World Health Organization

Executive Board
158th session

Provisional agenda item 29.2 EB158/45

20 January 2026

Collaboration within the United Nations system and with other intergovernmental organizations

Communications of the United Nations Secretary-General as depositary of the Constitution of the World Health Organization

Report by the Director-General

1. Through decision WHA78(25) (2025), the Health Assembly decided to request the Executive Board to consider the matters addressed in document A78/33 Add.1 at its 158th session, and to submit a report thereon, as appropriate, to the Seventy-ninth World Health Assembly. The aforementioned document addresses the notification by Argentina of its intention to withdraw from the Organization, with a stated effective date of 17 March 2026, and the notification by the United States of America of its intention to withdraw from the Organization, with a stated effective date of 22 January 2026. This report provides background information on, and emphasizes that the Health Assembly is the competent body to consider, these matters.

I. Background

A. The notification of Argentina

2. It is recalled, that on 17 March 2025, the Secretary-General of the United Nations received a letter dated 25 February 2025 from the Minister of Foreign Affairs, International Trade and Worship of the Argentine Republic notifying the Secretary-General, acting in his capacity as depositary of the Constitution of the World Health Organization, of Argentina's denunciation[1] of the Constitution of the World Health Organization. The letter invoked the 1969 Vienna Convention on the Law of Treaties (the "VCLT") and stated that withdrawal would take effect one year from the date of receipt (i.e., on 17 March 2026).[2]

[1] Regarding terminology, the word "denunciation" can "be defined as a unilateral declaration by which a party terminates its participation in a treaty" (Dörr O and Schmalenbach K, eds. Vienna Convention on the Law of Treaties: A Commentary, second edition. Springer; 2018, at p. 1021). The term "withdrawal" is generally used in this report, for ease of reading.

[2] The full text of the letter is provided in Annex 2 to document A78/33 Add.1.

3. In her communication regarding the aforementioned letter,[3] the United Nations Legal Counsel, on behalf of the United Nations Secretary-General in his role as depositary of the Constitution of the World Health Organization, stated that since the Constitution of the World Health Organization does not contain any provision regarding denunciation or withdrawal, and in the absence of any precedent identical to the current situation, the depositary is not in a position to determine whether the notification submitted by Argentina can be accepted in deposit, and that the depositary is prepared to be guided by the action of the World Health Assembly, as the competent organ of WHO, in regard to this matter. As requested by the United Nations Legal Counsel, the matter was brought to the attention of the Seventy-eighth World Health Assembly.

B. The notification of the United States of America

4. In addition document A78/33 Add.1 informs that a 23 January 2025 Depositary Notification of the United Nations Secretary-General, acting in his capacity as depositary of the Constitution of the World Health Organization,[4] stipulates that on 22 January 2025 the United States of America notified its withdrawal from WHO, and states that the action "would take effect for the United States of America on 22 January 2026 pursuant to the provisions of the Joint Resolution of the Congress of the United States to which the acceptance of the Constitution of the World Health Organization by the United States of America is subject".

C. The questions arising

5. The questions arising from the above-mentioned matters relate to: (a) the notification from Argentina and whether, and if so on what terms, it may withdraw from the Constitution of the World Health Organization; and (b) the notification from the United States of America and whether the conditions for its withdrawal from the Constitution of the World Health Organization have been met, mindful of the specific circumstances regarding that Member State's ratification of the Constitution of the World Health Organization. These questions, which the Health Assembly is the competent body to address, are considered below.

II. Legal considerations regarding withdrawal from the Constitution of the World Health Organization

A. The Constitution of the World Health Organization

6. States join WHO by accepting the Constitution of the World Health Organization, an international treaty. The United Nations Secretary-General is the depositary of the Constitution, and, as communicated by the depositary,[5] WHO has 194 Member States (i.e. Parties to the Constitution of the World Health Organization).[6] Like the Charter of the United Nations, the text of

[3] The full text of the letter is provided in Annex 1 to document A78/33 Add.1.

[4] Document C.N.68.2025.TREATIES-IX.1 (accessed 18 November 2025).

[5] Information regarding the Constitution of the World Health Organization, including a certified true copy of the instrument, is maintained on the website of the United Nations Secretary-General as depositary (accessed 18 November 2025).

[6] In addition to the materials contained on the website of the United Nations Secretary-General as depositary referenced in footnote 5 above, the list of WHO Member States is provided in Annex 1 to the Basic Documents: forty-ninth edition (including amendments adopted up to 31 May 2019). Geneva: World Health Organization; 2020 (accessed 18 November 2025).

the Constitution of the World Health Organization does not contain any provision regarding denunciation or withdrawal.

B. The Vienna Convention on the Law of Treaties (VCLT)

7. Argentina indicated in its letter of 25 February 2025 that its notification of withdrawal was submitted in accordance with the VCLT. The article of the VCLT that addresses withdrawal from a treaty which does not provide for denunciation or withdrawal is Article 56, which provides as follows: "1. A treaty which contains no provision regarding its termination and which does not provide for denunciation or withdrawal is not subject to denunciation or withdrawal unless: (a) it is established that the parties intended to admit the possibility of denunciation or withdrawal; or (b) a right of denunciation or withdrawal may be implied by the nature of the treaty. 2. A party shall give not less than twelve months' notice of its intention to denounce or withdraw from a treaty under paragraph 1." A review of the preparatory work (*travaux préparatoires*) of the Constitution of the World Health Organization and of the practice of the Organization does not support the proposition that either of these exceptions applies to the situation in respect of Argentina.

C. *Travaux préparatoires* and subsequent actions of the Health Assembly

8. In order to ascertain the extent to which it can be established that the parties intended to admit the possibility of denunciation or withdrawal or that a right of denunciation or withdrawal may be implied by the nature of the treaty (under Article 56(1) VCLT), recourse may be had as a matter of treaty interpretation to the preparatory work (*travaux préparatoires*) and to any subsequent agreement of the Parties, or practice that establishes the agreement of the Parties, regarding the interpretation of a treaty.[7]

9. Regarding the preparatory work (*travaux préparatoires*) on the drafting of the Constitution of the World Health Organization, the instrument was drafted by the International Health Conference, held in New York City from 19 June to 22 July 1946.[8] The topic of withdrawal was expressly considered by the Conference, and in its Summary Report on Proceedings, Minutes and Final Acts, in the discussion of Chapter XVII: Amendments, the Conference included the following "declaratory statement":

> A Member is not bound to remain in the Organization if its rights and obligations as such are changed by an amendment of the Constitution in which it has not concurred and which it finds itself unable to accept. (It should be noted, in this connexion, that the Constitution itself makes no provision for the withdrawal of Members.)[9]

[7] See in that regard, Section 3 of the VCLT, including Article 31 ("General Rule of Interpretation") and Article 32 ("Supplementary means of interpretation").

[8] Official Records of the World Health Organization No. 2: Summary Report on Proceedings, Minutes and Final Acts of the International Health Conference held in New York from 19 June to 22 July 1946. New York and Geneva: United Nations World Health Organization Interim Commission; 1948 (accessed 18 November 2025).

[9] Official Records of the World Health Organization No. 2: Summary Report on Proceedings, Minutes and Final Acts of the International Health Conference held in New York from 19 June to 22 July 1946. New York and Geneva: United Nations World Health Organization Interim Commission; 1948, at p. 26 (accessed 18 November 2025).

10. This declaratory statement – which, as noted in the International Health Conference's Summary Report, was "following the precedent set by the United Nations Conference on International Organization at San Francisco"[10] whereby the Charter of the United Nations was established – evidences an intent by the drafters to acknowledge that withdrawal from the Constitution is possible in the aforementioned case of an "unacceptable" amendment to the Constitution.

11. The matter was also addressed by the Technical Preparatory Committee for the International Health Conference, held in the months preceding the Conference, whereby the Committee stated in its minutes that "[s]ince the Charter of the United Nations had no clause providing for the withdrawal of States Members, this being apparently a deliberate omission, the Committee agreed to omit from the new Constitution any mention of the possibility of withdrawal of the Members".[11]

12. Consideration may also be given to subsequent actions of the Health Assembly following the entry into force of the Constitution, which may establish the agreement of the Parties regarding the interpretation of the Constitution of the World Health Organization. In this regard, there have been instances in which the Organization has received communications of withdrawal from Member States. In particular, during the period 1949–1950, such communications were received from seven Member States,[12] notifying the Director-General that those States no longer consider themselves Members of the Organization.[13]

13. The matter was first addressed by the Executive Board in 1949, through resolution 8.1, in which the Board approved the steps taken by the Director-General to address the situation and decided to place the matter on the agenda of the Second World Health Assembly. In turn, the Second World Health Assembly adopted resolution WHA2.90 (1949), in which it invited the Member States that had submitted such a communication as at that date to "reconsider their intention and join if possible the present and following sessions of the Health Assembly" and requested "the Chairman of the Executive Board and the Director-General to continue endeavours to prevail upon the said States and their responsible authorities to change their decision and to report to the Third World Health Assembly on the results of such endeavours".

14. The matter was again considered at the Third World Health Assembly, which adopted resolution WHA3.84 (1950), which resolved that "while the World Health Organization will always welcome the resumption by these Members of full co-operation in the work of the Organization, it is not considered that any further action at this stage is desirable".

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[10] Report of the Rapporteur of Committee I/2, 24 June 1945 (document 1178). Documents of the United Nations Conference on International Organization, San Francisco, 1945, vol. VII. London and New York: United Nations Information Organizations; 1945, at p. 324, pp. 328 et seq.

[11] Official Records of the World Health Organization No. 1: Minutes of the Technical Preparatory Committee for the International Health Conference held in Paris from 18 March to 5 April 1946. New York and Geneva: United Nations World Health Organization Interim Commission; 1947, at p. 26 (accessed 18 November 2025).

[12] These notices were received from the Union of Soviet Socialist Republics, the Ukrainian Soviet Socialist Republic, the Byelorussian Soviet Socialist Republic, the People's Republic of Bulgaria, the People's Republic of Romania, the People's Republic of Albania and the Republic of Czechoslovakia (resolution WHA3.84 (1950)).

[13] There is no record or indication that the Health Assembly's actions with respect to the seven Member States providing notice of withdrawal turned on the procedural point that the notice was directed towards the Director-General as opposed to the Secretary-General of the United Nations.

15. Following this action, when the above-mentioned States resumed their participation in the Organization, the Health Assembly decided that these States would pay a "token payment" for the time during which their membership was inactive.[14]

16. Based on the above, it could be concluded that the communications received in 1949–1950 were not regarded by the Health Assembly as effective withdrawals from Organization, and there has therefore never been an effective withdrawal from the Organization.[15]

17. Furthermore, the work of the International Law Commission regarding the law of treaties, which was the precursor to the drafts of the 1969 Vienna Convention on the Law of Treaties, may also be informative. In the discussion of the predecessor to Article 56 VCLT, Sir Humphrey Waldock, Special Rapporteur, discussed the Constitution of the World Health Organization at length and noted that:

> [t]he draftsmen of the Constitution of WHO, by reason of the world-wide character of the struggles against disease, placed great emphasis on the need for the organization to be completely universal, and, as in the case of the Charter [of the United Nations], deliberately omitted any withdrawal clause. … The general understanding in the usage of WHO seems to be that withdrawal is not admissible except under the conditions specified in the declaration.[16] But the position is exceptional and based upon the particular need of universality in the work of the organization.[17]

18. This understanding is consistent with the relevant practice of the Organization, including: (a) the adoption of the declaration permitting withdrawal in the event of "unacceptable" constitutional amendment (see paragraph 9 above); (b) the express reservation by the United States of America of its position regarding withdrawal in connection with its acceptance of the Constitution of the World Health Organization (see paragraph 21 below); and (c) the manner in which the Health Assembly addressed the purported withdrawal of several Member States in 1949–1950 (see paragraphs 12 to 16 above).

19. Accordingly, it would appear that the Health Assembly has not to date expressly recognized a general unilateral right of withdrawal on notice alone.

III. The notification of Argentina

20. The specific ground on which the drafters of the Constitution envisaged unilateral withdrawal from the Constitution could be possible (i.e. an "unacceptable" amendment of the Constitution within the scope of the Declaration at paragraph 9 above) does not apply to the

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[14] Resolution WHA9.9 (1956) on resumption by certain Members of active participation in the World Health Organization.

[15] See also the approach taken in the context of the Charter of the United Nations, which, as mentioned above, similarly does not contain a withdrawal provision in the context of the 1966 communication from Indonesia to withdraw from the Charter and its subsequent resumption of participation in the activities of the United Nations. See, for example, the discussion of this matter in the legal opinion of the Office of Legal Affairs of the United Nations contained in the United Nations Juridical Yearbook 1966. New York: United Nations; 1968, p. 222 (accessed 18 November 2025).

[16] "Declaratory Statement" quoted in paragraph 9 *supra*.

[17] Second report on the law of treaties by Sir Humphrey Waldock, Special Rapporteur, document A/CN.4/156 and Add.1–3, extract from the Yearbook of the International Law Commission 1963, Volume II. New York: United Nations; 1964, at p. 69 (accessed 18 November 2025).

situation in respect of Argentina.[18] Given that the analysis of the *travaux préparatoires* and subsequent practice of the Organization above discloses no other basis on which to regard Argentina's purported notification of withdrawal as effective, and unless the Health Assembly were to decide to adopt a different approach to this issue than it has taken on previous occasions, the conclusion may be drawn that the purported notification of withdrawal by Argentina should not be accepted as effective.

IV. The notification of the United States of America

21. Of WHO's Member States, the United States of America is in a unique position with respect to its ratification of the Constitution of the World Health Organization, in that it accepted the instrument subject to the provisions of a United States legislative action (a joint resolution of the Congress of the United States of America), which reads as follows:

> in the absence of any provision in the World Health Organization Constitution for withdrawal from the Organization, the United States reserves its right to withdraw from the Organization on a one-year notice: PROVIDED, HOWEVER, that the financial obligations of the United States to the Organization shall be met in full for the Organization's current fiscal year.[19]

22. Upon receiving the United States' instrument of acceptance of the Constitution of the World Health Organization with the above-mentioned provision, the United Nations Secretary-General, in his role as depositary, noted that the Constitution of the World Health Organization does not expressly provide for a Member State to withdraw from the Organization, and referred the question of whether the United States had become a WHO Member State to the Health Assembly, given its role in settling any question concerning the interpretation or application of the Constitution of the World Health Organization.[20] Subsequently, the Health Assembly, at its First session in 1948, "recognized the validity of the ratification of the Constitution by the United States

[18] The situation envisaged in Article 54(b) VCLT (i.e. consent of all the parties after consultation with the other contracting States) also appears not to apply.

[19] Reproduced in WHO Official Record No. 13 (Annex 8); 1948, and as referenced on the website of the United Nations Secretary-General as depositary of the Constitution of the World Health Organization (accessed 18 November 2025), at note 11 regarding the United States of America, which states:

> Accepted subject to the provisions of the joint resolution of the Congress of the United States of America approved 14 June 1948 (Public Law 643, 80th Congress), section 4 of which reads as follows: "In adopting this joint resolution the Congress does so with the understanding that, in the absence of any provision in the World Health Organization Constitution for withdrawal from the organization, the United States reserves its right to withdraw from the organization on a one-year notice, provided, however, that the financial obligations of the United States to the organization shall be met in full for the organization's current fiscal year."
> The World Health Assembly adopted unanimously on 2 July 1948 the following resolution: "The Assembly recognized the validity of the ratification by the United States of America and resolved that the Secretary-General of the United Nations be advised of this decision."

[20] Deposit of ratification of signature to the Constitution by the United States of America, letter from the United Nations Secretary-General (22 June 1948), WHO Official Record No. 13 (Annex 8); 1948, p. 382.

of America; and resolved that the Secretary-General of the United Nations be advised of this decision".[21] The United States of America has been a WHO Member State since 21 June 1948.[22]

23. The following questions arise with respect to the above-mentioned provisions of the joint resolution of the Congress of the United States of America, for consideration by the Health Assembly:

(1) what year is the "current fiscal year": the year in which the notice is received, the year in which the withdrawal is set to take effect, or some other formulation; and

(2) whether the language "PROVIDED, HOWEVER, that the financial obligations of the United States of America to the Organization shall be met in full for the Organization's current fiscal year" constitutes a condition precedent to a "right to withdraw from the organization on a one-year notice" by the United States.

24. In this regard, as at the time of writing, the United States of America has not yet met its financial obligations for either the year in which its notice was communicated (that is, 2025), or for the year in which withdrawal is intended to take effect (that is, 2026), and has outstanding arrears relating to a previous year (that is, 2024).[23]

Action by the Executive Board

25. The Health Assembly is the competent body to settle questions regarding the interpretation and application of the Constitution, such as those addressed in this report. The Health Assembly has requested the Board to consider, and submit a report on, these matters ahead of the Seventy-ninth World Health Assembly.[24]

26. The Board is invited to note this report and to provide such guidance and recommendations as it deems pertinent regarding the matters discussed herein, including as to the report to be submitted to the Health Assembly. In this connection, the Board may wish to consider conveying to the Health Assembly the content of the present report. To the extent that the Board considers that it or the Health Assembly may require further information or consideration with respect to these matters, the Board may wish to provide instructions to facilitate such further consideration ahead of the Seventy-ninth World Health Assembly, or as appropriate, advice to the Health Assembly on arrangements for the handling of these matters thereafter.

27. The Board may also wish to provide interim guidance to the WHO Secretariat on how to approach practical matters relating to the membership of Argentina and the United States of America pending consideration of this matter by the Health Assembly, with a view to avoiding prejudging the outcome of that consideration.

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[21] Resolution WHA1.76 (1948).

[22] As referenced on the website of the United Nations Secretary-General as depositary of the Constitution of the World Health Organization (accessed 18 November 2025).

[23] A further potential question of detail is whether, if the relevant year is 2026, the "financial obligations" are the full year's assessed contributions, or, instead, the contributions for the proportion of the year until withdrawal takes effect.

[24] Decision WHA78(25) (2025).