
Post of Director-General

Note by the Legal Counsel

1. This document provides information on the election that will take place in the Health Assembly to appoint the Director-General. In particular it addresses the following aspects:

- (a) the legal basis for the election;
- (b) the appointment of the Director-General;
- (c) the procedures for the conduct of the election:
 - (i) proposals of the Executive Board at its 140th session to improve the efficiency of paper-based voting in the Health Assembly;
 - (ii) procedures for the conduct of the secret ballot.

2. The matter will be considered by the Health Assembly under three provisional agenda items: 4.1 on the procedures for the conduct of the election; 4.2 on the appointment of the Director-General; and 4.3 on the contract of the Director-General. It is anticipated that item 4.1 will be considered on Monday, 22 May 2017 and items 4.2 and 4.3 will be considered on Tuesday, 23 May 2017. This document relates to items 4.1 and 4.2; document A70/5 relates to item 4.3.

A. LEGAL BASIS FOR THE ELECTION

3. Article 31 of the Constitution of the World Health Organization (Annex 1) states that the Director-General shall be appointed by the Health Assembly on the nomination of the Board on such terms as the Health Assembly may determine.

4. The Board at its 140th session adopted resolution EB140.R3 (2017) (Annex 2) in which it nominated Dr Tedros Adhanom Ghebreyesus, Dr David Nabarro and Dr Sania Nishtar for the post of Director-General of the World Health Organization in accordance with Article 31 of the Constitution and submitted this nomination to the Seventieth World Health Assembly.

5. The Health Assembly will consider provisional agenda item 4 in accordance with its Rules of Procedure, in particular Rules 70bis and 106–110 (Annex 3).

B. APPOINTMENT OF THE DIRECTOR-GENERAL

Candidates' statements

6. Candidates nominated by the Board shall address the Health Assembly on the morning of Tuesday, 23 May 2017, before the lunch break. Each statement shall be limited to 15 minutes, the order of the statements shall be decided by lot, there shall be no questions and answers, and the statements shall be webcast on the WHO website in all official WHO languages.¹

Private meeting

7. The Health Assembly will consider the Board's nomination on the afternoon of Tuesday, 23 May 2017 when the session is resumed after the lunch break. It will do so at a private meeting.² Accordingly, attendance will be limited to delegations of Members, the representatives of Associate Members, the representative of the United Nations and the Secretariat.³ As a matter of principle, in order to preserve the serenity of the proceedings, candidates should not attend those meetings even if they form part of the delegation of a Member State.⁴

Secret ballot

8. The Health Assembly will reach a decision on the appointment of the Director-General by secret ballot.⁵ The procedures for the conduct of the secret ballot are set out in paragraphs 31–46 below.

Eligibility to vote

9. Each Member shall have the right to vote unless its voting privileges have been suspended by the Health Assembly.⁶ Each Member entitled to vote shall have one vote.⁷

10. Within delegations, the chief delegate is entitled to vote on behalf of his or her delegation. He or she may designate another delegate to vote on behalf of the delegation.⁸ An alternate, but not an adviser, may be so designated. The badges of the chief delegate, delegates and alternates within each delegation will be marked with two red stripes so as to allow easy identification of persons capable of being designated to vote on behalf of the delegation. It is therefore of paramount importance that Members wishing to vote should be represented at the Health Assembly and should communicate to the Director-General, if possible 15 days before the date fixed for the opening of the session of the

¹ Resolution WHA69.18 (2017).

² Rule 108 of the Rules of Procedure of the World Health Assembly.

³ Rule 20 of the Rules of Procedure of the World Health Assembly.

⁴ Section B.III.1 of the Code of Conduct for the Election of the Director-General of the World Health Organization.

⁵ Rule 108, paragraph 1, of the Rules of Procedure of the World Health Assembly.

⁶ Article 7 of the Constitution of the World Health Organization and resolution WHA41.7 (1988).

⁷ Rule 69 of the Rules of Procedure of the World Health Assembly.

⁸ Rule 19, second paragraph, of the Rules of Procedure of the World Health Assembly.

Health Assembly, the names of their representatives, including all alternates, advisers and secretaries.¹ Members must deliver the credentials of their delegates to the Director-General, if possible not less than one day before the opening of the session of the Health Assembly.²

Quorum

11. The quorum required for the conduct of business at plenary meetings of the Health Assembly, including the election of the Director-General, is a majority of the Members represented at the session.

Majority required

12. The Director-General is elected by a clear and strong majority of Members present and voting.³ What constitutes a clear and strong majority is defined according to the stage of the election reached. When, as in this case, the Board nominates three persons, the following procedure applies.

(a) If in the first ballot a candidate obtains a two thirds majority or more of the Members present and voting, this will be considered a clear and strong majority and he or she will be appointed Director-General. If no candidate obtains the required majority, the candidate having received the least number of votes shall be eliminated. If two candidates tie for the least number of votes, a separate ballot shall be held between them and the candidate receiving the least number of votes shall be eliminated.

(b) In the subsequent ballot, a candidate will be appointed Director-General if he or she obtains a two thirds majority or more of the Members present and voting which will be considered a clear and strong majority.

(c) If no candidate receives the majority indicated in subparagraph (b), a candidate will be appointed Director-General if he or she receives in the subsequent ballot a majority of the Member States of the World Health Organization or more, which will be considered a clear and strong majority. On the assumption that the membership of the Organization remains at 194, the majority required will thus be 98.⁴

(d) If no candidate receives the majority indicated in subparagraph (c), a candidate will be appointed Director-General if he or she receives in the subsequent ballot a majority of the Members present and voting, which will be considered a clear and strong majority.

¹ Rule 22(a) of the Rules of Procedure of the World Health Assembly.

² Rule 22(b) of the Rules of Procedure of the World Health Assembly.

³ Rule 70bis and Rule 108 of the Rules of Procedure of the World Health Assembly.

⁴ It should be noted that, as in previous ballots, Members having lost the right to vote will not be entitled to participate in the voting. They will, however, be counted for the purpose of calculating the majority required in this round of voting.

13. For the purposes of subparagraphs (a), (b) and (d), the phrase “Members present and voting” refers to Members casting a valid affirmative or negative vote, whereas Members abstaining from voting or casting a null and void vote are considered as not voting.¹

Conduct of Member States

14. Member States should abide strictly by the Rules of Procedure of the World Health Assembly and other applicable resolutions and decisions and respect the integrity, legitimacy and dignity of the proceedings. As such, they should avoid behaviours and actions, both inside and outside the conference room where the appointment takes place, that could be perceived as aiming at influencing its outcome.²

15. Member States should respect the confidentiality of the proceedings and the secrecy of the votes. In particular, they should refrain from communicating or broadcasting the proceedings during the private meetings through electronic devices.¹ Accordingly, Members will be requested to turn off all mobile phones and other communication devices during the private meetings at which the election takes place.

16. In view of the secret nature of the vote for the nomination and appointment of the Director-General, Member States should refrain from publicly announcing in advance their intention to vote for a particular candidate.¹

Consideration of draft resolutions

Appointment of the new Director-General

17. Once the secret ballot is concluded, the Health Assembly will consider a draft resolution on the appointment of the new Director-General. In line with the approach of previous Health Assemblies, this could read as follows:

The Seventieth World Health Assembly,

On the nomination of the Executive Board,

APPOINTS as Director-General of the World Health Organization.

Approval of the contract

18. The Health Assembly will also approve the contract setting out the terms and conditions of the appointment, salary and other emoluments related to the office of Director-General.³ In doing so, the

¹ Rule 69 of the Rules of Procedure of the World Health Assembly. The phrase “casting a valid affirmative or negative vote” is understood in this context as referring to casting a valid vote for a candidate.

² See resolution WHA66.18 (2013), Annex 1: Code of Conduct for the Election of the Director-General of the World Health Organization, Section B.III.2–4 (http://apps.who.int/gb/ebwha/pdf_files/WHA66-REC1/A66_REC1-en.pdf?ua=1&ua=1#page=57, accessed 14 March 2017).

³ Rule 107 of the Rules of Procedure of the World Health Assembly.

Health Assembly will consider the draft contract and draft resolution submitted to it by the Board.¹ For more information on the approval of the draft contract of the Director-General, see document A70/5.

Announcement of the new Director-General, taking of the oath of office and signing of the contract

19. The decision of the Health Assembly will be announced at an early public meeting.² This is likely to take place immediately following the conclusion of the private meeting that holds the secret ballot and approves the contract.

20. The resolution on the appointment of the Director-General will be read, following which the Director-General elect will be invited to take the oath of office.³

21. The resolution on the contract will also be read and the contract will be signed by the Director-General elect and the President of the Health Assembly, acting in the name of the Organization.⁴

Term of office

22. The Director-General elect will take office on 1 July 2017 for a period of five years.⁵

C. PROCEDURE FOR THE CONDUCT OF THE ELECTION

23. The Health Assembly will be invited, under provisional agenda item 4.1, to consider the proposals of the Executive Board concerning the conduct of the election and to consider adopting the resolution proposed by the Board to give effect to them. It will also be invited to consider and decide on the procedures for the conduct of the secret ballot.

(i) Proposals of the Executive Board to improve the efficiency of paper-based voting in the Health Assembly

24. The Executive Board at its 140th session recommended that the Seventieth World Health Assembly decide to use a paper-based voting system for the appointment of the Director-General, to implement the proposals set out in the Table to improve the efficiency of paper-based voting in the

¹ Resolution EB140.R4 (2017).

² Rule 20 of the Rules of Procedure of the World Health Assembly.

³ According to the Staff Regulations and Staff Rules, all staff members shall subscribe to the following oath or declaration: "I solemnly swear (undertake, affirm, promise) to exercise in all loyalty, discretion, and conscience the functions entrusted to me as an international civil servant of the World Health Organization, to discharge those functions and regulate my conduct with the interests of the World Health Organization only in view, and not to seek or accept instructions in regard to the performance of my duties from any government or other authority external to the Organization." (Staff Regulation 1.10). Staff Regulation 1.11 requires that the oath by the Director-General should be made orally at a public meeting of the Health Assembly.

⁴ Rule 110 of the Rules of Procedure of the World Health Assembly.

⁵ Rule 106 of the Rules of Procedure of the World Health Assembly.

Health Assembly and to adopt the necessary procedural amendments to enable those proposals to be implemented (Annex 4).

TABLE. PROPOSALS TO IMPROVE THE EFFICIENCY OF PAPER-BASED VOTING IN THE HEALTH ASSEMBLY AND CONSEQUENT NEED FOR PROCEDURAL AMENDMENTS¹

Proposal		Is amendment of the Rules of Procedure of the World Health Assembly or of the Guiding Principles for the Conduct of Elections by Secret Ballot required?
(1)	<p>Delegations are called to vote simultaneously at six voting stations set up in front of each of the six seating blocks in the Assembly Hall at the Palais des Nations.</p> <p>Delegations are called to vote in the order they are seated in the six seating blocks.</p>	<p>Yes.</p> <p>The Guiding Principles for the Conduct of Elections by Secret Ballot require that members shall be called in turn to vote in the required alphabetical order of their names, beginning with the name of a Member which shall have been drawn by lot and that the call shall be made in English, French, Russian and Spanish.</p>
(2)	<p>One teller and one legal officer are positioned at each of the six voting stations. The legal officer distributes one ballot paper to each representative having come to the voting station at which he/she is positioned and records the distribution of a ballot paper to the respective delegation on a sheet of paper.</p>	<p>Yes.</p> <p>Rule 78 of the Rules of Procedure of the World Health Assembly provides that, where a ballot is required, <u>two</u> tellers appointed by the President from among the delegations present shall assist in the counting of votes.</p> <p>The Guiding Principles for the Conduct of Elections by Secret Ballot refer to the ballot box in the <u>singular</u> throughout.</p>
(3)	<p>After each Member entitled to vote has inserted its ballot paper in the ballot box, the six tellers positioned at the voting stations carry the ballot boxes to the rostrum and place them on three tables.</p> <p>At each table, two tellers will then open the two ballot boxes placed on each table, count the votes and record the result on a sheet prepared for this purpose by the Secretariat.</p>	<p>Yes.</p> <p>As for (2) above.</p>

¹ See the proposed amendments in Annex 4.

(4)	One teller at each table carries the result sheet to a fourth table where the result of the vote will be recorded onto the appropriate WHO form.	Yes. As for (2) above.
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25. On the basis of past experience, the Secretariat estimates that one round of voting by secret ballot in the Health Assembly in accordance with the traditional procedure would take one full morning or afternoon meeting of the Health Assembly.¹ This process entailed the Secretariat distributing a ballot paper to each delegation, delegations being called one by one in alphabetical order to vote, ballot papers being collected in a single ballot box and counted by two tellers.

26. The proposals recommended by the Executive Board (Table) are designed to reduce the time taken to conduct each round of voting. They address the three most time-intensive stages of paper-based voting in the Health Assembly (distribution of ballot papers, collection of ballot papers and counting of votes).

27. The Board proposed that voting should take place simultaneously at six voting stations set up at the front of the Assembly Hall. Delegations would be called to vote at the voting station in front of the block where they are seated. At the voting station, they would receive a ballot paper, complete it and place it in the ballot box at the voting station. The votes would be counted by six tellers.

28. Based on tests that have been conducted by the Secretariat, implementation of these proposals could reduce the time required to conduct one round of voting at the Health Assembly to about 80 minutes per round, effectively allowing two rounds of voting to be held in the same morning or afternoon session.

29. Implementation of the proposals of the Board would require minor adjustments to the Rules of Procedure of the World Health Assembly and the Guiding Principles for the conduct of elections by secret ballot. These adjustments would be given effect by amendment of the relevant rules, in accordance with Rule 119, as indicated in the Table. The text of the amendments proposed by the Board is set out in Annex 4 to this report.

(ii) Procedures for the conduct of the secret ballot

30. The proposed procedures for the conduct of the secret ballot are set out below. These assume that the Health Assembly decides to adopt the proposals recommended by the Board as set out in paragraphs 23–29 above.

31. The secret ballot is expected to be held on the afternoon of Tuesday, 23 May 2017. In line with previous practice, the Health Assembly may wish to decide in principle to meet in continuous session, without breaking between rounds of voting, in the event that there is more than one round.

32. After the opening of the meeting, the President will explain, with the assistance of the Legal Counsel, the details of the procedure to be followed.

¹ See the Guiding Principles for the conduct of elections by secret ballot, adopted by resolution WHA18.22 (1965).

33. The President will then appoint six tellers from among the delegations present to assist with the procedure. The President will invite each teller to stand at one of the six voting stations set up at the front of the Assembly Hall. A legal officer will also be assigned to each voting station.
34. Before opening the voting, the President will ask the tellers to verify that the six ballot boxes are empty. One ballot box will then be placed at each of the six voting stations.
35. The President will ask the Secretariat to distribute the requisite number of ballot papers to each of the six voting stations.
36. The names of the candidates will be written on the ballot papers in alphabetical order of their surnames in English. A box will be placed next to each name; a mark can therefore be placed in the box next to the name of the candidate for whom a Member wishes to vote.
37. Upon the signal of the President, the voting will be opened and delegations will be invited to vote at one of the six voting stations at the front of the Assembly Hall. Delegations will be invited to vote at the voting station at the front of the seating block in which they are seated. They will be invited to do so in the order in which they are seated in the seating block.
38. Each delegation will be invited to send one person, starting with the row at the front of the Assembly Hall, to vote. If that person is not the chief delegate, they should be another delegate, or an alternate, designated to cast the vote of the Member concerned. They should present their conference badge to the legal officer at the relevant voting station, who will verify that they represent a Member entitled to vote and that they are a person capable of being designated to cast the vote of the Member concerned. A record of these facts will be made and a ballot paper provided to the delegation.
39. Those representing Members that have received a ballot paper, will be invited to vote behind a shield placed on the table set up at the relevant voting station. They should do so by placing a mark, such as an "X" or "tick" ("√"), in the box next to the name of the candidate for whom they wish to vote. Members wishing to abstain may leave the ballot paper blank or write "abstention".
40. Any ballot paper on which more than one name is marked will be null and void. Any ballot paper bearing a distinguishing mark, such as the name of the voter, will be declared null and void.¹
41. Should any voter make a mistake, the mark made by mistake should be erased or crossed out so that it is clear to the tellers that the ballot paper has been corrected and that it is equally clear for which candidate the voter wishes to vote. If, during the voting, a new ballot paper is required, the voter concerned is invited to signal this to the legal officer positioned at the voting station in question and to request a new ballot paper.
42. Members are invited to ensure that their delegation is present in the room before voting commences. If necessary, a delegation that is present in the room but has missed its turn to vote may nonetheless vote at the relevant voting station at any time before the President declares the voting closed.
43. Once each Member entitled to vote and wishing to do so has placed its ballot paper in a ballot box, the President will declare the voting closed. The six tellers will each carry the ballot box from

¹ Guiding Principles for the conduct of elections by secret ballot, principle 11.

their voting station to the rostrum and place it on one of three tables. At each table, two tellers will open the two ballot boxes placed on the table, count the number of ballot papers and verify that this corresponds to the total number of voters recorded for the two ballot boxes in question, count the votes and record the results on a sheet prepared for this purpose by the Secretariat. One teller at each table will then carry the result sheet to a table where the three result sheets will be transcribed by one of the tellers onto the appropriate voting record sheet in order to reach the overall result. The Legal Counsel will give the overall result sheet to the President.

44. The President will report the result of the secret ballot to the Health Assembly, reading out the number of votes obtained by each candidate. The President will announce which candidate, if any, received the majority required. The President will then ask the Secretariat to destroy the ballot papers.

ACTION BY THE HEALTH ASSEMBLY

45. The Health Assembly is invited to consider adopting the following draft decision, as recommended by the Executive Board in decision EB140(2) (2017):

The Seventieth World Health Assembly, having considered the report on the post of Director-General contained in document A70/4, decided:

- (1) to use a paper-based voting system for the appointment of the Director-General;
- (2) to implement the proposals outlined in the Table in document A70/4;
- (3) to adopt the amendments contained in Annex 4 to document A70/4 in accordance with Rule 119 of the Rules of Procedure of the World Health Assembly.

46. The Health Assembly is further invited to decide in principle to meet in continuous session, without breaking between rounds of voting, in the event that there is more than one round, and to conduct the ballot in accordance with the procedures set out above.

ANNEX 1

**ARTICLE 31 OF THE CONSTITUTION OF THE
WORLD HEALTH ORGANIZATION**

The Director-General shall be appointed by the Health Assembly on the nomination of the Board on such terms as the Health Assembly may determine. The Director-General, subject to the authority of the Board, shall be the chief technical and administrative officer of the Organization.

ANNEX 2

RESOLUTION EB140.R3 (2017)
NOMINATION FOR THE POST OF DIRECTOR-GENERAL

The Executive Board,

1. NOMINATES

Dr Tedros Adhanom Ghebreyesus

Dr David Nabarro

Dr Sania Nishtar

for the post of Director-General of the World Health Organization, in accordance with Article 31 of the Constitution of the World Health Organization;

2. SUBMITS this nomination to the Seventieth World Health Assembly.

ANNEX 3

**RULES 70BIS AND 106–110 OF THE RULES OF PROCEDURE OF
THE WORLD HEALTH ASSEMBLY**

Rule 70bis

The Director-General of the World Health Organization shall be elected by a clear and strong majority of members present and voting as set forth in Rule 108 of these Rules of Procedure.

Rule 106

In pursuance of Article 31 of the Constitution, the Director-General shall be appointed by the Health Assembly on the nomination of the Board and on such terms as the Health Assembly may determine, subject to the provisions of Rules 107 to 110 inclusive. The term of office of the Director-General shall be five years, and he or she shall be eligible for reappointment once only.

Rule 107

Whenever the office of Director-General is vacant or notice is received of a pending vacancy, the Board shall, at its next meeting, make a nomination which shall be submitted to the next session of the Health Assembly. It shall submit at the same time a draft contract establishing the terms and conditions of appointment, salary and other emoluments attached to the office.

Rule 108

The Health Assembly shall consider the Board's nomination at a private meeting and shall come to a decision by secret ballot.

1. If the Board nominates three persons, the following procedure shall apply:
 - (a) If in the first ballot a candidate obtains a two thirds majority or more of the Members present and voting, this will be considered a clear and strong majority and he or she will be appointed Director-General. If no candidate obtains the required majority, the candidate having received the least number of votes shall be eliminated. If two candidates tie for the least number of votes, a separate ballot shall be held between them and the candidate receiving the least number of votes shall be eliminated.
 - (b) In the subsequent ballot, a candidate will be appointed Director-General if he or she obtains a two thirds majority or more of the Members present and voting which will be considered a clear and strong majority.
 - (c) If no candidate receives the majority indicated in subparagraph (b), a candidate will be appointed Director-General if he or she receives in the subsequent ballot a majority of the Member States of the World Health Organization or more, which will be considered a clear and strong majority.

- (d) If no candidate receives the majority indicated in subparagraph (c), a candidate will be appointed Director-General if he or she receives in the subsequent ballot a majority or more of the Members present and voting, which will be considered a clear and strong majority.
2. If the Board nominates two persons, the following procedure shall apply:
- (a) a candidate will be appointed Director-General if he or she obtains a two thirds majority or more of the Members present and voting, which will be considered a clear and strong majority.
- (b) If no candidate receives the majority indicated in subparagraph (a), a candidate will be appointed Director-General if he or she receives in the subsequent ballot a majority of the Member States of the World Health Organization or more, which will be considered a clear and strong majority.
- (c) If no candidate receives the majority indicated in subparagraph (b), a candidate will be appointed Director-General if he or she receives in the subsequent ballot a majority or more of the Members present and voting, which will be considered a clear and strong majority.
3. If the Board nominates one person, the Health Assembly shall decide by a two thirds majority of the Members present and voting.

Rule 109

Should the Health Assembly reject the Board's nomination, the Board shall submit a fresh proposal as soon as circumstances permit, with due regard to the desirability of disposing of the matter before the conclusion of the relevant session of the Health Assembly.

Rule 110

The contract of appointment shall be approved by the Health Assembly and shall be signed jointly by the Director-General and by the President of the Health Assembly acting in the name of the Organization.

ANNEX 4

PROPOSED AMENDMENTS TO THE RULES OF PROCEDURE OF THE WORLD HEALTH ASSEMBLY AND THE GUIDING PRINCIPLES FOR THE CONDUCT OF ELECTIONS BY SECRET BALLOT¹

Current version of Rule 78 of the Rules of Procedure of the World Health Assembly	Proposed amended version of Rule 78 of the Rules of Procedure of the World Health Assembly
(...) Where a ballot is required, two tellers appointed by the President from among the delegations present shall assist in the counting of votes.	(...) Where a ballot is required, two or more tellers appointed by the President from among the delegations present shall assist in the counting of votes.

Current version of the Guiding Principles for the Conduct of Elections by Secret Ballot	Proposed amended version of the Guiding Principles for the Conduct of Elections by Secret Ballot
Principle no. 1. Before voting begins, the President shall hand to the two tellers appointed by him the list of Members entitled to vote and the list of candidates. (...)	Before voting begins, the President shall hand to the two tellers appointed by him the list of Members entitled to vote and the list of candidates. (...)
Principle no. 3. The tellers shall satisfy themselves that the ballot box is empty and, having locked it, shall hand the key to the President.	The tellers shall satisfy themselves that the ballot box or ballot boxes is/ are empty and, having locked it/ them , shall hand the key/ keys to the President.
Principle no. 4. Members shall be called in turn to vote in the required alphabetical order of their names, ² beginning with the name of a Member which shall have been drawn by lot. The call shall be made in English, French, Russian and Spanish.	Except as otherwise determined by the Health Assembly , Members shall be called in turn to vote in the required alphabetical order of their names, ² beginning with the name of a Member which shall have been drawn by lot. The call shall be made in English, French, Russian and Spanish.
Principle no. 7. When the ballot box has been opened, the tellers shall count the number of ballot papers. If the number is not equal to that of the voters, the President shall declare the vote invalid and another ballot shall be held.	When the ballot box or ballot boxes has/ have been opened, the tellers shall count the number of ballot papers. If the number is not equal to that of the voters, the President shall declare the vote invalid and another ballot shall be held.

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¹ See decision EB140(2) (2017), Annex.

² Under Rule 72 of the Rules of Procedure of the World Health Assembly.