

**Modalities and methods of work of the Executive Board and
Rules of Procedure of the Executive Board and World Health Assembly**

- paper for consultation with Member States -

1. This document responds to three different mandates. **Part A** follows up to a meeting between the Director-General and the Officers of the Executive Board on 31 July – 1 August, where the Officers recommended that Member States be requested to contribute their views on the roles and methods of work of the Executive Board and its Officers, with a view to improving efficiency and equity in decision-making. **Part B** responds to a mandate contained in decision WHA69(8), which requested the Director-General, inter alia, “to prepare an analysis of the current Rules of Procedure of the Executive Board and Rules of Procedure of the World Health Assembly in order to identify interpretational ambiguities and gaps *in the processes for the inclusion of additional, supplementary and urgent agenda items and to make recommendations on the further improvement of those processes*; and to report to the Seventy-first World Health Assembly through the Executive Board”. **Part C** responds to a mandate contained in decision EB141(8) on governance reform: follow-up to decision WHA69(8) (2016), where the Board requested, inter alia, “that the Secretariat’s analysis of current Rules of Procedure of the Executive Board and Rules of Procedure of the World Health Assembly in respect of additional, supplementary and urgent items, to be prepared in accordance with decision WHA69(8), *also address other ambiguities, gaps and other shortcomings in the Rules of Procedure of the governing bodies*”.

2. This document is intended to inform an online consultation, in which written comments will be received. A further document, taking into account the consultation, will be prepared for the Executive Board at its 142nd session in January 2018.

3. The following is intended to serve as a roadmap through this document and the questions on which the Secretariat seeks written comments from Member States.

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| | <ul style="list-style-type: none"> - <i>Should a procedure to introduce automatic consideration of sun-setting of draft resolutions be introduced? Should existing resolutions and decisions be reviewed with a view to deciding whether they can be sun-setted?</i> - <i>Should the Executive Board establish a technical or other sub-committee, which would meet periodically and provide a forum for issues to be discussed and debated? Should that body be empowered to make decisions and/or to refer matters directly to the Assembly?</i> - <i>Should the Executive Board agenda distinguish between items that require discussion and those where a decision is expected to be taken without discussion? Should it consider issues that are for information only?</i> - <i>Should the Executive Board request that regional groups coordinate their positions to the extent possible and provide regional statements (rather than having several members of the same group take the floor)?</i> - <i>Should only members of the Executive Board be permitted to take the floor, with the views of other Member States being expressed through the members that they elected?</i> - <i>Should channels be provided for Member States to report on their experiences outside governing body meetings, such as through questionnaires (so as to minimize country statements during the session)?</i> - <i>Should agenda items be removed from the agenda if the relevant document is not available in all official languages, say, three weeks in advance of the session?</i> - <i>Should a clear division of labour be identified between the Health Assembly and the Executive Board? If so, how?</i> - <i>Should video tele-conferencing be available for meetings and consultations?</i> | |
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A. Measures to support efforts to improve the efficiency of the Governing Bodies and its focus on strategic issues

4. The Director-General and the Officers of the Executive Board met in Geneva on 31 July–1 August 2017.¹ The Officers noted that the Executive Board and Health Assembly had requested the Secretariat to review the rules of procedure of the governing bodies, in particular the processes for inclusion of additional, supplementary and urgent agenda items (WHA69 (8)), as well as other ambiguities, gaps and shortcomings (EB141(8)). To this end the Secretariat had established a working group which would produce a paper for an informal consultation process scheduled for August–September 2017.

5. With regard to methods of work, the Officers of the Board noted, among other things, that, despite the provisions of the WHO Constitution, country statements (simply describing the current state-of-affairs in a Member State) offered limited value to proceedings and could, perhaps, be contributed by other means. Similarly time was often spent discussing issues that were only presented to the governing bodies for ‘noting’.

6. The Officers of the Board also considered a comparison, provided by the Secretariat, of the methods of work of the governing bodies of a number of other international organizations and entities², in order to benchmark the practices of WHO governing bodies against those of other entities:

- In recent years, three WHO Regional Offices (the Americas, Europe and the Eastern Mediterranean) have undertaken exercises aimed at sun-setting resolutions and decisions. Sun-setting is "a procedure by which an end date is established for all resolutions". These processes involved setting up a working group or technical committee to review resolutions and decisions, which made recommendations on whether the resolutions or decisions contained mandates that: (1) were still active; (2) had been superseded by another mandate; or (3) had been satisfied. Some of the working groups made recommendations to the relevant governing body on the sun-setting of specific resolutions, as well as on the streamlining of reporting requirements. The European and Eastern Mediterranean regions limited the scope of its review to a period of ten years and considered any resolutions agreed more than ten years ago to be automatically sun-setted. The review by the Regional Office of the Americas was limited to resolutions agreed during the a period of 17 years (1999-2015).
- In several organizations, issues are frequently resolved before an item is considered by the executive body. In some cases, this is accomplished through technical committees and other subsidiary bodies, which provide a forum for issues to be discussed and debated, and to which draft resolutions or decisions may be submitted. Reports of these subordinate bodies are then submitted to the governing body, where they are simply noted. In some cases, the report distinguishes between items that the subsidiary body considers do not require

¹ See the Note for the Record of the Meeting of the Director-General with the Officers of the Executive Board 31 July – 1 August 2017, paragraphs 13-16, accessible at <http://apps.who.int/gb/gov/PDF/nfr-eb-july2017-en.pdf>.

² ILO, FAO, WIPO, UNIDO, African Union and UN Security Council.

discussion by the executive body (and for which the subsidiary body's recommendation can be adopted without discussion) and those that require discussion in the executive body (for example because consensus was not reached in the subsidiary body).

- One organization has decided that, in order to avoid duplication of work between the governing bodies, policy and technical matters should not be discussed by the executive body, but rather be dealt with in technical committees, which then send their reports directly to the supreme governing body for action.
- In several organizations the Secretariat and regional coordinators and other constituent groups liaise in advance of governing body meetings to ensure that there is a common understanding on how items will be handled and to share information aimed at supporting efforts by the groups to coordinate their position. In one such organization, the result is that most statements are delivered through the regional coordinators or representatives of other constituent groups and individual members of the groups do not subsequently deliver statements.
- Availability of documentation in advance facilitates such prior consultation. In one such organization, a rule exists whereby if a document is not available three weeks in advance of the meeting, the item is removed from the agenda.
- In one organization, only members of the executive body may take the floor; the views of non-members are expressed through the members that they elected.
- In one organization, the Secretariat distributes questionnaires in advance of governing body meetings on the various agenda items to identify gaps and concerns. In this way, Member States have the opportunity to share their country experiences and there is less of a tendency to have had country statements during governing body meetings.
- In one organization, Member States are invited to submit their statements in writing for the record and they are posted on the website on the same day
- In one organization, video-teleconference is frequently used for meetings and consultations (but not when resolutions are to be adopted)
- Some of the organizations have succeeded in reducing the number of agenda items and better managing the session. One has used the time-savings to include a high-level section, which is designed as a strategic policy segment to focus on cross-cutting issues and recent trends. Another has agreed on measures to make the Conference action-oriented and give more attention to global policy issues and international frameworks. This has included establishing a single major theme for the Conference.

7. The Officers of the Board recommended that the Secretariat's consultation paper on the Rules of Procedure of the Executive Board include a request for Member States to contribute their views on the roles and methods of work of the Executive Board and its Officers, with a view to improving efficiency and equity in decision-making. In light of this recommendation the Secretariat has developed the following two questions for consultation.

Question for consultation #1

Member States are invited to contribute their views on the roles and methods of work of the Executive Board and its Officers, with a view to improving efficiency and equity in decision-making. Questions that Member States may wish to respond to in this regard may include:

- *In which ways do they consider the roles and methods of work of the Executive Board and its Officers should be improved?*
- *Member States are invited in addition to identify specific measures that might be considered.*

Question for consultation #2

Should measures similar to those identified above from practice in other organizations and WHO bodies be adopted as appropriate? Questions that Member States may wish to respond to in this regard may include:

- *Should a procedure to introduce automatic consideration of sun-setting of draft resolutions be introduced? Should existing resolutions and decisions be reviewed with a view to deciding whether they can be sun-setted?*
- *Should the Executive Board establish a technical or other sub-committee, which would meet periodically and provide a forum for issues to be discussed and debated? Should that body be empowered to make decisions and/or to refer matters directly to the Assembly?*
- *Should the Executive Board agenda distinguish between items that require discussion and those where a decision is expected to be taken without discussion? Should it consider issues that are for information only?*
- *Should the Executive Board request that regional groups coordinate their positions to the extent possible and provide regional statements (rather than having several members of the same group take the floor)?*
- *Should only members of the Executive Board be permitted to take the floor, with the views of other Member States being expressed through the members that they elected?*
- *Should channels be provided for Member States to report on their experiences outside governing body meetings, such as through questionnaires (so as to minimize country statements during the session)?*
- *Should agenda items be removed from the agenda if the relevant document is not available in all official languages, say, three weeks in advance of the session?*
- *Should a clear division of labour be identified between the Health Assembly and the Executive Board? If so, how?*
- *Should video tele-conferencing be available for meetings and consultations?*

B. Interpretational ambiguities and gaps in the processes for the inclusion of additional, supplementary and urgent agenda items

a) Proposal of items for the agenda

8. Further to the Health Assembly's request in decision WHA69(8)³ that the Secretariat develop proposals to improve the level of correspondence between the number of agenda items and the number, length and timing of governing body sessions, the Secretariat submitted a proposal to the Seventieth World Health Assembly, through the Board at its 140th session⁴, that proposals for the direct inclusion of items on the provisional agenda of the Health Assembly under Rule 5 of its Rules of Procedure be accompanied by an explanatory memorandum, analogous to the procedure used to prepare the Board's provisional agenda.

9. The explanatory memoranda accompanying proposals for additional agenda items should contribute to strengthening the Board's role in fulfilling its responsibility to prepare the provisional agenda of the Health Assembly under Rule 4 of its Rules of Procedure. The Secretariat developed two options for strengthening the Board's role, which would both require amending Rule 5 of the Rules of Procedure of the Health Assembly⁵:

10. Under the first option, the explanatory memorandum would support the Board's assessment for purposes of deciding whether to include, defer or exclude from the provisional agenda of the Health Assembly, any item proposed by Member States, Associate Members, the United Nations and any other organization of the United Nations system with which the Organization has entered into effective relations.

11. Under the second option, the explanatory memorandum would support the Board's assessment for purposes of recommending the deferral, if it deems that action appropriate, of any item so proposed to a future Health Assembly. The Board would continue to include any item so proposed on the provisional agenda of the Health Assembly, however the General Committee would consider the Board's recommendation for deferral in accordance with Rule 31(c) of the Rules of Procedure of the Health Assembly.

12. While the first option provides for a more robust role of the Executive Board with respect to items proposed for the provisional agenda of the Assembly, the second option envisages only an advisory role for the Board on this matter.

13. During the discussion on this matter at the Seventieth World Health Assembly no consensus could be reached on either option. It was therefore decided to defer consideration of this matter to the 142nd session of the Executive Board.⁶

³ Decision WHA69(8), operative paragraph 4.

⁴ Document EB140/39, Annex; and Document A70/51, paragraphs 6 through 12 and Annex.

⁵ The proposed amendments to Rule 5 of the Rules of Procedure of the Health Assembly, relating to each of the two options, are contained in the Annex to document A70/51.

⁶ See the Provisional Summary Records of Committee B at its Third Meeting (document A70/B/PSR/3, section 3), Fourth Meeting (document A70/B/PSR/4, section 2) and Fifth Meeting (document A70/B/PSR/5, section 2); accessible at http://apps.who.int/gb/or/e/e_wha70-A-B-PSR.html.

Questions for consultation #3

Should proposals for the inclusion of items on the provisional agenda of the Assembly be required to be accompanied by an explanatory memorandum, analogous to the procedure used to prepare the Board's provisional agenda?

Which of the two options for the Executive Board's role in considering proposals for items to include in the provisional agenda of the Assembly, and outlined in document A70/51, should be pursued?

b) Proposal of additional items for the agenda of the Health Assembly

14. Once the Executive Board has approved the Health Assembly's provisional agenda in accordance with Rules 4 and 5 of the Health Assembly's Rules of Procedure, Member States may propose further items for inclusion on the Health Assembly's agenda in two cases:

- Under Rule 11 of the Health Assembly Rules of Procedure, Member States may submit "proposals for new activities to be undertaken by the Organization", provided that such proposals are received at least six weeks before the commencement of the session, and except as otherwise decided by the Assembly in case of urgency.
- Under Rule 12 of the Health Assembly Rules of Procedure Member States may propose supplementary items for inclusion on the Assembly's agenda, provided that the request is received "within six days from the day of the opening of a regular session or within two days from the day of the opening of a special session, both periods being inclusive of the opening day."

15. The distinction between items amounting to "new activities to be undertaken by the Organization" (Rule 11 of the Health Assembly's Rules of Procedure) and other "supplementary items" (Rule 12 of the Health Assembly's Rules of Procedure) was introduced in 1952 on the Economic and Social Council's recommendation to ensure effective concentration of effort and resources through inter-agency consultation prior to the adoption of new projects.⁷ In practice, however, this distinction has become blurred over the years and leaves room for ambiguity as to the scope of the term "new activities".

16. The established understanding of the time periods set out in Rule 12 is that requests must reach the Organization no later than six days *before* the opening of a regular session, or two days *before* the opening of a special session. This is notwithstanding the fact that a literal reading of the Rule would suggest that these time period run *after* the opening of the session.

17. Member States may wish to consider substantially revising Rules 11 and Rule 12 of the Rules of Procedure of the Health Assembly. Analogous to the procedure in the Board, one option might be to require that proposals for new items submitted after the approval of the Health Assembly's provisional agenda, be receivable only if the item concerned is of an urgent nature and the proposal

⁷ Resolution EB9.R8.

reaches the Organization before the opening day of the Assembly session. Furthermore, in line with the Board's Rules of Procedure, any such proposal should be accompanied by a supporting statement explaining the rationale behind the proposal and its urgency.

Questions for consultation #4

Should the distinction between "new activities to be undertaken by the Organization" (Rule 11 of the Rules of Procedure of the Health Assembly) and other "supplementary items" (Rule 12 of the Rules of Procedure of the Health Assembly) be removed, so as to have one rule governing proposals for additional items to the agenda in cases of urgency?

What criteria should apply to any such proposals? In particular, what timeline for submission should apply?; should items only be acceptable in case of urgency? and; should proposals be accompanied by a supporting statement explaining the rationale behind the proposal and its urgency?

In the event that it is kept in substantially the current form, should the time periods in Rule 12 nonetheless be clarified, so as to make clear that requests for supplementary items must reach the Organization by no later than six days before the opening of a regular session, or two days before the opening of a special session?

C. Further ambiguities, gaps and other shortcomings in the Rules of Procedure of the governing bodies

18. The Secretariat has identified the following eleven issues for consideration:

- a. Provision of written statements for the record;
- b. Voting through electronic means at the Assembly;
- c. Credentials at the World Health Assembly;
- d. Better reflection of gender equity in the language of the rules of procedure;
- e. Time-limits for submitting draft resolutions and decisions;
- f. Clarification of entitlement to vote between delegates, alternates and advisers attending the Health Assembly;
- g. Better reflection of established practice regarding the summary and verbatim records of the Assembly;
- h. Introduction of a motion to suspend the debate;
- i. Clarification of terminology regarding public and private meetings of the Board;

- j. Alignment of the rules of procedure with the Framework of Engagement with Non-State Actors;

Question for consultation #5

Do Member States wish to further consider the additional ambiguities, gaps and other shortcomings in the rules of procedure identified by the Secretariat and, if so, how should the Secretariat further support Member States in their consideration of these issues (and/or other procedural issues which Member States may wish to address)? In particular:

- *Should the Secretariat propose language for amendments to the Rules of Procedure corresponding to the issues identified in this paper?*
- *Should the Secretariat carry out a comprehensive revision of the Rules of Procedure to simplify the rules and to introduce revised numbering system?*

a. Provision of written statements for the record

19. With one exception,⁸ the rule is that delegations must make their interventions at the Health Assembly and Executive Board orally in order for them to be reflected in the official records⁹. This reflects two principal considerations:

- The intention is that discussion in the governing bodies should be free-flowing, with speakers reacting to each others' interventions in order to advance the debate on the item under discussion; and
- The wish to preserve the practical effect of the right of reply (Rule 57 of the Health Assembly's Rules of Procedure; Rule 30bis of the Board's Rules of Procedure), which could in practice be undermined if statements to which a delegation would wish to object are made in writing and seen by the delegation in question only some time after the meeting has closed.

20. On the other hand, in practice many statements made at certain governing body meetings are prepared well in advance and may not be regarded as essential to the advancement of the debate. Furthermore, on a few occasion committees of the Health Assembly have sought to

⁸ Pursuant to resolution WHA50.18, "*delegates wishing to do so may submit prepared statements of not more than 600 words for inclusion in the verbatim records of the plenary meetings*" of the Assembly on the report of the Executive Board and the address by the Director-General; in contrast to the policy adopted through resolution WHA50.18, one of the conclusions of the Special Committee on the Rationalization of the Procedures and Organization of the General Assembly established under resolution 2632 (XXV) of 9 November 1970, approved by the UN General Assembly through resolution 2837 (XXVI) of 17 December 1971, was that "*the submission of written statements should not be formally instituted with regard to the general debate*"; as far as other specialized agencies are concerned, the rules of procedure of the governing bodies of ILO, FAO and UNESCO do not seem to provide for written statements in lieu of oral interventions; with respect to the recording of statements made in plenary meetings of the Health Assembly see also below section g.

⁹ See, for instance, the references to "speakers" in rule 53 of the Health Assembly's rules of procedure or rule 28 of the Board's rules of procedure.

accelerate their proceedings when under pressure of time by inviting delegations that wish to do so to submit written interventions in place of making an oral statement. Such written interventions have been placed on the website of WHO but, since they were not delivered during the discussion in the committee, have not been reflected in the summary records.

Questions for consultation #6

Should the rules of procedure be amended to allow delegations to submit written statements in addition to or instead of oral interventions?

If so:

- *Should such a facility be automatically available for all proceedings, or limited to some agenda items (e.g. progress reports) or to when the presiding officer so decides?*
- *Should these statements be recorded in the summary records or, as at present, placed on the WHO website “for information purposes only”?*
- *Should such written statements be subject to limitations as to length?*
- *Should such written statements be limited to particular matters (e.g. descriptions of national practice, uncontroversial matters)?*
- *Should a mechanism be put in place to allow other participants to exercise a right of reply in writing in respect of matters contained in such written statements?*

b. Voting through electronic means at the Assembly

21. The Health Assembly’s and Board’s Rules of Procedure envisage three methods for conducting votes: show of hands; roll-call; and secret ballot (Rules 72 and 76 of the Health Assembly’s Rules of Procedure; Rules 45 and 49 Board’s Rules of Procedure).

22. A number of meeting rooms the Palais des Nations are equipped with electronic voting systems. This offers an opportunity for the World Health Assembly to use these systems, in place of traditional methods of voting, should it wish to do so. No electronic voting system is currently available in the WHO headquarters building.

23. Electronic voting provides advantages over traditional methods of voting in terms of the time and human resources taken to conduct a vote. On the other hand, the process can be regarded as less transparent as those participating in an electronic vote cannot observe the electronic recording and calculation of votes; and a degree of confidence in the integrity, accuracy and security of the voting system is therefore required.

24. The Health Assembly’s and the Board’s Rules of Procedure would need to be amended to allow the possibility to use electronic voting systems where they are available.

25. A number of UN bodies, including the Human Rights Council, already make use of the electronic voting systems available at the Palais des Nations. Furthermore, the General Rules of FAO’s Conference have been adapted to accommodate votes “by electronic means”, and the

International Labour Conference's Standing Orders stipulate that the Conference shall vote by electronic means unless the Officers decide otherwise in special circumstances.¹⁰

26. The possibility of using an electronic voting system for the election of the Director-General will be considered separately as part of the Evaluation of the Election of the Director-General.

Question for consultation #7

Should the Rules of Procedure be amended to allow for the possibility of electronic voting where appropriate systems are available?

c. Credentials at the World Health Assembly

27. The current practice for examination of credentials of Member States at the Health Assembly is time-consuming for both the Secretariat and delegations. While the registration of delegations has been facilitated in recent years by the online registration system, the requirement for original credentials to be received and reviewed entails a largely paper-based process.

28. Use of modern technology could allow for a more efficient, simple and fast process for the registration and review of credentials. In particular a streamlined process could be envisaged, with the following main elements:

- A scanned copy of credentials would, as at present, be submitted on the Secretariat's online registration system as part of the registration process. This would be undertaken by the authorized focal point for each Member State. Submission of a scanned copy of credentials would be the basic requirement for a delegation of a Member State to participate in the WHA.
- The process of registration of the delegation would be completed once the Secretariat had validated the online registration. This would allow those so registered to be issued with a delegate badge for the WHA. Subsequent changes in the composition of delegations would be handled in the same way as at present (online submission by the focal point of additional credentials).

¹⁰ See Rule XII of the FAO Conference's General Rules; see Section 15.15 of the International Labour Conference's Standing Orders; as far as the UNGA is concerned, the rules of procedure do not seem to provide for electronic voting; the Special Committee on the Rationalization of the Procedures and Organization of the General Assembly (see footnote 3) said that it "did not believe that it should express any views on the possible use of an electronic voting system by all Committees, since the question of the installation of mechanical means of voting was included in the draft agenda of the twenty-sixth session of the General Assembly [para. 249]. ... The Special Committee did not retain the suggestion that a mechanical or electronic timing device might be installed in the General Assembly Hall and the Main Committee rooms." The Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization concerning the rationalization of existing United Nations procedures, approved by the General Assembly through resolution 45/45 of 28 November 1990, concluded: "When an electronic voting system is available for recording how votes were cast, a roll-call vote should as far as possible not be requested".

- The Secretariat would review the scanned copies of credentials uploaded in the Secretariat system and prepare a preliminary report on the registration of delegations containing also the outcome of that review. The report would contain information such as the total number of Member States registered at the WHA, Member States not registered yet and Member States confirmed as not participating. The report would no longer distinguish between *formal* and *provisional* credentials, as is currently the case. Instead scanned copies of credentials uploaded in the system, using the protected access granted to each focal point, would be considered sufficient to constitute valid credentials.
- The report on registration and credentials prepared by the Secretariat would be presented to the Committee on Credentials (CC). Unresolved issues concerning the participation of a Member State, for instance in case of competing credentials for the same Member State, would also be submitted to the CC. The CC would be invited to adopt a report at the conclusion of its meeting which would be submitted for adoption by the Plenary. Review of credentials of Member States not registered at the time of the meeting of the CC would be reviewed subsequently by the President of the WHA.
- Pending adoption of the report of the CC by the Plenary, all delegations registered and attending would, as now, be considered as having submitted valid credentials.

29. A further simplification could involve transferring the role of the CC to the officers of the WHA, which would avoid the need for election of a separate committee to carry out this task.

Questions for consultation #8

Should the requirement for a hard copy original of credentials be dispensed with? In particular should the process for consideration of credentials rely exclusively on the scanned copy of credentials uploaded onto the Secretariat online registration system?

Should the task of examining credentials continue to be delegated to a Credentials Committee, or should the officers of the Health Assembly carry out this role?

d. A better reflection of gender equity in the language of the rules of procedure

30. WHO constitutive and procedural documents, like those of many other UN organizations, were originally drafted using gender-specific language, typically the use of masculine terminology such as “*he*”, “*his*”, “*him*” and “*himself*” when referring to executive heads, meeting officers or delegates, and use of terms such as “*chairman*” and “*chairmen*”¹¹.

¹¹ See e.g. WHO Constitution Art. 27, 32, 33, 77, 82; WHA Rules of Procedure Rules 16, 19, 25, 26, 27, 29, 30, 32, 33, 34, 35, 36, 39, 42, 43, 47, 53, 54, 58, 61, 81, 84, 87, 94, 99, 104, 106, 108, 111, 112, 113, Guiding Principles for the Conduct of Elections by Secret Ballot, Description of the Concept of a Point of Order; WHO EB Rules of Procedure Rules 6, 12, 13, 14, 14bis, 15, 16, 17, 19, 24, 27, 28ter, 30, 30bis, 35, 37, 41, 47, 48, 50, 51bis, 52, 53.

31. A number of UN bodies (e.g. UN, FAO, IMO, ILO, UNESCO¹²) and other actors have in recent years avoided using language in their respective legal and policy documents which refers explicitly or implicitly to only one gender.

32. In resolution WHA57.8¹³, the World Health Assembly recognized the importance of gender-equality and decided that *“in the Basic documents, in accordance with the generally accepted rules of interpretation, the use of one gender shall be considered as including a reference to the other unless the context otherwise requires”*. The Secretariat in its report EB104/5¹⁴ to the Board concerning a proposed amendment to the Board’s Rules of Procedure noted that *“As the terms “Chairman” and “Vice-Chairmen” are used throughout the Rules of Procedure, it is suggested that the introduction of gender-neutral language should await a general revision of the Rules of Procedure for this purpose”*.

33. The WHO governing bodies have nevertheless decided to use gender-neutral language in certain new documents adopted in recent years¹⁵, as well as in recent amendments to existing documents.¹⁶ This has led to an inconsistency in approach between different WHO documents¹⁷, and occasionally within the same document¹⁸.

34. The current revision process offers an opportunity for Member States to modernize the language of the Rules of Procedure. The modernization of the language, including the elimination of gender-specific terms from such documents, could be achieved by the adoption of simple, but carefully drafted amendments (e.g. use of terminology such as *“he or she”* and *“chairperson”* and use of the plural whenever possible), to the extent permitted by the different languages in which the Rules of Procedure appear. Such an approach could be extended to other relevant WHO documents¹⁹ (although it would be a challenge to amend treaty-level documents with formal amendment procedures, such as the Constitution). This could be accompanied by a decision

¹² See e.g. United Nations Secretariat Administrative instruction: ST/IC/1992/67 of 29 October 1992; UN Editorial directive: ST/CS/SER.A/41 of 14 August 1998; Resolution No. 7/99 of the Thirtieth Session of the FAO Conference on ‘Use of Gender-Neutral Language in the Basic Texts’; FAO Constitution Articles V, VI, IX; Rules of Procedure of the Conference of the Parties to the WHO Framework Convention on Tobacco Control, e.g. Rules 21, 22, 24, 25, 28, etc; UNGA Rules of Procedure, ANNEX XI on Code of ethics for the President of the General Assembly, adopted by resolution 70/305 of 13 September 2016; ILO General Standing Orders, Art. 14, 16, 19, 25, 61; UNESCO General Conference Rules of Procedure, rules 10, 14, appendix I – rule 1; Decision MSC 98/19/2 of the International Maritime Organization Maritime Safety Committee adopted on 2 May 2017 (<http://www.iacs.org.uk/media/4286/msc-98-19-2-outcome-of-leg-104-on-the-revised-rules-of-procedure-of-the-legal-committee-secretariat.pdf>).

¹³ WHA57.8 – Rules of Procedure of the World Health Assembly: amendment to Rule 72, adopted on 22 May 2004.

¹⁴ Amendments to Rules of Procedure of Executive Board on election of Chairman, Report by the Secretariat EB104/5, 104th Session 16 April 1999.

¹⁵ See e.g. Agreement between the Commission of the African Union and the World Health Organization (2012), para 3; FENSA Framework of Engagement with Non-State Actors, adopted in resolution WHA69.10, para. 73.

¹⁶ See e.g. WHO EB Rules of Procedure Rule 14bis.

¹⁷ See e.g. use of *“he or she”* in the Financial Regulations of the WHO and the use of *“he”* in the rules of procedures of the WHO governing bodies.

¹⁸ See e.g. referring to the *“Chairman”* of the Board as *“he or she”* in Rule 14bis and only as *“he”* in Rule 30 of the WHO EB Rules of Procedure; referring to the DG as *“he”* and *“he/she”* in same para. 32 of the WHO Regulations for Expert Advisory Panels and Committees.

¹⁹ E.g. the WHO Staff Regulations; WHO Rules of Procedure for the Expert Committees.

requiring the use of gender-neutral language in all WHO documents adopted in the future and requesting subsidiary organs to make corresponding changes to their respective Rules of Procedure, as necessary

Questions for consultation #9

Should the Rules of Procedure be amended to replace gender-specific language throughout with gender-neutral language?

Should other WHO documents, other than the WHO Constitution and other treaty-level documents, also be amended to replace gender-specific language throughout with gender-neutral language?

e. Time-limits for submitting draft resolutions and decisions

35. The submission of draft resolutions and decisions to the governing bodies is, in principle, subject to time-limits, which are reflected in rules 28bis and 28ter of the Board's Rules of Procedure and rules 48 and 50 of the Health Assembly's Rules of Procedure. Except for rule 50 of the Health Assembly's Rules of Procedure, these rules are relatively new; the governing bodies adopted them in 2014.²⁰

36. Particular challenges attach to imposing time-limits on the introduction of draft resolutions and decisions. The governing bodies' desire for flexibility in considering proposed resolutions and decisions requires balancing with their desire to provide all Members, particularly those with smaller delegations, with sufficient opportunity to study and formulate positions on proposed resolutions and decisions.

37. The Health Assembly and the Executive Board have struck this balance through adopting rules that impose, in principle, time-limits but also permit exceptions (compare rule 50 of the Health Assembly's Rules of Procedure and rules 28bis and 28ter of the Board's Rules of Procedure). However, rule 48 of the Health Assembly's Rules of Procedure is more rigidly phrased and seems to allow for the late submission of resolutions and decision only under the condition that the rule is formally suspended.²¹

Questions for consultation #10

Is the balance between flexibility and the need to provide sufficient time for delegations to consider proposals adequately reflected in Rules 28bis and 28ter of the Rules of Procedure of the Executive Board and rules 48 and 50 of the Rules of Procedure of the Health Assembly? Should the current

²⁰ See decision EB134(3) and resolution WHA67.2.

²¹ In addition, situations where a drafting group or consultation mandated by the Assembly (for instance through an announcement by the chair of either one of the main Committees) reports back on the outcome of its work with a negotiated draft decision or resolution are not caught by the wording of rule 48; the time limit contained in rule 48 is therefore not applicable to such situations; see Provisional Summary Record of the Seventh Meeting of Committee A at the Seventieth World Health Assembly, document A70/A/PSR/7, page 13.

time-limits for submitting draft resolutions and decisions be made stricter, so as to allow delegations more time to consult in advance on the proposed text?

Should rule 48 of the Rules of Procedure of the Health Assembly be revised to allow for exceptions to be made without resort to formal suspension of the rule?

f. Clarification of entitlements to vote between delegates, alternates and advisers attending the Health Assembly

38. Pursuant to Articles 10 and 11 of the WHO Constitution, Member States' delegations to the Health Assembly are composed of not more than three "delegates", one of whom is designated as "chief delegate". According to Article 12, "alternates" and "advisers" may accompany the "delegates".

39. While the number of delegates (including the chief delegate) is limited to three, there is no limitation to the number of alternates or advisers.

40. Rule 19 of the rules of procedure of the Health Assembly specifies, in relation to plenary meetings of the Assembly, that "the chief delegate may designate another delegate who shall have the right to speak and vote in the name of his delegation on any question" and that the President, "upon the request of the chief delegate or any delegate so designated by him...may allow an adviser to speak on any particular point". Under rule 83 of the Health Assembly's rules of procedure, "subject to any decision of the Health Assembly, the procedure governing the conduct of business and voting by committees shall conform as far as practicable to the Rules relative to the conduct of business and voting in plenary meetings"

41. As far as plenary meetings of the Health Assembly are concerned, it can be inferred from these rules that "delegates" and "alternates", but not advisers, are entitled to vote on behalf of Member States represented at the session whose voting rights have not been suspended. As far as meetings of the committees of the Assembly are concerned, a less restrictive reading is possible. The Health Assembly has acted on this basis in the past.

Questions for consultation #11

Should the number of Alternates in each Delegation be limited to three, to mirror the number of Delegates, while leaving the number of Advisers unrestricted?

Should the rules be amended to clarify that only "delegates" and "alternates" may be designated to vote in plenary meetings of the Assembly, while any member of the delegation may be designated to vote in committee meetings?

g. A better reflection of established practice regarding the summary and verbatim records of the Assembly

42. The rules of procedure require the Secretariat to prepare records of the meetings of the Health Assembly and of the Executive Board.²² Plenary meetings of the Health Assembly are recorded in the form of verbatim records. Meetings of the committees of the Assembly and of the Executive Board are recorded in the form of summary records.

43. The verbatim and summary records constitute the permanent and formal repository of the views expressed by Member States and other participants at meetings of the WHO governing bodies. They are a central source of information for Member States and the Secretariat in their day-to-day work, as well as for members of the public that wish to inform themselves of WHO's work.

44. A relatively heavy resource burden is attached to the production of verbatim and summary records.²³ Accordingly efforts have focussed on publishing the records electronically since at least 2013,²⁴ summary records are currently only available in English for the time period 2007-2017, no summary records are made of the meetings of committees of the Board and sub-committees of the committees of the Assembly (such as formal drafting groups) and, following a written announcement by the Secretariat at the 126th Session of the Executive Board,²⁵ the verbatim records of public plenary meetings of the Health Assembly since 2011 are accessible through digital audio files only.

Question for consultation #12

Should the provisions relating to verbatim and summary records to reflect more closely the current practice?

h. Introduction of a motion to suspend the debate

45. The rules of procedure provide for motions to suspend or adjourn *meetings* of the governing bodies, on the one hand,²⁶ and for motions *to adjourn* or *close* the debate on items under discussion,²⁷ on the other. In practice the governing bodies frequently suspend and adjourn their meetings but very rarely adjourn or close the debate. Conversely, the governing bodies frequently *suspend the debate* on a matter under consideration, often to allow for informal consultations among delegations, or to enable a formally established drafting group to take up its work and to

²² See rules 88; 90-94 of the Health Assembly's Rules of Procedure and rule 20 of the Board's Rules of Procedure.

²³ A report to the Seventy-seventh Session of the Executive Board, document EB77/28, states, for instance, that the total cost of producing the verbatim records during the biennium 1984-1985 was US\$ 307 200.

²⁴ See the overview of the steps that the Executive Board and the Health Assembly have taken towards reforming their methods of work contained in document EB136/6, paragraph 2.

²⁵ See document EB126/26 paragraph 20.

²⁶ Rule 59 of the Assembly Rules of Procedure; rule 33 of the Board Rules of Procedure; for the purpose of these Rules "suspension of the meeting" means the temporary cessation of the business of the meeting and "adjournment of the meeting" the termination of all business until another meeting is called.

²⁷ Rules 60, 61 of the Assembly Rules of Procedure; rules 34, 35 of the Board Rules of Procedure.

report back with results at a later stage. However the rules of procedure make no express provision for a motion to *suspend the debate* on an item under discussion. Other UN specialized agencies recognize such a motion in their rules of procedure.²⁸

Question for consideration #13

Should the rules of procedure include provision for a motion to suspend the debate on an item under discussion?

i. Clarification of terminology regarding public and private meetings of the Board

46. While plenary meetings of the Assembly may be public or private²⁹, the Board may decide to hold public, open or restricted meetings³⁰. However, an “*open meeting*” of the Executive Board is closed to members of the public and, accordingly, is similar in nature to “*private*” meetings of the Assembly. Use of the term “*open meeting*” for such meetings can be a source of confusion.

47. Rule 7 of the Executive Board’s Rules of Procedure could be amended by renaming the “*open*” format to “*private*”.

Questions for consultation #14

Should “open meetings” of the Executive Board be renamed as “private meetings”?

j. Alignment of the rules of procedure with the Framework of Engagement with Non-State Actors

48. Both the Assembly’s Rules of Procedure and the Board’s Rules of Procedure refer to non-state actors as “non-governmental organizations”³¹. This reflects Article 71 of the Constitution and the terminology used in the Principles governing relations between the World Health Organization and nongovernmental organizations” that the Health Assembly adopted at its 40th Session (and which are expressly referenced in rule 4 of the Executive Board’s Rules of Procedure).

49. However, the “Principles governing relations between the World Health Organization and nongovernmental organizations” were replaced by the WHO Framework of Engagement with Non-State Actors (FENSA) at the 69th World Health Assembly³². Provided certain conditions are met, FENSA enables the establishment of formal official relations with nongovernmental organizations, international business associations and philanthropic foundations, as defined in FENSA. The Framework clarifies that, once official relations have been established, nongovernmental

²⁸ Compare rule 20.6 (“motion for postponement of debate”) of the ITU’s rules of procedure of conferences, assemblies and meeting; see also Article 15.2 of the Standing Orders of the International Labour Conference, which “includes” a “motion to postpone consideration of the question” and a “motion that the Conference proceed with the next item on the agenda for the sitting” among the “motions as to procedure”.

²⁹ Rule 20 of the Rules of Procedure of the WHA.

³⁰ Rule 7 of the EB Rules of Procedure.

³¹ Rule 47 of the Assembly’s Rules of Procedure and Rule 4 of the Executive Board’s Rules of Procedure

³² WHA69.R10.

organizations, international business associations and philanthropic foundations may attend meetings of WHO governing bodies.³³

Question for consultation #15

Should the rules of procedure be revised to reflect the provisions and terminology of FENSA?

³³ See WHO Framework of Engagement with Non-State Actors, paragraphs 50, 55, 56; accessible at <http://www.who.int/about/collaborations/non-state-actors/en/>.