

## **Committees of the Executive Board**

### **Participation in the Programme, Budget and Administration Committee**

#### **INTRODUCTION**

1. At the 145th session of the Executive Board in May 2019, “a request for Palestine to attend future meetings of the Programme, Budget and Administration Committee of the Executive Board as an observer” was brought to the attention of the Board for its consideration.
2. In the light of the discussions, the Board requested the Secretariat to prepare a report on the matter of participation in the Programme, Budget and Administration Committee, which it considered to be both technical and political, so that an informed decision could be made by the Board at its 146th session.<sup>1</sup>

#### **BACKGROUND ON ENTITIES ATTENDING SESSIONS OF THE HEALTH ASSEMBLY AND EXECUTIVE BOARD IN AN OBSERVER CAPACITY**

3. **Observers.** In WHO, the term “Observer” has traditionally been used to designate a limited number of entities that have been invited to attend in an observer capacity open meetings of the Health Assembly, or any of its main committees, and of the Board. Currently, the Observers are as follows.
  - (a) The Holy See: the Holy See has been invited to attend the Health Assembly as an Observer of a non-Member State through invitations extended by the Director-General. The Holy See is, in this same manner, invited to attend sessions of the Board in the same capacity.
  - (b) Palestine: Palestine has been invited to attend as an Observer based on, and with reference to, resolution WHA27.37 (1974), as further clarified by resolution WHA53.13 (2000). In particular, resolution WHA27.37 refers to invitations “to attend the meetings of WHO in an observer capacity”. In resolution WHA53.13, the Fifty-third World Health Assembly decided “to confer upon Palestine in the World Health Assembly and other meetings of the World Health Organization, in its capacity as an observer, the rights and privileges described in the Annex” to United Nations General Assembly resolution 52/250 (1998).
  - (c) The following entities have traditionally been invited by the Director-General in her or his capacity as the chief technical and administrative officer of the Organization and ex officio

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<sup>1</sup> See the summary records of the Executive Board at its 145th session, first and second meetings.

Secretary of the Health Assembly,<sup>1</sup> subject to any relevant guidance, including that from the Health Assembly and the Board:

- (i) Gavi, the Vaccine Alliance;
- (ii) the Order of Malta;
- (iii) the International Committee of the Red Cross;
- (iv) the International Federation of Red Cross and Red Crescent Societies;
- (v) the Inter-Parliamentary Union;
- (vi) the Global Fund to Fight AIDS, Tuberculosis and Malaria.

4. Representatives of the United Nations and other intergovernmental organizations (that is, other organizations of the United Nations system and intergovernmental organizations outside the United Nations system) and non-State actors in official relations with WHO are invited to attend sessions of governing bodies on a legal basis that differs from that for the entities mentioned in paragraph 3.

(a) **Other intergovernmental organizations.** Attendance of representatives of the United Nations and other intergovernmental organizations is governed by the relevant Rules of Procedure of the World Health Assembly and Rules of Procedure of the Executive Board,<sup>2</sup> as well as relevant provisions contained in bilateral agreements concluded with such organizations.

- (i) For the Health Assembly, the legal basis is Rule 46 in its Rules of Procedure, which provides,

Subject to the terms of any agreement, representatives of the United Nations and of other intergovernmental organizations with which the Organization has established effective relations under Article 70 of the Constitution, may participate without vote in the deliberations of meetings of the Health Assembly and its main committees. Such representatives may also attend and participate without vote in the deliberations of the meetings of sub-committees or other subdivisions if so invited.

- (ii) For the Board, the legal basis is Rule 4 of its Rules of Procedure, which provides,

Subject to the terms of any relevant agreement, representatives of the United Nations and of other intergovernmental organizations with which the Organization has established effective relations under Article 70 of the Constitution may participate without vote in the deliberations of meetings of the Board and its committees. Such representatives may also attend and participate without vote in the deliberations of the meetings of sub-committees or other subdivisions if so invited.

(b) **Non-State actors in official relations with WHO.** The Framework of Engagement with Non-State Actors provides that non-State actors may attend meetings of the governing bodies and

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<sup>1</sup> Pursuant to Articles 31 and 32 of the WHO Constitution.

<sup>2</sup> Note that in this report, the Rules of Procedure of the World Health Assembly and Rules of Procedure of the Executive Board are those in the 48th edition of Basic documents.

specifies that these refer to sessions of the Health Assembly, the Board and the six regional committees.<sup>1</sup> Non-State actors' participation is determined by the governing bodies' respective rules of procedure, policies and practices as well as the section of the Framework that deals with official relations. The Framework also states that entities in official relations "are invited to participate in sessions of WHO's governing bodies".<sup>2</sup>

## **BACKGROUND ON THE PROGRAMME, BUDGET AND ADMINISTRATION COMMITTEE**

5. The Programme, Budget and Administration Committee is a standing committee of limited membership, established pursuant to Rule 16 of the Board's Rules of Procedure. It was established in 2004 following the Board's decision to merge three of its committees (the Administration, Budget and Finance Committee, the Programme Development Committee and the Audit Committee) into a single committee.<sup>3</sup> This decision was taken following a review by the Board of the mandate, operation, role and structure of these committees.<sup>45</sup>

6. In establishing the Programme, Budget and Administration Committee, the Board also agreed on its terms of reference, periodicity of meetings and composition and terms of office, and requirements for membership.<sup>6</sup> The Board subsequently requested the Director-General to revise the terms of reference in order to strengthen the Committee's role, in particular with regard to overseeing the monitoring and evaluation of programmatic and financial implementation at the three levels of the Organization.<sup>7</sup> Revised terms of reference were considered and approved by the Board in 2012.<sup>8</sup>

7. Since the Committee's inception, only Member States<sup>9</sup> have attended its meetings. The issue of attendance at the meetings in an observer capacity has not been considered, neither in the Secretariat's reports regarding the establishment of the Committee and its terms of reference, nor has it been discussed by the Board during its deliberations on these matters. It should also be noted that the terms of reference of the three committees that were merged to form the Programme, Budget and Administration Committee also did not address this issue.<sup>10</sup>

8. Under the current terms of reference, the Programme, Budget and Administration Committee is responsible for reviewing, providing guidance and making recommendations to the Board (and, in certain instances, directly to the Health Assembly on the Board's behalf) on matters related to programme planning, monitoring and evaluation as well as on financial and administrative matters. In the light of the nature of the functions that the Committee is entrusted with, the Board may wish to

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<sup>1</sup> See document WHA69/2016/REC/1, Annex 5, paragraph 15 of the overarching framework.

<sup>2</sup> See document WHA69/2016/REC/1, Annex 5, paragraph 55 of the overarching framework.

<sup>3</sup> See resolution EB114.R4 (2004).

<sup>4</sup> See resolution EB112.R1 (2003).

<sup>5</sup> See document EB113/2004/REC/2, summary records of the tenth meeting, section 5.

<sup>6</sup> See Annex to resolution EB114.R4.

<sup>7</sup> See decision EBSS2(2) (2011).

<sup>8</sup> The revised terms of reference are set out in the Annex to resolution EB131.R2 (2012). The changes introduced are outlined in document EB131/10, paragraph 4.

<sup>9</sup> Which has been understood to include also, where applicable, regional economic integration organizations.

<sup>10</sup> See the Annex to resolution EB106.R1 (2000).

consider whether limited attendance at the Committee meetings may facilitate focused discussions, especially for items of a sensitive nature.

## **CURRENT RULES AND PRACTICE REGARDING ATTENDANCE AT MEETINGS OF THE PROGRAMME, BUDGET AND ADMINISTRATION COMMITTEE IN AN OBSERVER CAPACITY**

9. Rule 16 of the Board's Rules of Procedure provides that the composition of committees of limited membership shall be determined by the Board and sets out a number of criteria relating thereto.

10. **Observers.** With respect to the Observers mentioned in paragraph 3 of the present report, the practice so far has been that they are not invited to attend meetings of the Programme, Budget and Administration Committee.

11. **Other intergovernmental organizations.** As outlined in paragraph 4(a) (ii), Rule 4 of the Board's Rules of Procedure permits, "*Subject to the terms of any relevant agreement*, representatives of the United Nations and of other intergovernmental organizations with which the Organization has established effective relations under Article 70 of the Constitution"<sup>1</sup> to participate without vote in the deliberations of meetings of the Board and its committees (italics added for emphasis). As this permission is subject to the terms of each agreement under Article 70, whether a particular organization may attend meetings of the Programme, Budget and Administration Committee depends on the wording of the relevant term.

12. **Non-State actors in official relations with WHO.** As mentioned earlier, the Framework of Engagement with Non-State Actors specifically provides for an invitation for such entities to participate in sessions of WHO's governing bodies. The practice so far has been not to invite them to attend meetings of the Programme, Budget and Administration Committee.

### **Legal considerations**

13. **Observers.** Rules 16 and 16 bis of the Board's Rules of Procedure do not address the question whether the Observers mentioned in paragraph 3 of the present document should also be allowed to attend meetings of standing committees of limited membership.

14. Given the absence of explicit permission provided by the Rules, the long-established practice has been not to invite Observers to meetings of standing committees of limited membership.

15. **Non-State actors in official relations.** As mentioned earlier, the Framework of Engagement with Non-State Actors specifies that meetings of the governing bodies refer to sessions of the Health Assembly, the Board and the six regional committees. It does not address attendance at meetings of the Programme, Budget and Administration Committee.

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<sup>1</sup> Namely, the United Nations as well as the following organizations: African Development Bank and African Development Fund; Commission of the African Union; Food and Agriculture Organization of the United Nations; International Atomic Energy Agency; International Committee of Military Medicine and Pharmacy; International Fund for Agricultural Development; International Labour Organisation; Islamic Development Bank; League of Arab States; Office International des Épizooties; United Nations Educational, Scientific and Cultural Organization; United Nations Industrial Development Organization; and World Intellectual Property Organization.

## Practical considerations

16. In the context of WHO reform processes, including the transformation agenda, efforts have been made to improve the efficiency of the governing bodies meetings and minimize duplication between them. In this regard, the agendas of governing bodies meetings have been restructured and Chairpersons have endeavoured to focus discussions on the key questions or issues under deliberation at the sessions of the governing bodies.

17. In addition, the terms of reference of the Programme, Budget and Administration Committee were revised in 2012 in order to strengthen the Committee's mandate. In particular, the Committee reviews, provides guidance and, as appropriate, makes recommendations to the Board on programme planning, monitoring and evaluation, as well as on financial and administrative matters. The Committee also acts on behalf of the Board to examine, provide advice and make comments or recommendations to the Health Assembly on matters such as: financial and administrative implications for the Secretariat, and relationship to the programme budget, of proposed resolutions; the situation of Member States in arrears to an extent that would justify the application of Article 7 of the Constitution; the Financial Report and audited financial statements and the report of the External Auditor; and any other programme, administrative, budgetary or financial matters that the Board may deem appropriate.

18. Some of the issues that arise within the Committee's purview are sensitive in nature and benefit from focused discussion among the 14 Committee members and other Member States. Following the Committee's discussion, a report is prepared, outlining the Committee's conclusions and recommendations, and is agreed upon by the Committee. The report is submitted to the governing bodies that are tasked with taking decisions on the matters discussed by the Committee.

19. While opening attendance at the Committee meetings to a broad group of participants may bring certain benefits, such as greater transparency and additional input, it could, at the same time, have certain drawbacks. If, for example, participation in the meetings of the Committee were on the same basis as participation in the sessions of the Board, this could potentially blur the distinction between these two governing bodies. It may also prevent the Committee from being able to have focused discussions between a small number of Member States.<sup>1</sup> At times, this has proved crucial to reaching consensus on sensitive issues. Moreover, if attendance at the Committee's meetings included a broader group of participants, then guidance would be needed on whether interventions from such participants should be reflected in the Committee's reports and on how additional time for preparing and discussing the reports could be accommodated.

## OPTIONS FOR ATTENDANCE IN AN OBSERVER CAPACITY AT MEETINGS OF THE PROGRAMME, BUDGET AND ADMINISTRATION COMMITTEE

20. **Option 1.** The Board may wish to consider permitting Palestine only to attend meetings of the Programme, Budget and Administration Committee in an observer capacity. As previously mentioned, resolution WHA27.37 refers to invitations "to attend the meetings of WHO in an observer capacity" whereas resolution WHA53.13 refers to "the World Health Assembly and other meetings of the World Health Organization".

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<sup>1</sup> In January 2019, the 144th session of the Board was attended by 1292 participants; in comparison, the twenty-ninth meeting of the Programme, Budget and Administration Committee was attended by 330 participants.

21. **Option 2.** The Board may wish to permit the limited set of Observers mentioned in paragraph 3 to attend meetings of the Programme, Budget and Administration Committee and, more generally, meetings of any other standing committee of limited membership that the Board may wish to establish in the future. In deciding to extend an invitation to all the Observers mentioned in paragraph 3, the Board may also, if it deems it appropriate, specify the specific terms of participation applying to each or all of these entities, including with respect to the right to speak during governing bodies meetings.

22. **Option 3.** The Board may wish to permit the broader and more inclusive set of entities mentioned in paragraphs 3 and 4 to attend meetings of the Programme, Budget and Administration Committee and, more generally, meetings of any other standing committee of limited membership that the Board may wish to establish in the future. In this case, too, the Board may, if it deems it appropriate, specify the terms of participation applying to each or all of the entities mentioned in paragraphs 3 and 4.<sup>1</sup>

23. **Option 4.** The Board may wish to maintain the status quo, such that, unless the terms of any existing decisions or agreements specify otherwise, Observers would not be present at meetings of the Programme, Budget and Administration Committee. In this connection the Board may wish to decide whether resolution WHA27.37, as clarified by resolution WHA53.13, constitutes a decision specifying otherwise, that is, an exception to the general rule that Observers are not present, such that Palestine would be invited to attend meetings of the Committee.

24. It should be noted that option 3, permitting the attendance at meetings of the Programme, Budget and Administration Committee to all entities listed in paragraphs 3 and 4, may invite the question of whether members of the public may also be invited to attend meetings of the Committee. This question raises issues beyond the scope of this document and would require further consideration.

## **ACTION BY THE EXECUTIVE BOARD**

25. The Board is invited to note the report and provide further guidance on this matter. In particular, the Board is invited to consider, and if appropriate decide, which of the four options identified should be followed, or to identify another option.

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<sup>1</sup> With respect to the United Nations and other intergovernmental organizations with which the Organization has established effective relations under Article 70 of the Constitution, the terms of participation would be subject to the terms of any agreement concluded by the Organization with those organizations.