would be in the public interest and would not be regarded as a form of discrimination.

He added that, as now drafted, the clause could be interpreted in a number of ways.

The CHAIRMAN said that, apart from health considerations - in view of the provisions of Article 94 - no discrimination was likely to be made on other grounds. There was a question, however, of whether a State making a distinction would have to justify it.

Dr. RAJA (India) said that, as the word "shall" was used in Article 95, and if the present wording of Article 21 were retained, and in view of the proposal to establish an International Sanitary Council with provision for appeals, any country which felt it had not been fairly treated could submit its complaint through the machinery provided and even to the International Court of Justice if necessary.

M. MASPETIOL (France) believed that such a case could be covered by the provisions of Article 107.

Decision: It was agreed that the Legal Working Party be asked to examine the Article in the light of the opinions expressed, and that the Drafting Sub-Committee, when redrafting the text, should make it quite clear that it be applied to the Annexes, Appendices and Certificates as well as the main body of the Regulations.

Article 96

Decision: The Article was adopted without discussion.

Article 97

Dr. REID (Canada) proposed that the words "who are" be substituted for "or" in the first line of paragraph 1.

The CHAIRMAN suggested that the words "Les migrants" might be used in the French text instead of "Les émigrants", but Dr. DUJARRIC de la RIVIERE (France) said that the word "migrants" would have no meaning in French and would not be used in an official document.

Mr. MOWAT, Observer, International Labour Organization, said that, although the word "migrants" was not good French, it was used by the ILO. He thought that "Les émigrants" as used in this Article was not satisfactory, because the measures would be applied more to immigrants than emigrants.

Regarding Article 97 as a whole, Mr. Mowat explained the work which the ILO had been doing for many years in connexion with migration problems and presented proposals for amending the Article.

As the present wording of the Article might, in his opinion, encourage States to impose additional measures, he would like to suggest deletion of the Article but realized that might not be acceptable to the committee on health grounds. He therefore proposed the deletion of Article 97 and the insertion in Article 98,

after sub-paragraph (d) of paragraph 1, a sub-paragraph (e) reading: "Migrants or seasonal workers". That would be governed by the first sentence of paragraph 1.

If that proposal were not acceptable, he suggested that the word "additional" in paragraph 1 of Article 97 be replaced by "sanitary measures not mentioned in these Regulations".

Dr. DUJARRIC de la RIVIERE (France) said that, apart from his remarks regarding the word "migrants", he considered that paragraph 1 was important from the epidemiological point of view. In Southern France seasonal workers were employed during part of the year, who were responsible for importing small-pox into the country.

The CHAIRMAN thought it would be difficult to incorporate in Article 98 the amendment suggested by the representative of the ILO, because it might restrict the liberty of States to make bilateral arrangements.

Dr. VOLLENWEIDER (Switzerland) said his delegation considered that Article 97 should be retained in its present form. Switzerland employed thousands of seasonal workers, who were examined both from the point of view of epidemic diseases and tuberculosis, and from one to 1.5% were refused because of the latter disease.

Mr. STOWMAN (United States of America) said that his country had considerable interest in the question of immigrants and seasonal workers. As States accepting them would be bound by the Regulations, he thought that the words "Migrants or seasonal workers" must be retained in Article 97. If those words were incorporated in Article 98, many agreements already made by the United States with other countries would be affected. He saw no objection, however, to deletion of the word "additional".

In reply to Dr. DUREN (Belgium), who thought that the word "additional" could be interpreted to mean going beyond the maximum stated in Article 21, or that the measures could be applied to diseases other than those covered by the Regulations, the CHAIRMAN explained that in former years, when large numbers of Eastern European emigrants had passed through Great Britain on the way to the United States as immigrants there, agreements had been made between the Governments of Poland (or the appropriate Government concerned), the United Kingdom and the United States that certain routine measures in connexion with the health and sanitary conditions of the travellers, additional to those laid down in the then existing Sanitary Conventions, should be applied.

Dr. JAFAR (Pakistan) considered that, as the principle had already been established that, where necessary, special measures should be applied - as in the case of the Pilgrimage traffic - there was no difference between one kind of mass migration and another. He therefore asked for the retention of Article 97, with the inclusion of the word "additional", to cover any additional action which might at any time be considered necessary.

Decision: It was decided, by vote, to retain Article 97, subject to the substitution of the words "sanitary measures not mentioned in these Regulations, in conformity with the laws and regulations of each State concerned" after "may be subjected to".

Article 98

Mr. STOWMAN (United States of America) proposed the insertion in the second line of the word "health" between "geographical" and "social".

Decision: The amendment was accepted and the Article was referred to the Drafting Sub-Committee.

Article 106

The CHAIRMAN said that the Legal Working Party had rightly considered that there was no need for them to examine this Article, but had also questioned whether it was necessary.

Mr. HASELCROVE (United Kingdom) proposed that the Article be deleted, because he considered that it was wrong in that it purported to define the Constitution of the Organization, and that the sentiments expressed were unnecessary.

Dr. DUJARRIC de la RIVIERE (France) supported the proposal.

Decision: It was decided by vote that the Article be deleted.

Deratting Certificate (Appendix I, p.68)

Decision: The draft certificate was accepted subject to amendment of footnote (b) in view of the new definition of "ship".

The meeting rose at 3.45 p.m.