

5. CONSTITUTIONAL AND LEGAL MATTERS

For resolutions concerning health legislation, see Volume I, pages 35 and 182, and page 62 of this volume.

For policy on patents, see resolutions EB69.R7 and WHA35.14, pages 81 and 82 of this volume.

5.1 AMENDMENTS TO THE CONSTITUTION*

For previous resolutions, see Volume I, page 343.

1. Articles 34 and 55 (Biennial Budgeting)

WHA26.37 The Twenty-sixth World Health Assembly,

Having examined the desirability of introducing a biennial programme and budget as set out in resolution WHA25.24 and in the report of the Director-General to the Twenty-fifth World Health Assembly on this subject;¹

Considering the recommendation made to the Twenty-sixth World Health Assembly by the Executive Board at its fifty-first session in resolution EB51.R51² that a programme and budget for a biennial period be introduced as soon as possible and to adopt the proposed amendments to Articles 34 and 55 of the Constitution; and

Noting that the provision of Article 73 of the Constitution, which requires that the texts of proposed amendments to the Constitution shall be communicated to Members at least six months before consideration by the Health Assembly, has been duly complied with,

I

1. ADOPTS the amendments to the Constitution set forth in the Annexes to this resolution, and which shall form an integral part of this resolution, the texts in the Chinese, English, French, Russian and Spanish languages being equally authentic;

2. DECIDES that two copies of this resolution shall be authenticated by the signatures of the President of the Twenty-sixth World Health Assembly, and the Director-General of the World Health Organization, of which one copy shall be transmitted to the Secretary-General of the United Nations, depositary of the Constitution, and one copy retained in the archives of the World Health Organization;

* Only the English text of amendments included in resolutions is reproduced here. For the text in other languages, see the relevant volume of WHO Official Records.

II

Considering that the aforesaid amendments to the Constitution shall come into force for all Members when accepted by two-thirds of the Members in accordance with their respective constitutional processes, as provided for in Article 73 of the Constitution,

DECIDES that the notification of such acceptance shall be effected by the deposit of a formal instrument with the Secretary-General of the United Nations, as required for acceptance of the Constitution by Article 79(b) of the Constitution.

Annex B: English Text

In Article 34 delete the word "annually";
In Article 55 delete the word "annual",
the amended Articles reading as follows:

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 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.

May 1973 209, 19

¹ WHO Official Records, No. 201, 1972, p. 68.
² See p. 183.

EB55.R10 The Executive Board,

Recalling resolution WHA26.37 adopting amendments to Articles 34 and 55 of the Constitution;

Noting that the acceptance of the amendments by the required majority of Members has not so far been obtained; and

Considering the desirability of proceeding as soon as possible to a true biennial budget cycle,

RECOMMENDS to the Twenty-eighth World Health Assembly the adoption of the following resolution:¹

.....

Jan. 1975 223, 7

¹ The Health Assembly adopted as resolution WHA28.74, the text recommended by the Board, after substituting "thirty-four Members" for "twenty Members" in the third paragraph of the preamble.

WHA28.74 The Twenty-eighth World Health Assembly,

Recalling resolution WHA26.37 adopting amendments to Articles 34 and 55 of the Constitution;

Reiterating the desirability of proceeding as soon as possible to a biennial budget cycle;

Noting that so far only 34 Members have accepted resolution WHA26.37;

Noting that the amendments cannot come into force until two-thirds of the Members have deposited with the Secretary-General of the United Nations a formal instrument notifying acceptance of the amendments,¹

1. URGES Members that have not yet notified their acceptance to the Secretary-General of the United Nations to do so within the shortest possible time; and

2. REQUESTS the Director-General to communicate this resolution to the Secretary-General of the United Nations and to the Members concerned.

May 1975 226, 42

¹ The amendments came into force on 3 February 1977 (see also resolution WHA30.20, p. 184).

2. Articles 24 and 25 (Number of Members of the Executive Board)

WHA26.62 The Twenty-sixth World Health Assembly,

Recalling the Executive Board's very important role in the life and functioning of the Organization, as has been shown once again by the quality of the reports submitted to the Twenty-sixth World Health Assembly, and the importance of ensuring that a greater number of Member States take part in its activities;

Considering resolution WHA20.36 of 23 May 1967 amending Articles 24 and 25 of the Constitution with a view to increasing the membership of the Board from 24 to 30;

Believing that the regular rise in the number of Member countries (from 126 at the end of 1967 to 138 in 1973) makes it more imperative than ever to increase the number of countries entitled to designate a person to serve on the Executive Board;

Noting that up till now 70 States have ratified resolution WHA20.36;

Noting that the resolution cannot come into force until two-thirds of the Member States—i.e., at the present moment

92—have deposited a formal instrument notifying acceptance of the amendments with the Secretary-General of the United Nations,

1. URGES those Member States which have not yet notified their acceptance to do so within the shortest possible time; and

2. REQUESTS the Director-General to communicate this resolution to the Secretary-General of the United Nations and to the Member States concerned.

May 1973 209, 36

WHA28.22 The Twenty-eighth World Health Assembly,

Considering the entry into force of the amendments to Articles 24 and 25 of the Constitution, increasing the membership of the Executive Board from 24 to 30;¹

Considering that the equitable geographical distribution of seats on the Executive Board would be facilitated by a further increase in its membership,

REQUESTS the Director-General to propose for the consideration of the Twenty-ninth World Health Assembly draft amendments to the Constitution in order to permit a further marginal increase, so that each region could designate at least one new member to the Executive Board each year, and to transmit such draft amendments to Members at least six months in advance of their consideration in accordance with the provision of Article 73 of the Constitution.

May 1975 226, 9

¹ These amendments came into force on 21 May 1975; for their application, see resolution WHA28.19, p. 230.

EB57.R40 The Executive Board,

Considering resolution WHA28.22 on the subject of a further marginal increase in the membership of the Executive Board in order to permit the election from each WHO region of at least three Members entitled to designate persons to serve on the Executive Board; and

Having reviewed the proposals made by the Director-General and the replies received from Members,

TRANSMITS to the Twenty-ninth World Health Assembly the record of its discussions on this subject.¹

Jan. 1976 231, 30

¹ WHO Official Records, No. 232, 1976, p. 342.

WHA29.38 The Twenty-ninth World Health Assembly

1. ADOPTS the following amendments to Articles 24 and 25 of the Constitution, the texts in the Chinese, English, French, Russian and Spanish languages being equally authentic:¹

.....

ENGLISH TEXT

Article 24 — Delete and replace by

Article 24

The Board shall consist of thirty-one persons designated by as many Members. The Health Assembly, taking into account an

equitable geographical distribution, shall elect the Members entitled to designate a person to serve on the Board, provided that, of such Members, not less than three shall be elected from each of the regional organizations established pursuant to Article 44. Each of these Members should appoint to the Board a person technically qualified in the field of health, who may be accompanied by alternates and advisers.

Article 25 — Delete and replace by

Article 25

These Members shall be elected for three years and may be re-elected, provided that of the eleven members elected at the first session of the Health Assembly held after the coming into force of the amendment to this Constitution increasing the membership of the Board from thirty to thirty-one the term of office of the additional Member elected shall, insofar as may be necessary, be of such lesser duration as shall facilitate the election of at least one Member from each regional organization in each year.

2. DECIDES that two copies of this resolution shall be authenticated by the signatures of the President of the Twenty-ninth World Health Assembly and the Director-General of the World Health Organization, of which one copy shall be transmitted to the Secretary-General of the United Nations, depositary of the Constitution, and one copy retained in the archives of the World Health Organization;

3. DECIDES that the notification of acceptance of these amendments by Members in accordance with the provisions of Article 73 of the Constitution shall be effected by the deposit of a formal instrument with the Secretary-General of the United Nations, as required for acceptance of the Constitution by Article 79(b) of the Constitution.

May 1976 233, 21

¹ The amendments came into force on 20 January 1984.

See also decision EB65(5), concerning the membership of the Executive Board, page 229 of this volume.

3. Article 74 (Adoption of Authentic Arabic Text of the Constitution)

WHA31.18 The Thirty-first World Health Assembly

1. ADOPTS the amendment to Article 74 of the Constitution annexed hereto, the texts in the Arabic, Chinese, English, French, Russian and Spanish languages being equally authentic;

2. ADOPTS the Arabic text of the Constitution annexed hereto ¹ as the text which shall constitute the authentic Arabic text of the Constitution upon the entry-into-force of the above-mentioned amendment to the Constitution.

AMENDMENT TO ARTICLE 74 OF THE CONSTITUTION

ENGLISH TEXT

Article 74 — Delete and replace by:

Article 74

The Arabic, Chinese, English, French, Russian and Spanish texts of this Constitution shall be regarded as equally authentic.

May 1978 247, 11

¹ This text is reproduced only in the Arabic edition of WHO Official Records, No. 247, 1978.

4. Articles 13, 14, 15 and 16 (Biennial Health Assemblies)

WHA33.19 The Thirty-third World Health Assembly,

Having considered the Director-General's report on the study of WHO's structures in the light of its functions,¹ prepared in response to resolution WHA31.27,² and in particular the Director-General's report on the periodicity of Health Assemblies,³ and resolution EB65.R12;⁴

Having also considered the Executive Board's review of the periodicity of Health Assemblies,⁵ in response to resolution WHA32.26;⁶

Understanding that a change from annual to biennial Health Assemblies would necessitate changing the text of Articles 13, 14, 15 and 16 of the Constitution as set out in the Director-General's report;³

Considering that action by the Health Assembly to amend the Constitution under Article 73 is not possible until the Members have had at least six months in advance of the Health Assembly to consider the text of any proposed amendment to the Constitution;

1. REQUESTS the Director-General, within the provisions of Article 73 of the Constitution, to transmit this resolution, as well as the text of the proposed constitutional amendments, to Member States for their consideration;

2. URGES Member States to give careful attention over the coming year to the necessary constitutional changes as set out in the Director-General's report;³

5. RECOMMENDS that the Thirty-fourth World Health Assembly in 1981, under Articles 73 and 60 of the Constitution, and on

the basis of recommendations and conclusions of the Executive Board, consider amending the texts of Articles 13, 14, 15 and 16 of the Constitution in order to permit the change from annual to biennial Health Assemblies, and at the same time consider taking other decisions relating to WHO's structure;

¹ Document WHA33/1980/REC/1, p. 82, and document EB65/1980/REC/1, pp. 156, 172 and 192.

² See p. 245.

³ Document EB65/1980/REC/1, p. 156.

⁴ See p. 47.

⁵ Document EB65/1980/REC/2, p. 173.

⁶ See p. 212.

May 1980 WHA33/1980/REC/1, 19

See also resolution WHA34.28, page 213 of this volume.

5.2 MEMBERSHIP

5.2.1 DECISIONS CONCERNING INDIVIDUAL STATES AND TERRITORIES

For previous resolutions, see Volume I, page 346.

1. Member States

Below are listed the resolutions by which individual States have been admitted to membership of WHO since the Twenty-sixth World Health Assembly.

| | Resolution | Official Records or document No. | Date |
|--|------------|--|----------|
| German Democratic Republic | WHA26.2* | 209, 2 | May 1973 |
| Democratic People's Republic of Korea | WHA26.28 | 209, 14 | May 1973 |
| Guinea-Bissau | WHA27.22** | 217, 10 | May 1974 |
| Tonga | WHA28.1 | 226, 1 | May 1975 |
| Democratic Republic of Viet-Nam*** | WHA28.2 | 226, 1 | May 1975 |
| Mozambique | WHA28.3** | 226, 1 | May 1975 |
| Angola | WHA29.1 | 233, 1 | May 1976 |
| San Marino | WHA33.1 | WHA33/1980/ REC/1.1 | May 1980 |
| Zimbabwe | WHA33.2 | WHA33/1980/ REC/1.1 | May 1980 |
| Cook Islands | WHA37.1 | WHA37/1984/ REC/1.1 | May 1984 |
| Kiribati | WHA37.2 | WHA37/1984/ REC/1.1 | May 1984 |

* See also Vol. I, p. 347.

** Reproduced below.

*** The Democratic Republic of Viet-Nam and the Republic of South Viet-Nam were unified on 2 July 1976 under the name of the Socialist Republic of Viet Nam.

WHA27.22 The Twenty-seventh World Health Assembly,

Recalling United Nations General Assembly resolution 1514 (XV) of 14 December 1960 on the Declaration on the Granting of Independence to Colonial Countries and Peoples;

Recalling the Proclamation of Independence of the Republic of Guinea-Bissau on 24 September 1973 as a result of the armed struggle waged by the people of that country in exercise of their legitimate right to self-determination and independence, in

conformity with the provisions of the United Nations Charter and General Assembly resolution 1514 (XV) of 14 December 1960;

Recalling further United Nations General Assembly resolution 3061 (XXVIII) welcoming the recent accession to independence of the people of Guinea-Bissau, thereby creating the sovereign State of the Republic of Guinea-Bissau;

Noting that more than 75 Member States of WHO have recognized the new Republic of Guinea-Bissau;

Having considered the application for membership of the World Health Organization by the Republic of Guinea-Bissau;

Noting with satisfaction the decision of the Seventeenth Conference of FAO to admit the Republic of Guinea-Bissau as a full member of that Organization,

DECIDES to admit the Republic of Guinea-Bissau as a Member of WHO.

May 1974 217, 10

WHA28.3 The Twenty-eighth World Health Assembly

ADMITS Mozambique as a Member of the World Health Organization, this admission to have effect from the date of attainment of independence by Mozambique, to take place on 25 June 1975, and subject to the deposit of a formal instrument with the Secretary-General of the United Nations in accordance with Article 79 of the Constitution.

May 1975 226, 1

2. Associate Members

WHA27.23 The Twenty-seventh World Health Assembly,

Recalling United Nations General Assembly resolution 3111 (XXVIII) requesting the specialized agencies to take such necessary steps as would enable the United Nations Council for Namibia, as the legal authority for Namibia, to participate fully, on behalf of Namibia, in the work of these agencies;

Having considered the application made on behalf of Namibia by the United Nations Council for Namibia for admission of Namibia as an Associate Member of WHO;

Noting that the Namibia Liberation Movement (SWAPO) is recognized by the United Nations and the Organization of African Unity as the authentic representative of the Namibian people;

Having considered paragraph 1.9 of the report of the Director-General on coordination within the United Nations system on general matters,

DECIDES to admit Namibia as an Associate Member of WHO, in conformity with Article 8 of the Constitution of WHO, and to invite the United Nations Council for Namibia to designate a representative to participate in the work of WHO.

May 1974 217, 10

5.2.2 RIGHTS AND OBLIGATIONS OF ASSOCIATE MEMBERS (AND OTHER TERRITORIES)

For previous resolutions, see Volume I, page 347.

WHA28.37 The Twenty-eighth World Health Assembly,

Having considered resolution AFR/RC24/R8 on the participation in the Regional Committee for Africa of Members not having their seat of government within the region,¹

1. DECIDES to give effect to operative paragraph 4 of resolution AFR/RC24/R8 and to request the Director-General and the Regional Director to act accordingly; and
2. REQUESTS the Director-General and the Regional Directors to bring these resolutions to the attention of other regional committees.

May 1975 226, 17

¹ See WHO Official Records, No. 226, 1975, p. 71.

5.2.3 ACTION BY CERTAIN STATES WITH REGARD TO MEMBERSHIP

For resolutions on this subject, see Volume I, page 351.

5.2.4 REPRESENTATION OF A MEMBER STATE

For resolutions on this subject, see Volume I, page 353.

5.2.5 ACTION BY HEALTH ASSEMBLY REGARDING RIGHTS AND SERVICES

For previous resolutions, see Volume I, page 353.

For the majority vote required for the suspension of rights and services, see resolution WHA32.12, page 215 of this volume.

WHA28.49¹ The Twenty-eighth World Health Assembly,

Considering resolution 3300 (XXIX) of the General Assembly of the United Nations on implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples by the specialized agencies and the international institutions associated with the United Nations, in which the General Assembly: "draws the attention of the specialized agencies and the institutions associated with the United Nations to the steps towards decolonization undertaken by the new Government of Portugal, thus enabling these organizations to resume their cooperation with the present Government of Portugal";

Considering further resolution EUR/RC24/R10 of the Regional Committee for Europe at its twenty-fourth session;

Recalling operative subparagraph (a) of resolution WHA21.34,

DECIDES to restore to Portugal the full right to receive assistance from the World Health Organization.

May 1975 226, 25

¹ Text recommended by the Board in resolution EB55.R57, which is not reproduced in this volume.

VOTING PRIVILEGES AT HEALTH ASSEMBLIES

From 1973 to 1984 inclusive the Health Assembly, each year, adopted resolutions relating to Members in arrears in the payment of their contributions to an extent which may invoke the provisions of Article 7 of the Constitution. These resolutions are reproduced on page 289 et seq. of this volume. Regarding the suspension of voting privileges at Health Assemblies, see resolutions WHA26.15 (May 1973), WHA27.10 (May 1974), WHA28.18 (May 1975) and WHA30.12 (May 1977). For the other action taken see, in addition, resolution WHA29.5 (May 1976); resolutions WHA31.24 (May 1978) and WHA32.17 (May 1979); resolution WHA33.7 (May 1980); resolutions WHA34.3 (May 1981), WHA35.5 (May 1982) and WHA36.5 (May 1983); resolution WHA37.6 (May 1984); and resolution WHA37.7, which is reproduced in part below.

WHA37.7 The Thirty-seventh World Health Assembly,

Having considered the report of the Committee of the Executive Board to Consider Certain Financial Matters prior to the Thirty-seventh World Health Assembly on Members in arrears to an extent which may invoke the provisions of Article 7 of the Constitution;

1. EXPRESSES serious concern at the number of Members which in recent years have been subject to Article 7 of the Constitution;

4. CONSIDERS that in future years the Health Assembly should decide to suspend the voting rights of Members subject to Article 7 of the Constitution as a matter of course, unless in a particular case there are exceptional circumstances justifying

the retention of the right to vote which have been communicated by the Member concerned;

.....
May 1984 WHA37/1984/REC/1, 3

5.3 PRIVILEGES AND IMMUNITIES

For previous resolutions,
see Volume I, page 354.

HOST AGREEMENT WITH THE GOVERNMENT OF THE PHILIPPINES

NOTES with satisfaction that the relevant section of the host agreement will soon be re-negotiated by the Government of the Republic of the Philippines and the World Health Organization.

For previous resolutions,
see Volume I, page 357.

Jan. 1978 244, 7

*
* *
*

For the referral to the International Court of Justice of the question of the interpretation of the Agreement with the Government of Egypt and for subsequent action by the Health Assembly and the Executive Board, see resolutions WHA33.16, WHA34.11, EB69.R15, WHA35.13, WHA36.18 and WHA37.20, pages 258, 259 and 260 of this volume.

EB61.R9 The Executive Board.

Having considered the information and the report presented by the Regional Director for the Western Pacific on the interpretation of the host agreement between the Government of the Republic of the Philippines and the World Health Organization, signed on 22 July 1951;

5.4 OFFICIAL INSIGNIA

For resolutions on this subject, see Volume I, page 359.

5.5 TRANSFER OF FUNCTIONS AND ASSETS

For resolutions on this subject, see Volume I, page 360.