

PROVISIONAL SUMMARY RECORD OF THE FIRST MEETING

**WHO headquarters, Geneva
Wednesday, 29 May 2013, scheduled at 09:30**

Chairman: Dr Joy ST. JOHN (Barbados)

CONTENTS

	Page
Opening of the session and adoption of the agenda	2
Proposal for a supplementary agenda item on improving the health of patients with viral hepatitis.....	2
Improving the health and well-being of lesbian, gay, bisexual and transgender persons.....	3

FIRST MEETING

Wednesday, 29 May 2013, at 09:40

Chairman: Dr J. ST. JOHN (Barbados)

OPENING OF THE SESSION AND ADOPTION OF THE AGENDA: Item 1 of the provisional agenda (Documents EB133/1, EB133/1 (annotated), EB133/1 Add.1, EB133/1 Add.2 and EB133/1 Add.3)

The CHAIRMAN declared open the 133rd session of the Executive Board.

Deletion of item 7.4 of the provisional agenda

The CHAIRMAN suggested that item 7.4 of the provisional agenda, Amendments to the Financial Regulations, should be deleted, as no amendments had been proposed for the Board to consider.

It was so agreed.

Proposal for a supplementary agenda item on improving the health of patients with viral hepatitis (Document EB133/1 Add.2)

The CHAIRMAN said that two proposals for supplementary agenda items had been received and were set out in documents EB133/1 Add.1 and EB133/1 Add.2. The first of those proposals had subsequently been withdrawn, as was reflected in document EB133/1 Add.3.

Dr HAMED (Egypt), speaking on behalf of the Member States of the Eastern Mediterranean Region with reference to Egypt's proposal for the inclusion of a supplementary agenda item on improving the health of patients with viral hepatitis, as set out in document EB133/1 Add.2, said that viral hepatitis was a global public health problem and that WHO-led action on health promotion, disease prevention, diagnosis and treatment should be intensified at the international level as a matter of urgency. Special emphasis should be placed on hepatitis B and C viruses, which caused a significant burden of disease. Progress in the implementation of resolution WHA63.18 on viral hepatitis should also be reviewed.

Mr KLEIMAN (Brazil), supported the proposal, noting that at a side event on hepatitis organized by Brazil on 20 May 2013 during the Sixty-sixth World Health Assembly and attended by several countries represented at the current Board session, there had been consensus that steps should be taken to ensure that viral hepatitis was considered in greater depth by the Sixty-seventh World Health Assembly. Unfortunately, hepatitis was a low priority in many countries. The agenda item's proponents remained concerned about aspects relating to prevention and extended access to diagnosis and treatment, the high cost of which affected the viability of public policy at national and international level. Brazil remained committed to universal access to viral hepatitis treatment and pledged to work with interested countries collectively to strengthen consideration of hepatitis at WHO. He suggested that a meeting in Geneva could contribute to forward movement on the issue.

Dr BEJTJA (Albania), Professor NICKNAM (Islamic Republic of Iran), Professor PE THET KIN (Myanmar), Dr KAMWI (Namibia), Mrs BAMIDELE (Nigeria), Dr VALVERDE (Panama), Dr AL-MARRI (Qatar), Dr MEMISH (Saudi Arabia), and Dr BLOKLAND (Suriname) supported the proposal to add the item to the provisional agenda.

Dr OMI (Japan), noting the constraints on the Executive Board's agenda, asked whether the Secretariat had prepared sufficient material as a basis for consideration of the proposed item at the current session. It might be preferable to defer the item to the 134th session, so as to allow time for preparation by both the Secretariat and Board members. Japan, for example, had a great deal of experience that it could share.

The CHAIRMAN announced that the Secretariat was preparing a report on the subject that would be issued later that day.

Professor HALTON (Australia) asked what additional issues and materials could be considered by the Board in relation to the proposed item, given that the Sixty-third World Health Assembly had adopted resolution WHA63.18 on viral hepatitis in 2010 and that a progress report had been submitted to the Sixty-fifth World Health Assembly, in 2012.

Dr HAMED (Egypt) said that no progress had been made on the requests to the Director-General contained in resolution WHA63.18, particularly in the specific areas referred to in subparagraphs 3(5) and 3(6) thereof. In Egypt, for example, 22 donors provided support on a variety of hepatitis-related issues, but they could not undertake the kinds of project referred to in the resolution. Many millions of people worldwide were infected with hepatitis B or C; medicines and treatment were costly and there was no vaccine against hepatitis C, as a result of which the disease had very serious consequences, in particular for developing countries. There was therefore a real need for stronger cooperation between WHO and all other stakeholders.

The CHAIRMAN asked the Board whether it wished to include the item on viral hepatitis in the agenda of its 133rd session.

Dr OMI (Japan) suggested that a third option would be to defer discussion of the matter to the next session of the Executive Board.

Dr HAMED (Egypt) reiterated the request that the item be included on the agenda of the current Board session for the reasons he had already given. If the matter was deferred, the consequences would be even more damaging.

The CHAIRMAN took it that the Executive Board agreed to include an item entitled "Improving the health of patients with viral hepatitis" on its agenda as subitem 6.

It was so agreed.

Improving the health and well-being of lesbian, gay, bisexual and transgender persons

Mrs BAMIDELE (Nigeria), speaking on behalf of the Member States of the African Region, considered that item 6.3 of the provisional agenda should be deleted on procedural and substantive grounds. The procedure followed in proposing the item for inclusion on the agenda had not been in accordance with Rule 9 of the Rules of Procedure of the Executive Board, which required that any proposal by a Member State for such inclusion should be accompanied by an explanatory

memorandum. Moreover, the proposal had not been approved by all Member States represented on the Board, as the African Region had not been a party to the discussion of the proposal and had not been made aware of the relevant decision when it had been taken. There was no documentation, even from the Board's 132nd session, that reflected the adoption or deferral of agenda items. The item's inclusion would also unduly alter the Twelfth General Programme of Work and the Programme budget 2014–2015, which had been adopted by the Sixty-sixth World Health Assembly. The process whereby item 6.3 had been placed on the provisional agenda had therefore lacked transparency and had been inconsistent with normal procedures.

In respect of substance, she said that the behaviour of lesbian, gay, bisexual and transgender persons was neither a disease nor a health condition; it was a choice and an orientation. WHO statistics showed that such persons were more than 19 times more likely to acquire and transmit HIV/AIDS. The African Region therefore viewed their behaviour as harmful, risky and to be discouraged. Moreover, many more pressing health conditions required urgent attention in Africa and the world over. Prioritizing one group on the basis of sexual orientation and choices amounted to discrimination against other groups in need of resources and attention and thus served to promote a certain type of behaviour. The African Region therefore called on WHO and, in particular, the Executive Board to refrain from giving priority to the rights of certain individuals, which could result in discrimination against the rights of others and thus run counter to the principles of non-discrimination and equality. The issue of lesbian, gay, bisexual and transgender persons was political and was being addressed in other forums, such as the United Nations Human Rights Council. A health-focused organization like WHO should not be asked to take up such a contentious and divisive issue, which had the potential to undermine its integrity.

The behaviour of lesbian, gay, bisexual and transgender persons was out of step with African culture and value systems. The countries of Africa respected the decision of other regions and countries to legalize such behaviour, including same-sex marriage, on the basis of their beliefs and local conditions. In return, they asked for respect for their own beliefs, laws and value systems, and urged Member States to continue according special attention and resources to protection of the natural family and cultural values.

Furthermore, African governments did not discriminate against individuals in the area of health care, nor did they curtail access to health care on the basis of aspects such as, skin colour, height, sexual orientation, social status or origin. All patients were treated with respect and dignity and encouraged to take their own decisions on treatment and care on the basis of respect and informed consent.

Dr HAMED (Egypt), speaking on behalf of the Member States of the Eastern Mediterranean Region, expressed consternation at the inclusion of item 6.3 on the agenda. Among other things, the procedure followed in proposing inclusion of the item had not met the criteria set out in resolution EB121.R1. Moreover, the procedure had been irregular and lacking in transparency, thereby conflicting with the Rules of Procedure of the Executive Board, in particular Rules 8 and 9. Inasmuch as the item entailed discrimination in favour of certain groups on account of their choice of sexual orientation, it was incompatible with the Constitution of the World Health Organization, which provided that the enjoyment of the highest attainable standard of health was one of the fundamental rights of every human being without distinction of race, religion, political belief, economic or social condition. It was also incompatible with the Twelfth General Programme of Work and the Programme budget 2014–2015 adopted by the Sixty-sixth World Health Assembly.

Furthermore, the item politicized the work of WHO and went beyond its mandate; indeed, it would prompt discussion of legal and political issues that were within the remit of the United Nations Human Rights Council, which had itself not yet adopted any resolutions on those issues. It was also imbalanced and biased in favour of specific groups of a certain sexual orientation at the expense of other groups requiring WHO attention and positive discrimination in order to guarantee their access to essential health care and treatment. Those groups included mothers, children, the poor and minorities,

such as foreign migrants, displaced persons, people under occupation and asylum-seekers, who endured hatred and racial discrimination.

He expressed support for the principle of public health for all and the right of access to health care and treatment for all citizens, without distinction, as well as for international human rights principles and conventions. However, neither the right to health nor international humanitarian law should be abused in order to impose socially unacceptable values and criteria that conflicted with the cultural and religious beliefs of a broad spectrum of peoples and societies. The Member States of the Eastern Mediterranean Region were not seeking to impose their cultural and social values on other Member States and would not themselves accept any such imposition.

In the light of those considerations, he called for withdrawal of the item out of respect for the values of many Member States and out of concern to avoid divisions within the Organization that would jeopardize its authority in leading and coordinating international action in the field of public health. Should there be insistence on retaining the item, the Member States of the Eastern Mediterranean Region would object to its inclusion on the agenda and request its deletion on the strength of Rule 10*bis* of the Rules of Procedure of the Executive Board.

Mr BURCI (Legal Counsel), responding to a request from the CHAIRMAN for clarification of the procedure followed by the Officers of the Board and the Secretariat in placing the item on the agenda, recalled that Rules 8 and 9 of the Rules of Procedure of the Executive Board had been introduced in their current form in 2003. Rule 8 established a process providing for good management of the Board's agenda. In particular, it enabled the consideration by the Officers of the Board and the Secretariat of proposals for agenda items and, in the light of the overall context and the criteria established by the Board, of recommendations to be made to the Board regarding those proposals. Since 2003, the Secretariat and the Officers of the Board had established a consistent practice whereby the recommendations made were reflected in the provisional annotated agenda; that practice had never been challenged. The Chairman of the Board drew members' attention to those recommendations at every session. Final authority to approve the recommendations rested with the Board itself. Regarding the explanatory memorandum required under Rule 9 of the Rules of Procedure, the Rule was silent on what should be done with the memorandum and did not expressly require that it be submitted to the Board. In that respect as well, the consistent practice since 2003 had been to submit the memorandum to the Officers of the Board so that they could understand the rationale for proposing additional agenda items. That practice had never been challenged and had been followed in the case under consideration; that was not to say that it could not be improved.

Regarding item 6.3 specifically, the relevant proposal had been submitted in September 2012 by two Member States. It had been considered by the Officers of the Board, together with another proposal for an item on autism, in late September 2012 at a meeting at which every region had been represented, by the corresponding Vice-Chairman, the Rapporteur or, in the case of one Vice-Chairman who had been unable to attend, by the regional coordinator. The Officers of the Board had recommended that the two items should be deferred to the 133rd session of the Executive Board. No objections had been raised by the Officers to the inclusion of the item currently under consideration as item 6.3. Those recommendations were included in the provisional annotated agenda for the 132nd session of the Board. At the opening of that session, the Chairman had drawn members' attention to those recommendations. No comments or objections had been made at that time. It had therefore been taken that the Board had agreed to include those items on the provisional agenda of the current session. The Officers of the Board had discussed the matter again in March 2013 and had concluded that the Board should consider the item in question.

The CHAIRMAN noted the Legal Counsel's statement that all regions had been represented during the formal discussion of items to be included on the provisional agenda. Although they had subsequently received an objection to the item under consideration, the Officers of the Board could not have infringed the Board's own rules by removing it from the provisional agenda at that stage. She

therefore asked the Board as a whole to take a decision on the provisional agenda as it stood, with particular reference to item 6.3.

The DIRECTOR-GENERAL, responding to the concerns expressed with regard to procedure, said that the Legal Counsel's step-by-step outline of the procedure followed clearly demonstrated that item 6.3 had been added to the provisional agenda in accordance with established practice. She respected the substantive objections to the agenda item. However, objections to the item on procedural grounds cast doubt on the credibility of the Officers of the Board and of the full Executive Board at its 132nd session. The Officers of the Board had all agreed to the two agenda items proposed at the September 2012 meeting and the Chairman had taken great care at the 132nd session specifically to bring to the Board's attention the inclusion of those two items in the provisional agenda of the 133rd session. There had been no objections.

Mrs BAMIDELE (Nigeria), speaking on behalf of the Member States of the African Region, repeated that the agenda item should be deleted on the grounds that it would give rights to a group whose behaviour was a choice, not a health issue. The item had been imposed on the Region, which had a value system that everyone should respect.

Dr AMMAR (Lebanon), speaking in his capacity as Rapporteur, confirmed that item 6.3 had been included on the provisional agenda in strict compliance with the Rules of Procedure. Speaking as the member for Lebanon, and with regard to the substance of the item, he said that Lebanon aligned itself with the position expressed by the member for Egypt, on behalf of the Member States of the Eastern Mediterranean Region, in requesting the deletion of the item from the agenda.

Dr HAMED (Egypt), speaking on behalf of the Member States of the Eastern Mediterranean Region, said that WHO was a forum for discussion of health problems of importance to all six regions, not controversial subjects that were not in line with the values of all countries. Item 6.3 should not be on the agenda.

Professor NICKNAM (Islamic Republic of Iran) said that since its inception, WHO, in keeping with its Constitution, had quite rightly concentrated on promoting the health of every human being, regardless of his or her affiliation to any group. Item 6.3 had been included on the provisional agenda in clear contradiction of the Constitution. Focusing on the health and well-being of one particular group would constitute a major shift in the work of WHO and would pave the way for other groups to request similar treatment, overstressing the Organization's resources, distracting it from its primary mandate and diverting its attention to issues of doubtful relevance to health matters. Bringing divisive, highly controversial and politically motivated issues before the Organization could jeopardize its integrity and undermine solidarity between Member States, and he therefore categorically rejected the inclusion of item 6.3 on the provisional agenda.

Ms PENEVEYRE (Switzerland) favoured retaining item 6.3 on the agenda. Under item 5 on WHO reform, the Board would examine the criteria for selection of agenda items that would be applied in the future; the existing criteria had been met in the case of item 6.3. The health statistics for lesbian, gay, bisexual and transgender persons were not as positive as for other groups, and consideration of the item would permit more in-depth analysis of that situation. WHO's goal was to ensure that people enjoyed the highest attainable standard of health, so its duty, when it found an international health problem to exist, was to examine it with a view to finding appropriate pragmatic solutions. Lesbian, gay, bisexual and transgender people faced many forms of discrimination worldwide, and the topic was obviously controversial, but the Board had dealt with other controversial matters in the past. Non-discrimination was a fundamental principle of human rights and a key aspect of health care. The aim was not to give new rights to a specific category of the population, but rather

to ensure that everyone enjoyed the same rights and had the same access to health services. Dialogue and discussion were needed to move forward on the issue.

Mr KLEIMAN (Brazil) said that it was his understanding that item 6.3 had been included on the provisional agenda with due regard for procedure: it had been proposed by Member States and accepted by the Officers of the Board among whom all regions were represented. The inclusion of the item was an acknowledgement of the relevance of the issue for public health. Removal of the item could set a precedent with unforeseen implications for the functioning of the WHO governing bodies.

Item 6.3 should be retained. The Brazilian Government had traditionally positioned itself in favour of dialogue and cooperation in the multilateral arena, in the belief that, regardless of the topic, discussion helped to identify sustainable solutions and led to agreement on the best way forward. Keeping item 6.3 on the agenda in no way pre-empted discussion of the Secretariat's report on the item, which would be enhanced by the comments and views of all Board members. By virtue of the first two principles set out in the preamble to its Constitution, WHO was competent to deal with all health and public health issues. Lesbian, gay, bisexual and transgender persons faced health-related challenges in many countries, and their health was a universal concern that needed to be addressed collectively in a constructive and all-inclusive manner.

Mr PIPPO (Argentina) considered that the right to health should be guaranteed independently of a person's sex, race, origin, age or capacity. Lesbian, gay, bisexual and transgender persons were entitled to the same rights as everyone else, but they were frequently the victims of discrimination and saw their civil rights curtailed as a result. Access to health services and appropriate treatment should be guaranteed equally without any discrimination, xenophobia or racism. He endorsed the recommendation of the Officers of the Board, which had correctly identified the grounds justifying WHO's competence to discuss the subject, and therefore supported the retention of item 6.3 on the agenda.

Dr GRABAUSKAS (Lithuania), speaking on behalf of the European Union and its Member States, noted that the European Union worked closely with WHO on a wide range of matters, both within the European Region and at the global level, as agreed in the exchange of letters in 2000 between WHO and the European Commission on the consolidation and intensification of cooperation and without prejudice to any future general agreement between WHO and the European Union, the European Union attended sessions of the Board as an observer. He requested that, at the 133rd session of the Board, as at previous sessions, representatives of the European Union be invited to participate without vote in the meetings of the Board and its committees, subcommittees or other subdivisions that addressed matters falling within the European Union's competence.

The CHAIRMAN took it that the Board wished to accede to the request.

It was so agreed.

Dr GRABAUSKAS (Lithuania), speaking on behalf of the European Union and its Member States, supported the retention of item 6.3 on the agenda. Discrimination on the grounds of sexual orientation was prohibited under the Treaty on the Functioning of the European Union and the Charter of Fundamental Rights of the European Union. Moreover, non-discrimination was a value widely promoted in all European Union policies.

Dr AL-MARRI (Qatar), associating himself with the remarks made by the members for Egypt and Nigeria, among others, said that respect for the Constitution of the World Health Organization and for tradition required that item 6.3 be deleted from the agenda.

Dr VALVERDE (Panama) considered that item 6.3 had been included on the provisional agenda with due regard for procedure. She understood the concerns expressed by several members and suggested that the item's title might be amended to refer to the general determinants of health, so that a sincere and positive discussion of the health matters covered by that topic could ensue.

Dr KAMWI (Namibia) supported deletion of the item from the agenda in line with Rule 10*bis* of the Rules of Procedure of the Executive Board. He observed that the United Nations Human Rights Council was currently examining matters related to discrimination, and that as yet there was no consensus on the legal standing of the issue under consideration at the international level. Affirming that health was a human right and that non-discriminatory principles were enshrined in his country's Constitution, he said that Namibia did not condone any form of discrimination.

He expressed concern that Rules 8 and 9 of the Rules of Procedure had not been followed in the procedure leading to the inclusion of the item on the provisional agenda, inasmuch as the item had not been formally proposed and no explanatory memorandum had been submitted. In addition, there were other matters of global health concern that required the Board's attention. Noting the short duration of the current session, he said that the Board's work would be delayed by discussion of such a divisive matter.

Ms DÁVILA CHÁVEZ (Mexico) supported the view of the members for Argentina, Brazil and Switzerland that the item was important and should be retained on the agenda, given the clear link with fundamental aspects of the way in which the right to health was enforced. It was precisely the principles of equity and non-discrimination that formed the bedrock of Mexico's health system policies, as was demonstrated by its universal health coverage programme.

Dr CUYPERS (Belgium) considered that the correct procedure had been followed in relation to the inclusion of the item on the provisional agenda: he therefore favoured its retention. He would return to the subjects of ways to improve the selection of items to be included on the agenda and the work of the governing bodies under other items at a later stage of the Board's session.

Professor HALTON (Australia), recalling the principle enshrined in the WHO Constitution that the enjoyment of the highest attainable standard of health was a fundamental right of all peoples without distinction, and noting that the Legal Counsel had confirmed that the correct procedures had been followed in relation to item 6.3, strongly supported retention of the item. Given that respect was shown for the views of delegations on other matters that they considered important, equal respect was due to delegations that attached importance to the fact that lesbian, gay, bisexual and transgender persons were exposed to quantifiably more significant health-related risks arising from HIV/AIDS, mental health issues, violence and even suicide; dealing with those issues was one of WHO's core functions.

Dr CESARIK (Croatia) said that his country aligned itself with the position of the Member States of the European Union.

Mr NABEEL (Pakistan),¹ thanking the Legal Counsel for his advice, said that there was nevertheless a lacuna in the existing procedures for proposing agenda items, which should be discussed under the item on WHO reform. His country viewed the inclusion of the present item as an attempt to impose certain views on sexual orientation on the global community; in the absence of a global consensus on the issue, it should be deleted from the agenda so that the Organization could

¹ Participating by virtue of Rule 3 of the Rules of Procedure of the Executive Board.

focus its efforts on tackling diseases. Objecting not only to the title of the agenda item but also to its substance, he said that, as mentioned by the member for Nigeria, the human rights issues related to lesbian, gay, bisexual and transgender persons were being discussed by the United Nations Human Rights Council, where there was currently also no consensus, and should be left to that body. Given their controversial and divisive nature, such matters should more properly be dealt with at the national level.

The CHAIRMAN agreed with the representative of Pakistan that there might be a lacuna in the existing procedures but pointed out that his argument in favour of deletion might also apply to the agenda item on the management of autism spectrum disorders, which had been included by virtue of the same procedures.

Dr DAULAIRE (United States of America)¹ said that, as a recent member of the Board who had deep respect for WHO's impartiality and its technical and non-political vocation, he viewed the current debate as both unprecedented and profoundly dangerous. It was unprecedented because Member States had come together in an attempt to remove an item legitimately submitted for inclusion on the agenda by another Member State, overturning the well-established practice whereby Member States afforded each other the courtesy of seeking common ground even on sensitive issues; and dangerous because of the risk of politicizing the discussion of future items on the Board's agenda – that was a slippery slope. There had been no lacuna in the procedures for placing the item on the agenda: that process had been followed correctly.

He pointed out that, although hepatitis was often spread by practices strongly disapproved of by many Member States, there had been no objection to the inclusion of a supplementary agenda item on the matter, despite the failure to follow the correct procedure in that regard.

The arguments made in the request for inclusion of item 6.3 were fully substantiated by the Secretariat's report on the subject. Improving the health and well-being of lesbian, gay, bisexual and transgender persons was a matter of global public health, reflecting the existence of a significant public health burden. WHO was the appropriate forum for discussion of that issue, leaving the human rights debate to other bodies.

He could endorse a change in the title of the item, as proposed by the member for Panama, if that would advance the discussion. At the same time, he urged the Board to retain the item on the agenda, and not to keep it locked in the closet.

The CHAIRMAN took note of the comments made about the dangers and the need for WHO not to shrink from sensitive or even uncomfortable issues.

Ms TAKAENZANA (Zimbabwe)¹ expressed concern that the item under discussion had been included on the provisional agenda in spite of the written request for its deletion submitted by two regional groupings. The Secretariat had not defined "lesbian, gay, bisexual and transgender" in its report on the subject precisely because a globally agreed definition did not exist and because there was no universally accepted scientific basis for the term. The WHO Constitution clearly stated that health was a fundamental right of every human being without distinction of race, religion, political belief, economic or social condition; it was therefore unnecessary for distinct groups of persons to be given special consideration on the basis of culture and sexual orientation. Lesbian, gay, bisexual and transgender persons suffered the same types of illness as heterosexual persons and had access to the same health services. She strongly objected to the inclusion of the item on the agenda of the governing bodies, which represented an attempt by some Member States to impose foreign cultural values on

¹ Participating by virtue of Rule 3 of the Rules of Procedure of the Executive Board.

others. The item was not a matter of health and should therefore be deleted from the Board's agenda. Furthermore, the Board was not the appropriate forum for discussions concerning categorization under the International Statistical Classification of Diseases and Related Health Matters, as most delegations did not possess the relevant technical expertise.

The CHAIRMAN pointed out that it would have been inconsistent with established procedures to delete the item from the provisional agenda on the basis of written requests before its inclusion had been considered by the Board.

Miss KANITA SAPPHAISAL (Thailand)¹ fully supported inclusion of the item on the agenda. It was not intended to establish a new category of rights or to impose values that conflicted with the beliefs or traditions of any countries. Indeed, the item had been included in order to highlight and discuss the technical aspects of the public health challenges faced by the persons concerned, in line with the Organization's mandate and the principle that everyone should enjoy the same rights, regardless of race, status, beliefs or sexual orientation. She looked forward to a substantive discussion that would enrich Member States' understanding.

Dr SANGA (United Republic of Tanzania)¹ said that the agenda item under discussion related to a lifestyle that individuals could choose to adopt and also decide to change. It was a scientific fact that a woman could not have sexual relations with another woman, just as a man could not have sexual relations with another man. Moreover, some cultures regarded the practices concerned as harmful. The role of WHO was not to promote certain lifestyles, but to provide scientific evidence when controversial issues arose. The health needs of lesbian, gay, bisexual and transgender persons were already adequately covered by a range of existing programmes on sexually transmitted infections, HIV/AIDS and mental health. Indeed, 60% of activities under the comprehensive mental health action plan adopted at the Sixty-sixth World Health Assembly targeted groups including such persons. She failed to see what other health needs they might have.

She strongly supported the suggestion that the item should be deleted, in order to avoid sowing discord among Member States.

Ms DUPUY (Uruguay) supported examination of the agenda item under discussion from the standpoint of the right to health as an inherent right of all human beings without distinction. Although discrimination was prohibited in the constitution and legislation of many countries, discriminatory practices still occurred. Lesbian, gay, bisexual and transgender persons did not have special rights, but they were a vulnerable group in the same way as women, children and migrants were, and WHO had found that they faced barriers in accessing health services. There was no question of imposing foreign cultures on countries: WHO was a technical forum and one of its functions was to deal with specific health issues faced by vulnerable groups. Within the framework of the United Nations Human Rights Council and under the Universal Periodic Review, Uruguay had put forward recommendations on the access to health for certain groups of people, including sex workers who were routinely exposed to a higher level of violence than other members of society.

Ms STIRØ (Norway)¹ expressed support for retention of the item. The specific challenges faced by lesbian, gay, bisexual and transgender persons in accessing health services were related to topics of global public health concern and discussion thereof was therefore within the competence of WHO. Indeed, the governing bodies of WHO were entrusted with the task of ensuring equal access to health

¹ Participating by virtue of Rule 3 of the Rules of Procedure of the Executive Board.

services by all groups of people without distinction. She looked forward to a substantive debate on the item.

Dr EL OAKLEY (Libya)¹ supported reconsideration of inclusion of the item on the provisional agenda of the Board. If the item were retained, he suggested modifying its title, using universally acceptable wording such as “vulnerable groups” rather than nomenclature from a field replete with sometimes confusing language. It was wrong to discriminate against certain groups of people, but by the same token there could be no discrimination in favour of some groups to the detriment of others. Referring to the comments made by the representative of the United States of America, he agreed that the issue was a contentious one that should be handled with sensitivity.

Ms WISEMAN (Canada),¹ expressing strong support for retention of the item, said that it was clearly within WHO’s mandate to discuss matters relating to access to health care and services for all without discrimination. Only through open discussion could challenges related to access and support be addressed, in order to ensure that all people realized the right to the highest attainable standard of health.

Dr BEJTJA (Albania) supported the position expressed by the member for Lithuania on behalf of the European Union and its Member States. Equitable access to health services was a core principle of WHO. Noting the existence of evidence of differences in the health status of lesbian, gay, bisexual and transgender persons compared with that of other groups, he said that further research was needed to understand the underlying causes.

Mr SAMAR (Algeria)¹ said that the right to health of all people throughout the world and across all segments of society must be respected, promoted and protected, without any limitation. It was not acceptable that some countries, on the basis of specific internal considerations, should seek to impose on others obligations inconsistent with their values and national priorities.

Mr LOUME (Senegal), emphasizing the need to guard against discrimination, affirmed that targeting one group of persons in regard to the treatment of certain diseases was a form of discrimination against other vulnerable groups. In that connection, many Member States made efforts to ensure that all vulnerable groups were included in programmes that dealt with sexually transmitted infections and HIV/AIDS.

Ms GESSÉ MAS (Andorra) said that her country aligned itself with the statement made by the member for Lithuania on behalf of the European Union and its Member States.

The DIRECTOR-GENERAL, thanking speakers for their comments, said that their suggestions had been carefully noted. She confirmed that the correct procedure had been followed in respect of all items included on the provisional agenda. That was borne out by the fact that there had been no discussion on the inclusion of the item on the management of autism spectrum disorders (item 6.1).

She acknowledged that the subject under consideration was a difficult and sensitive one for many Member States. The diversity of Member States was one of the strengths of the Organization, and she had noted that mutual respect informed their relations with each other. Indeed, there had been numerous occasions when Member States had demonstrated great ability, flexibility and strength in finding pragmatic solutions to extremely controversial issues. The item under consideration fell into that category and she supported countries that had emphasized that it must not be used by any interest

¹ Participating by virtue of Rule 3 of the Rules of Procedure of the Executive Board.

group to influence the position of WHO. However, she also agreed with those who considered that it was important to initiate a dialogue on the subject, despite the controversy surrounding it, albeit in a manner that was acceptable to all Member States.

The provisional agenda that had been submitted to the Secretariat posed challenges, as was illustrated by the example of the supplementary agenda item on evaluation and improvement of primary health care during crisis proposed by the Permanent Mission of the Syrian Arab Republic to the United Nations Office and other International Organizations in Geneva. As Director-General, she had found a solution acceptable to all after seeking guidance and advice and listening to the different opinions of Member States.

She was similarly prepared to use her good offices in relation to the item under consideration, and to that end proposed that, given the short duration of the current session of the Board, members should consider accepting all the items on the provisional agenda, but should defer discussion of the item on improving the health and well-being of lesbian, gay, bisexual and transgender persons, and instruct her to work with and be guided by Member States in an effort to find a pragmatic solution, so that it could be discussed at the 134th session of the Board in January 2014. She was sure that Member States had the courage, energy and wisdom to find a way forward.

Dr OMI (Japan), expressing support for that proposal, remarked that the Director-General, together with the Secretariat, had worked hard to ensure that the provisional agenda was acceptable to all Member States.

Ms MATSOSO (South Africa) endorsed the proposal made by the Director-General as a means of resolving the divisive issue under discussion, and highlighted the importance of promoting tolerance, equality, inclusion and respect for diversity.

Dr KAMWI (Namibia), expressing trust in the leadership ability of the Director-General, thanked her for her comments and supported her proposal to defer discussion of the item.

Dr HAMED (Egypt) noted Member States' widely diverging and strong opinions on the issue, as well as the concern expressed by some that it would create divisions within the Organization. Endorsing the Director-General's proposal that she should undertake discussions with Member States before the item was considered, he urged the withdrawal of the item so that discussions could be conducted informally by the regional groups.

Mrs BAMIDELE (Nigeria), noting the sensitive nature of the current issue, expressed support for the proposal made by the Director-General to defer consideration of the item.

In reply to a request for clarification from Ms DÁVILA CHÁVEZ (Mexico), the CHAIRMAN said that the proposal was to defer consideration of the item. Only if consensus could be reached following discussions with Member States would it be included on the agenda of the 134th session of the Board in January 2014.

Dr DAULAIRE (United States of America) expressed appreciation for the comments made by the Director-General in seeking a way forward. The United States, as one of the Member States that had requested inclusion on the provisional agenda, did not wish the item to be withdrawn, but would support deferral of its consideration to the 134th session of the Board in January 2014, if a consensus was reached to that effect.

The DIRECTOR-GENERAL said that the decision on removal or retention of the item lay solely within the authority of the Board. In order not to delay the proceedings any further, she

proposed that the Board should approve the provisional agenda in its current form but not discuss the item on improving the health and well-being of lesbian, gay, bisexual and transgender persons, so that she could consult Member States with the aim of finding common ground on a way forward.

The CHAIRMAN said that she had understood the proposal to mean that the provisional agenda should be approved without the item under discussion; when consensus had been reached on an acceptable approach to the issue, substantive discussion would resume.

Professor HALTON (Australia) noted that Member States were demonstrating respect for the diversity of views expressed on the substance of the issue. Australia supported discussion of the item, but was anxious to listen to the concerns of others. She emphasized that it was not her country's intention to impose certain cultural views on other Member States. She welcomed the Director-General's offer to use her good offices in seeking a solution, noting that part of the Board's role was to reach consensus on controversial matters. At the same time, she favoured adoption of the provisional agenda in its current form, including the item on improving the health and well-being of lesbian, gay, bisexual and transgender persons, on the understanding that its substance would not be discussed at the current session, thereby allowing the Director-General sufficient time to initiate a dialogue with Member States with the objective of reaching consensus. Acceptance of the Director-General's offer would not mean that Member States were bound to discuss the item at the next session of the Board in January 2014.

The CHAIRMAN confirmed that the Director-General had indeed suggested that further work was needed on the item in order to find common ground on an acceptable title and other issues.

Mr BAGHERPOUR (Islamic Republic of Iran), thanking the Director-General for her efforts to find a way forward, noted that there appeared to be a further proposal to change the title of the item, given that the sensitive nature of the substance extended to the title as well. He suggested that the provisional agenda should be adopted without item 6.3, which should be deleted, and that interested Member States should be asked to propose new and unambiguous language for both the title and the content, together with an explanatory memorandum and any appropriate definitions, so that the newly worded item, if approved for inclusion on the agenda, could be discussed at a later stage, possibly at the 134th session of the Board in January 2014. In the meantime, the Director-General would pursue her consultations with a view to finding a solution acceptable to all.

Dr HAMED (Egypt) endorsed the course of action suggested by the member for the Islamic Republic of Iran. The agenda could be adopted subject to the deletion of item 6.3.

The CHAIRMAN, summing up the discussion, said that three options had been presented to the Board: the first was to delete item 6.3 from the provisional agenda; the second was to defer consideration of the item to the 134th session of the Board in January 2014; and the third was to retain the item on the provisional agenda. Given the lack of consensus among Board members, a decision might need to be taken by means of a vote.

Dr GRABAUSKAS (Lithuania), speaking on behalf of the European Union and its Member States, favoured retention of the item and adoption of the provisional agenda in its current form. However, in a spirit of compromise, he would be willing to accept the deferral of substantive discussion on the item to the next session of the Board in January 2014, if that was decided by the members of the Board.

Mr ROMERO PUENTES (Cuba) expressing regret that the matter might have to be decided by means of a vote, said that such a course would set a worrying precedent that he would prefer to avoid. It appeared that the main point of contention centred on whether or not item 6.3 would automatically be included on the agenda of the Board at its 134th session in January 2014. He would prefer it to be so included, subject to a modification of its title following the Director-General's consultations with Member States.

Ms PADILLA RODRÍGUEZ (Mexico) agreed that it would be preferable not to proceed to a vote. Members were endeavouring to work towards a solution to a difficult question, and Mexico supported the Director-General's excellent proposal in that regard.

Dr OMI (Japan) agreed that a vote should be avoided. In the interests of compromise, he suggested that the item could be deleted from the provisional agenda, subject to three conditions: that the item would be discussed by the Board at its 134th session; that its nomenclature was duly amended to reflect the views expressed by Member States; and that the Director-General and her team consulted with Member States to ensure that all views were reflected in the background document submitted to the Board.

Dr AL-MARRI (Qatar), agreeing that every attempt should be made to avoid a vote, favoured deleting the item from the provisional agenda for the current session and holding consultations with a view to formulating a title acceptable to all, in accordance with the suggestions made by the member for the Islamic Republic of Iran.

Mrs BAMIDELE (Nigeria) said that consensus was preferable to a vote. She could agree to deleting the item from the agenda of the current session of the Board, producing a new title for the item and referring the issue to the 134th session of the Board for discussion.

Dr MEMISH (Saudi Arabia) said that it was regrettable that so much time had been spent attempting to reach agreement on the agenda for the session. It would not be appropriate to take a vote or adopt a unilateral decision that would complicate the process to be followed in the future. He agreed with the members for Japan, Qatar and Nigeria that further consultations were needed on issues of nomenclature with a view to reaching agreement in time for the 134th session of the Board.

Professor HALTON (Australia) requested clarification of the proposal made by the member for Japan. Was the item to be removed from the provisional agenda of the current session of the Board and appear on the provisional agenda of the Board's session in January 2014 with the same title and reference document? Or was the title of the item that would be included on the provisional agenda for January to be left blank in order to allow the Director-General time to seek consensus on an acceptable wording?

Dr HAMED (Egypt), expressing support for the suggestion by the member for the Islamic Republic of Iran that item 6.3 should be deleted and consultations on the issue pursued, said that it was not appropriate to impose discussion of the item upon the Board at its 134th session, particularly since a text agreeable to all might not have been developed by then. It was unfortunate that the topic was being viewed as a dispute between east and west or between different cultures, since that politicized the work of the Organization, which should focus entirely on medical issues.

Dr OMI (Japan), replying to the member for Australia, said that his proposal was to remove the item from the provisional agenda of the current session of the Board. It was to be hoped that the title

of item 6.3 could be replaced by new wording acceptable to all Member States, following consultations with the Director-General, with a view to subsequent discussion of the item.

Dr GRABAUSKAS (Lithuania), speaking on behalf of the European Union and its Member States, requested clarification from the Legal Counsel as to the legal standing the item would have at the Board's session in January 2014 if it was deleted from the provisional agenda of the current session.

The CHAIRMAN said that the Board appeared to be moving towards a consensus on a set of future steps: the current provisional agenda would be adopted without item 6.3; the Director-General would lead discussions on the title and other issues affecting content that had been clearly articulated during the discussion; and, if consensus was reached, the provisional agenda for the 134th session of the Board in January 2014 would contain an item, the title of which had yet to be determined. She sought clarification from the Legal Counsel as to whether the Board, at its January 2014 session, would have the ability to accept or reject its agenda.

Mr BURCI (Legal Counsel) said that the proposal before the Board was a procedural one, namely to remove the item from the provisional agenda of the current session and to follow the steps proposed, leading to the presentation of an item whose title and content reflected the concerns of all regions. Discussion of the item could not be imposed upon the Board, which had the right, at every one of its sessions, to adopt its own agenda and decide which items to discuss, defer or delete. At its January 2014 session, therefore, the Board would be fully empowered to consider the totality of its agenda, including a reformulated item on the topic under discussion.

Mr BAGHERPOUR (Islamic Republic of Iran) said that it was the responsibility of Member States, not the Director-General, to present a new agenda item. His country could agree to the deletion of item 6.3 and a process whereby Member States, with the good offices of the Director-General, would formulate new compromise wording and an explanatory memorandum in preparing a proposal for an item to be included on the provisional agenda of the next session of the Board. It would then be for the Board to decide whether to include that item at that session.

Mrs BASSIM (Egypt) said that a vote would create a dangerous precedent as the Board had always worked on the basis of consensus. Egypt was prepared to accept the proposed compromise solution, namely: deleting the item from the provisional agenda of the current session; urging all delegations to consult with the Director-General with a view to reaching agreement on the title and substance of the item and preparing an explanatory memorandum; and deferring consideration of the item to the next Board session in January 2014, on the understanding that the Board was not bound to discuss it at that time.

Mr NABEEL (Pakistan)¹ agreed that a vote should be the last resort. The Board was very close to reaching a consensus on deleting item 6.3 from the provisional agenda of the current session and requesting the Director-General to hold informal consultations on the issue with a view to its possible inclusion on the provisional agenda of the next session of the Board.

The CHAIRMAN said there appeared to be consensus that the current item 6.3 should be removed from the provisional agenda and that the Director-General and her team should lead discussions among Member States to reach a consensus on adjustments to the title and content,

¹ Participating by virtue of Rule 3 of the Rules of Procedure of the Executive Board.

together with an explanatory memorandum for the item. A proposal for the new item would then be submitted for consideration during the preparation of the provisional agenda for the Board's 134th session.

Mr KLEIMAN (Brazil) requested more time for consultation.

Mr GRABAUSKAS (Lithuania) said that the European Union and its Member States wished to retain the item on the agenda of the current session of the Board.

The DIRECTOR-GENERAL suggested that item 6.3 might be placed in square brackets to allow the Board to continue with its work.

The CHAIRMAN asked whether the Board could move to item 2 of its agenda.

Mr BAGHERPOUR (Islamic Republic of Iran) said that the Board should adopt its agenda before proceeding to consider other items. Board members were making efforts to achieve consensus, and suggestions should be constructive.

Mr KLEIMAN (Brazil) said that it would not be appropriate for the Board to choose to move forward with its work as a means of avoiding further discussion of the issue. The solutions proposed thus far did not satisfy those countries that wished to maintain the item on the agenda of the current session of the Board. In order to avoid a vote, which would set a dangerous precedent, the Board therefore had no option but to continue the discussions with a view to finding a solution.

Dr DAULAIRE (United States of America),¹ noting that the Board was the master of its own agenda, said that the views expressed by the members for Egypt and Japan could form the basis of a workable compromise.

Mr PIPPO (Argentina) agreed that a vote should be avoided. He suggested that the title should be reformulated and the Director-General requested to prepare a new report. A small group might also be established to engage in further discussion with a view to reaching consensus on a new item to be included on the provisional agenda of the next session of the Board.

Mrs BASSIM (Egypt) appealed to members not to reopen the debate and to support the Chairman's clear proposal, which was based on suggestions from several delegations, including Japan, Nigeria and Egypt, and constituted a good compromise.

Professor HALTON (Australia) said that her delegation could accept the removal of the item from the provisional agenda of the current session and the inclusion of a placeholder item for the Board's session in January 2014, the title of which could be determined following consultation.

Ms MATSOSO (South Africa) agreed that a vote should be avoided, and suggested that the Board should proceed on the basis of the Chairman's proposal.

Mr KLEIMAN (Brazil) said that his delegation would be prepared to agree to the withdrawal of the item from the provisional agenda of the current session provided that a formal decision or

¹ Participating by virtue of Rule 3 of the Rules of Procedure of the Executive Board.

guarantee was provided to ensure that the item would be taken up at the January 2014 session of the Board, without going through the Officers of the Board.

Dr VALVERDE (Panama) said that, although the subject under consideration was sensitive and complex, it was one of concern to all countries of the world. She favoured deferring the item to the 134th session of the Board, by which time its form would have been determined by consultations.

Dr GRABAUSKAS (Lithuania) suggested that members should use the lunch break in order to try to reach a consensus through informal consultations.

Ms PADILLA RODRÍGUEZ (Mexico) agreed with the member for Brazil that consensus was close but there must be a definite guarantee, in accordance with the wish of many countries, that the item would be included on the agenda of the Board at its January 2014 session.

Professor SHIRALIYEV (Azerbaijan) said that consensus did not really appear to be emerging and that some countries were holding up the Board's work by insisting on retention of the item on the agenda for the current session. That was an unprecedented situation. No further progress could be made unless the item was deferred to the next session of the Board.

Dr OMI (Japan) said that the Board faced a dilemma: no guarantee could be given since, as the Legal Counsel had clearly stated, the Board was free to decide on its agenda at every session. In order to resolve that dilemma, he suggested that it could be placed on record that a consensus had emerged to the effect that members would be prepared to discuss the issue provided that the title and substantive content prepared for the item were amended to reflect the views expressed by all.

Professor HALTON (Australia) requested clarification from the Legal Counsel as to whether she was correct in her understanding that it was proposed that item 6.3 was to be deleted from the agenda and a placeholder item included on the provisional agenda of the Board's session in January 2014, with an unobjectionable title that was yet to be determined. It was also her understanding that, consistent with existing practice, the new item would then be discussed by the Board, although no guarantee could be given at the present juncture since the Board, when convened in January 2014, would decide whether or not to take up the item for discussion.

Mr BURCI (Legal Counsel) agreed that a consensus appeared to be emerging on proposals to remove the item from the provisional agenda of the current session of the Board, to mandate the Director-General to engage in consultations with regional groups on an acceptable title and content for the item, and to insert a placeholder item in the provisional agenda of the 134th session of the Board. The decision on how to proceed on that item would be for the Board to decide at its 134th session of the Board.

Mr OSEI (Ghana)¹ said that every effort should be made to reach a consensus and hoped that a sense of balance and fairness would prevail.

Miss KANITA SAPPHAISAL (Thailand)¹ recalled that Thailand had been one of the two countries that had proposed the agenda item in the hope that it would allow all Member States to engage constructively on an important public health issue. Acknowledging that the subject was a highly sensitive one, she expressed appreciation of the spirit of cooperation and compromise

¹ Participating by virtue of Rule 3 of the Rules of Procedure of the Executive Board.

demonstrated by members in their efforts to achieve a consensus. The process outlined by the Legal Counsel was acceptable, although it was for the Board to make a decision.

Mr CORRALES (Panama), noting that item 11 of the provisional agenda concerned future sessions of the Executive Board and the Health Assembly, suggested that the guarantee some members were seeking might be formalized in the discussions under that item.

Mr KLEIMAN (Brazil) said that time was a wise counsel and it was important for all participants to be satisfied with the outcome of the discussions. Many countries were of the opinion that the item must be tackled. Brazil had total confidence in the ability of the Director-General to achieve a deeper and broader consensus before January 2014 and to formulate a title on the basis of consultations, with a view to guaranteeing that the item was placed on the agenda of the 134th session of the Board.

Ms PENEVEYRE (Switzerland) supported the process outlined by the member for Australia and the Legal Counsel, including the adoption of a placeholder item, although there could be no guarantee that the item would be discussed by the Board in January 2014 since the Board had sovereign authority over its own agenda.

Mr NABEEL (Pakistan)¹ endorsed the comments of the previous speaker. Although no guarantee could be given that the item would be taken up by the Board in January 2014, the Rules of Procedure of the Executive Board did provide that any Member State could propose any item for inclusion in the provisional agenda of a session of the Board.

Mr BAGHERPOUR (Islamic Republic of Iran) said that, in order to expedite its work, the Board might wish to adopt the provisional agenda ad referendum.

The meeting rose at 13:10.

= = =

¹ Participating by virtue of Rule 3 of the Rules of Procedure of the Executive Board.