



WORLD HEALTH ORGANIZATION

EXECUTIVE BOARD
104th Session
Provisional agenda item 7

EB104/5
16 April 1999

Amendments to Rules of Procedure of Executive Board on election of Chairman

Report by the Secretariat

1. At its 103rd session, the Executive Board considered a proposal to elect its Chairman at the end of its January session instead of at the beginning of its May session, as is currently done in accordance with Rule 12 of the Rules of Procedure.
2. The purpose of this proposed change was to enable the Chairman to prepare himself or herself better to lead the discussion when the Board next convened.
3. Concern was expressed during the Board's discussions, however, that such a procedure, although not strictly unconstitutional, might not be in accordance with basic principles of enfranchisement (considered here in terms of the right to choose one's own Chairman). The Secretariat was therefore requested to study the matter and report back to the Board at its 104th session on possible approaches.
4. Article 27 of the WHO Constitution provides that: "The Board shall elect its Chairman from among its members ...". Pursuant to this Article, Rule 12 of the Rules of Procedure of the Executive Board provides that:

The Board shall elect its officers, viz. a Chairman and three Vice-Chairmen, from among its members each year at its first session after the Health Assembly. These officers shall hold office until their successors are elected. The Chairman shall not become eligible for re-election until two years have elapsed since he ceased to hold office.

5. The first session of the Board after the Health Assembly, which habitually occurs in May, coincides with the beginning of the mandate of those Member States newly elected by the Health Assembly to be entitled to designate a representative to the Board.¹ Thus, one-third of the membership changes between the January session and the May session. This means that the membership electing the Chairman for the coming

¹ This derives from Rule 105 of the Rules of Procedure of the Health Assembly which provides: "The term of office of each Member entitled to designate a person to serve on the Board shall begin immediately after the closing of the session of the Health Assembly at which the Member concerned is elected and shall end immediately after the closing of the session of the Health Assembly during which the member is replaced."

year is in principle the membership¹ that will be directed by the Chairman so elected until the following May, when one-third of the membership again changes and a new Chairman is elected.

6. It was recognized by the Board at its 103rd session that as long as the Chairman is elected by the Board from among its members, it cannot be said that electing the person at the January session or the May session would make any difference in terms of the Constitution. Nevertheless, concern was expressed that if the Chairman were elected at the end of the January session, one-third of the membership of the Board who would be directed by the Chairman so elected would not yet have become members and would thus not be able to participate in the election of the Chairman. Furthermore, it would need to be recognized that one-third of the membership at the time of the election would be ineligible to be elected Chairman, since their term of membership would expire before the next session of the Board.

7. In order to determine whether the situation described above should act as a bar to implementing the proposal, the WHO Legal Counsel consulted his counterparts in the other organizations in the United Nations system. Although no other organization was found to have such a system in any of its formal governing bodies, the Legal Counsel has concluded as a result of these consultations that as long as the Rules of Procedure clearly provide for the election as proposed, the concern that one-third of the Board's membership would not be able to participate in the election of the Chairman should not prevent implementing the proposal. The Rules of Procedure would nevertheless need to be amended to provide for election at the January session and to clarify that members whose terms are ending before the next session of the Board are ineligible for election.

8. On a related issue, the original proposal as contained in the note by the Chairman considered at the 103rd session envisaged that the newly elected Chairman would only take office at the opening of the May session.² However, if the concept of election at the end of the January session is accepted, nothing prevents the Chairman from taking office immediately upon the closure of the January session. Since Rule 8 of the Board's Rules of Procedure provides that the provisional agenda for the Board shall be drawn up by the Director-General in consultation with the Chairman, this arrangement would have the advantage of enabling the Chairman who would actually chair the Board session in May to have a say in the preparation of the provisional agenda.

9. Lastly, although the discussion has centred entirely on the Chairman, it is assumed that the same procedure would be applicable to the Vice-Chairmen.

¹ Unless a Member State entitled to designate a representative to the Board changes its designation, which it is free to do at any time.

² Document EB103/8

ACTION BY THE EXECUTIVE BOARD

10. The Board may wish to consider amending Rule 12 of its Rules of Procedure by replacing the existing text with the following:¹

Rule 12²

The Board shall elect its officers, viz. a Chairman and three Vice Chairmen, from among its members each year at the end of its last regular session before the Health Assembly. Only those members designated by Member States whose entitlement to designate a member of the Board continues for at least as long as the term of office concerned shall be eligible for election. These officers shall hold office as from the close of the session at which they are elected until the term of office of their successors commences. The Chairman shall not become eligible for re-election until two years have elapsed since he ceased to hold office.

= = =

¹ Since it has been concluded that the proposal to elect the Chairman at the end of the January session is legally permissible, the option suggested by one Board member to avoid the problem of one-third of the Board's membership not being able to participate in the election of the Chairman has not been pursued as the main approach. In this option, the Board would only provisionally elect the Chairman at its January session and this election would be subject to confirmation at the May session when all the new members of the Board were in place. Its implementation would necessarily be somewhat complex. Nevertheless, in the event that there is a wish to pursue this option, a possible wording for Rule 12 of the Board's Rules of Procedure is set forth below:

The Board shall elect its officers, viz. a Chairman and three Vice-Chairmen, from among its members each year at its first session after the Health Assembly. The Board shall consider proposals for its officers made by the Board at its previous session. If these proposals had been made without the holding of a secret ballot, as provided for in Rule 48, the Board may, in the absence of any objection, elect the proposed officers in like manner. Otherwise a secret ballot shall be held even if there is only one candidate for the position concerned. In the event that a proposal for an officer is rejected, the Board shall proceed to fill the position on the basis of proposals from the floor. The officers shall hold office until their successors are elected. The Chairman shall not become eligible for re-election until two years have elapsed since he ceased to hold office.

² 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.