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DE LA SANTÉ

FOURTH WORLD HEALTH ASSEMBLY

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ORIGINAL: ENGLISH

COMMITTEE ON ADMINISTRATION, FINANCE AND LEGAL MATTERS

PROVISIONAL MINUTES OF THE FOURTEENTH MEETING

Palais des Nations, Geneva

Thursday, 24 May 1951, at 10 a.m.

CHAIRMAN: Professor G.A. CANAPERIA (Italy)

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1. Emergency Action by the Economic and Social Council and specialized agencies to assist in maintaining international peace and security

Note: Corrections to these provisional minutes should be submitted in writing to Mr. Richards, Room A.571, within 48 hours of their distribution or as soon as possible thereafter.

## 1. FOURTH REPORT OF THE LEGAL SUB-COMMITTEE (documents A4/AFL/27 and A4/AFL/28)

The CHAIRMAN recalled that at its previous meeting the committee had referred the matter of emergency action by the Economic and Social Council and the specialized agencies to assist in the maintenance of international peace and security (Supplementary Agenda item 5.23) to the Legal Sub-Committee for further consideration. The sub-committee had held a meeting the previous afternoon under the chairmanship of M. Geeraerts (Belgium) and as a result had submitted the report contained in document A4/AFL/28. At a further meeting held that morning, the sub-committee had adopted the report with amendments as follows: the insertion of the words "the wording of" immediately preceding the words "paragraph 5" at the end of the third paragraph on page 1; and the deletion of paragraph 3 in the operative part of the resolution, and similarly on page 2 of the document, and its substitution by the following paragraph: "REQUESTS the Executive Board to keep under review the implementation of the provisions of this resolution and to report thereon to the Fifth World Health Assembly."

He also called attention to the resolution proposed by the delegation of India (document A4/AFL/27).

Dr. HOJER (Sweden) considered that although the United States amendment incorporated in the resolution submitted by the Legal Sub-Committee was the logical consequence of the request made by the Economic and Social Council and basically did not change the existing state of affairs between the United Nations and WHO concerning emergency action, the political implications of such a step could not be disregarded.

As a technical body, he did not believe that WHO was called upon to adopt a resolution of that nature. He accordingly proposed an alternative resolution to

that submitted by the Legal Sub-Committee, reading as follows.

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NOTES with satisfaction the answer of the Director-General in his letter of 8 April 1951 on behalf of the Organization to the Secretary-General of the United Nations regarding the resolution of the Economic and Social Council adopted on 14 March 1951, and

CONFIRMS the statement of the Director-General.

Sir Dhiren MITRA (India) called attention to the third paragraph of the resolution contained in the annex to document A4/AFL/28. He noted that it was impossible for members of the committee to come to a decision in the light of the discussion on the subject in the Council, as the resolution specified, since the records of that meeting of the Council were not available. Referring to the first paragraph of the operative part of the resolution submitted by the sub-committee, he considered that it did in fact introduce the substance of the proposed United States amendment to the present Article VII in the Agreement between the United Nations and WHO without actually amending the article itself. Finally, he thought that a resolution providing for action upon the request of the Security Council or the General Assembly might lead to a confusing situation if the General Assembly and the Security Council were in disagreement over any matter upon which there was some question of requesting emergency action.

Rajkumari Amrit KAUR (India), presenting her delegation's resolution, emphasized the fact that a decision on the question of emergency action to assist in the maintenance of international peace and security was of fundamental importance, since it directly concerned governmental policies. Her delegation felt therefore that members should be afforded adequate time to consult their governments on the subject. Action in the event of an emergency could only mean

action in the event of war, and though WHO was of course pledged to work for the maintenance of peace and security through its service potential, she did not think that any government could decide upon measures for taking action when such an emergency did not at the present time exist.

She was most strongly opposed to the resolution proposed by the sub-committee and believed that the only reasonable course for the committee to follow would be to approve the Director-General's statement and refer the matter to the Executive Board. The Swedish delegation's resolution was, in her view, very similar to that of her delegation in substance.

Dr. EVANG (Norway) did not believe that the question of co-operation between the United Nations and WHO really arose, since WHO had always shown the utmost willingness to collaborate with the United Nations and the other specialized agencies in the cause of peace. He had strong doubts, however, as to the desirability of a decision which was somewhat political in nature being taken by a technical body. In view of the fact that he had not had sufficient opportunity to consult his Government, he would vote in favour either of the resolution submitted by the Swedish delegation or of that submitted by the delegate of India.

Mr. MASON (New Zealand) thought that Sir Dhiren Mitra had misinterpreted the third paragraph of the Legal Sub-Committee's resolution, since the words "in the light of the discussion on this subject in the Council" referred to the request made by the Economic and Social Council to the Secretary-General and did not refer to the specialized agencies. Furthermore, the Legal Sub-Committee had by an overwhelming majority, confirmed the view that the resolution as amended did not in any degree conflict with the Constitution or with the agreement

between the United Nations and the World Health Organization.

In considering the reason why WHO should study the possible procedure for acceding to a request from the General Assembly itself without waiting for such a request to be transmitted through the Economic and Social Council, it was imperative for the committee to bear in mind the necessity of early action; since provision was being made for emergency action either in war or in peace. The fundamental consideration was the saving of human lives and, in that connexion, the slightest delay might prove dangerous and might result in grave deterioration of the health factors involved. The question centred on the value attributed to each human life. In any case, since specific provision had been included to the effect that arrangements to cover emergency action would be limited by constitutional and budgetary considerations, he did not think there was any valid reason which would prevent the committee from adopting the resolution recommended by the Legal Sub-Committee.

Dr. van den BERG (Netherlands) supported the view expressed by the previous speaker.

Mr. CALDERWOOD (United States of America) thought that the delegate of New Zealand had replied fully to the legal considerations raised by the delegate of India. The question of a conflict of opinion between the Security Council and the General Assembly did not really arise, since the General Assembly's view would always override that of the Security Council and, in any case, provision such as that included in the resolution was desirable precisely in order to combat the eventuality of the Security Council's being unable to act in the sense of the majority of the Assembly owing to the rule of unanimity.

In view of the statements made by the delegates of India, Sweden and Norway

as to the appropriate course of action to be undertaken by the specialized agencies in making provision for emergency action, he emphasized that WHO had already assumed obligations in that connexion under Article VII of its Agreement with the United Nations and that adoption of the resolution submitted by the Legal Sub-Committee would not in any way alter the existing situation but would merely bring the position into conformity with the resolution adopted by the General Assembly by an overwhelming majority of its Members. It would have appeared to him preferable that WHO should have made provision for action in the event of an emergency by amending Article VII of its agreement with the United Nations. However, since the general view seemed to be that the Health Assembly could act more speedily in that respect by adopting a separate resolution, he was prepared to support such a resolution since it would always be open to the Organization to amend the agreement at some later stage.

In the interest of solidarity with the United Nations and with those Members, who constituted the vast majority, who were doing their utmost to facilitate the implementation of their obligations under the Charter, he strongly urged the committee to support the resolution of the Legal Sub-Committee.

Dr. PADUA (Philippines) said that he had supported the adoption of the resolution contained in document A4/AFL/28 during the previous day's debate. Since then the Legal Sub-Committee had met and declared this resolution to be perfectly in order legally. The only questions now to be considered were whether it was proper and timely for the Assembly to adopt such a resolution. His delegation felt that this was so. All nations wanted peace and the aims of WHO were to improve world health conditions as a vital contribution to lasting peace and security. The adoption of this resolution gave an opportunity for WHO to

stress this primary aim, and he must oppose any attempt to delay or hinder this action.

The CHAIRMAN asked whether the delegates of India and Sweden could not combine their proposed texts into one resolution.

Rajkumari Amrit KAUR (India) regretted that her delegation was not prepared to delete paragraph 2 of its resolution.

Dr. HOJER (Sweden) maintained that this paragraph was unnecessary and felt also that his proposed rewording of paragraph 1 was more complete.

Mr. CALDERWOOD (United States of America) recalled that WHO had already responded to one request for emergency assistance from the United Nations and that this immediate action had certainly been responsible for saving many lives. The present question was merely whether WHO would respond in the same manner to possible future requests emanating from the General Assembly of the United Nations, instead of from the Security Council only.

Dr. EVANG (Norway) agreed that WHO must always be in a position to act quickly in response to a United Nations appeal for aid, but felt that adoption of the resolution in document A4/AFL/28 was not necessary in this respect. The final paragraph of the Director-General's letter on the subject to the Secretary-General of the United Nations made it clear that "the provisions quoted above enable the World Health Organization to co-operate with the United Nations in accordance with the resolution of the Economic and Social Council of 14 March 1951, on emergency action to assist in the maintenance of international peace and security."

Dr. HOJER (Sweden) and Rajkumari Amrit KAUR (India) supported this statement and felt that their proposed resolutions endorsing the letter of the Director-General provided the necessary assurance that the Organization would be in a position to render emergency aid on request and that no further statement was required at this time.

On the request of the CHAIRMAN, the SECRETARY asked whether the delegates of Sweden and India would agree to joint sponsorship of an amended resolution which he had drafted as follows:

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1. APPROVES of the position as stated in the Director-General's letter to the Secretary-General of the United Nations as set out in document A4/42, regarding the resolution adopted by the Economic and Social Council of the United Nations on 14 March 1951 on emergency action to assist in the maintenance of international peace and security, and declares accordingly; and
2. REQUESTS the Executive Board to examine the position further and recommend to the Fifth World Health Assembly any further declaration that may be considered necessary.

The delegates of both countries agreed to this rewording and Dr. HOJER (Sweden) withdrew his proposal for the deletion of paragraph 2.

On the request of Dr. TABA (Iran), the DIRECTOR-GENERAL clarified the statements made in his letter to the Secretary-General of the United Nations. This letter was based on sound legal grounds and indicated that WHO was constitutionally and financially able to render emergency assistance on request. The resolution of the Economic and Social Council, however, asked for more than this assurance. It required WHO to declare its intention of complying with requests for aid from the General Assembly, which was not quite the same thing.

Mr. CALDERWOOD (United States of America) thanked the Director-General for his clarification but pointed out that his letter contained no reference to Article VII of the agreement between the United Nations and the World Health Organization. His point was that in accepting the resolution of the Economic and Social Council, WHO would not be assuming new obligations but merely endorsing the previous agreement. Should the committee so desire, he would reintroduce his proposal for amendment of Article VII of the agreement. Since all members of the United Nations family, whether political or purely technical, as in the case of WHO, were being requested to accept the resolution as a matter of form, he did not see why there should be any objection from the Health Assembly.

In reply to Mr. TALJARD (Union of South Africa), the DIRECTOR-GENERAL further explained the new position. The wording of the Economic and Social Council's resolution was such as to place the relationship of WHO towards the General Assembly of the United Nations on the same basis as its present relationship with the Security Council. However, the present resolution contained certain safeguards - i.e., "within the constitutional budgetary limitations of the agencies to meet urgent requests", and "in accordance with constitutional and budgetary provisions" - which did not exist in the agreement with the Security Council.

Under Article 51 of the Rules of Procedure the CHAIRMAN then put to the vote the resolution presented by the delegates of India and Sweden, declaring that in accordance with the request of the delegate of the United States of America, the vote would be taken by roll-call.

The result of the vote was as follows:

In favour: Afghanistan, Austria, Burma, Cambodia, Iceland, India, Indonesia, Sweden, United Kingdom, Yugoslavia.

Against: Australia, Belgium, Brazil, Canada, Chile, Denmark, France, Italy, Laos, Lebanon, Monaco, Netherlands, New Zealand, Philippines, Portugal, Union of South Africa, United States of America.

Abstentions: Iran, Ireland, Israel, Mexico, Norway, Pakistan, Saudi Arabia, Switzerland, Syria, Thailand, Viet Nam.

Decision: The resolution was rejected by 17 votes to 10, with 11 abstentions.

A vote was then taken by roll-call on the resolution contained in the annex to document A4/AFL/28.

In favour: Australia, Belgium, Brazil, Burma, Canada, Chile, Denmark, France, Iran, Israel, Italy, Laos, Lebanon, Mexico, Monaco, Netherlands, New Zealand, Philippines, Portugal, El Salvador, Union of South Africa, United States of America.

Against: None.

Abstentions: Afghanistan, Austria, Cambodia, Iceland, India, Indonesia, Ireland, Norway, Pakistan, Saudi Arabia, Sweden, Switzerland, Syria, Thailand, United Kingdom, Viet Nam, Yugoslavia.

Decision: The resolution contained in the annex to document A4/AFL/28 was adopted by 22 votes to none, with 17 abstentions.

In order to avoid the necessity for a further meeting, the CHAIRMAN proposed insertion of this resolution in the committee's fifth report to the Health Assembly.

It was so agreed.

The CHAIRMAN thanked all delegates for their co-operation and collaboration, which had facilitated his task. He paid special tribute to the unfailing and competent assistance rendered by Dr. Gear as representative of the Executive Board, by the Vice-Chairman and Rapporteur and the Chairman of the Legal

Sub-Committee and the working party.

On the proposal of Rajkumari Amrit KAUR a hearty vote of thanks was given to the Chairman for his able conduct of the business of the committee.

The meeting rose at 11.45 a.m.