

Informal Consultation on Governance Reform

(Geneva, 23 and 24 October 2018)

Consultation document

During the first informal consultation on governance reform that took place on 12 and 13 September 2018, the Secretariat was requested to prepare, in advance of the second informal consultation on governance reform, documentation on the following items:

- A- Preparation of the agenda of the World Health Assembly by the Executive Board
- B- Time-limits for tabling draft resolutions and/or decisions to the Executive Board or World Health Assembly
- C- Alignment of the terminology used in the Rules of Procedure of the governing bodies with that used in the Framework of Engagement with Non-State Actors
- D- Submission of written statements in lieu of/in addition to the delivery of oral interventions
- E- Participation of non-State actors in governing body meetings
- F- Methods of work of the World Health Assembly and the Executive Board

This document responds to that request.

Item A – “Preparation of the agenda of the World Health Assembly by the Executive Board”

1. Following the discussion on item A of the “Paper for consultation with Member States on Governance Reform”, the Secretariat has developed revised draft amendments to the relevant Rules of Procedure of the World Health Assembly, as set out in the table below.
2. The proposed amendments reflect the proposal that any request for inclusion of items on the Health Assembly’s provisional agenda, to be prepared by the Board at its January session, be accompanied by an explanatory memorandum. In order to facilitate both translation into all the other official languages and timely distribution, such memoranda should reach the Secretariat no later than 4 weeks before the opening of the Board’s session, and should be limited to 500 words.. A decision point to reflect this 500-word limit could be proposed to the Executive Board at its 144th session in January.
3. At the consultation that took place on 12 and 13 September 2018, a degree of support was also expressed for introducing the same requirement for supplementary items proposed under Rules 11 and 12 of the Health Assembly’s Rules of Procedure. Accordingly, the Secretariat has developed proposed amendments to these Rules (including proposed amendments to provide greater clarity on the deadline for the submission of supplementary items introduced in accordance with Rule 12 of the Health Assembly’s Rules).
4. The Chairperson of the Executive Board further proposes that, in addition to being required to provide an explanatory memorandum to accompany items proposed for the Health Assembly’s agenda, the Board be given the possibility to make recommendations for deferral of any such items when it prepares the Health Assembly’s provisional agenda. Such an advisory role of the Board would be without prejudice to the Health Assembly’s own authority to take a final decision on the inclusion, deferral or exclusion of items in respect of its agenda. The Chairperson’s proposal is reflected in the proposed amendments to Rule 5 of the Health Assembly’s Rules.

Table. Proposed amendments to the Rules of Procedure of the World Health Assembly

Current version	Proposed amended version
<p style="text-align: center;"><i>Rule 5</i></p> <p>The Board shall include in the provisional agenda of each regular session of the Health Assembly inter alia:</p> <p>(a) the annual report of the Director-General on the work of the Organization;</p> <p>(b) all items that the Health Assembly has, in a previous session, ordered to be included;</p> <p>(c) any items pertaining to the budget for the next financial period and to reports on the accounts for the preceding year or period;</p> <p>(d) any item proposed by a Member or by an Associate Member;</p> <p>(e) subject to such preliminary consultation as may be necessary between the Director-General and the Secretary-General of the United Nations, any item proposed by the United Nations;</p>	<p style="text-align: center;"><i>Rule 5</i></p> <p>The Board shall include on in the provisional agenda of each regular session of the Health Assembly inter alia:</p> <p>(a) the annual report of the Director-General on the work of the Organization;</p> <p>(b) all items that the Health Assembly has, in a previous session, ordered to be included;</p> <p>(c) any items pertaining to the budget for the next financial period and to reports on the accounts for the preceding year or period;</p> <p>(d) any item proposed by a Member or by an Associate Member;</p> <p>(e) subject to such preliminary consultation as may be necessary between the Director-General and the Secretary-General of the United Nations, any item proposed by the United Nations;</p>

(f) any item proposed by any other organization of the United Nations system with which the Organization has entered into effective relations.	(f) any item proposed by any other organization of the United Nations system with which the Organization has entered into effective relations.
	<p>The Board may recommend the deferral of any item under (d), (e) and (f) above to a future Health Assembly.</p> <p>Any proposal for inclusion on the provisional agenda of any item under (d), (e) and (f) above shall be accompanied by an explanatory memorandum that shall reach the Director-General no later than four weeks before the commencement of the session of the Board at which the provisional agenda of the Health Assembly is to be prepared.</p>
<p><i>Rule 11</i></p> <p>Unless the Health Assembly decides otherwise in case of urgency, proposals for new activities to be undertaken by the Organization may be placed upon the supplementary agenda of any session only if such proposals are received at least six weeks before the date of the opening of the session, or if the proposal is one which should be referred to another organ of the Organization for examination with a view to deciding whether action by the Organization is desirable.</p>	<p><i>Rule 11</i></p> <p>Unless the Health Assembly decides otherwise in case of urgency, proposals for new activities to be undertaken by the Organization may be placed upon the supplementary agenda of any session only if such proposals are received at least six weeks before the date of the opening of the session, or if the proposal is one which should be referred to another organ of the Organization for examination with a view to deciding whether action by the Organization is desirable. Any such proposal shall be accompanied by an explanatory memorandum.</p>
<p><i>Rule 12</i></p> <p>Subject to the provisions of Rule 11 regarding new activities and to the provisions of Rule 96, a supplementary item may be added to the agenda during any session, if upon the report of the General Committee the Health Assembly so decides, provided that the request for the inclusion of the supplementary item reaches the Organization within six days from the day of the opening of a regular session or within two days from the day of the opening of a special session, both periods being inclusive of the opening day.</p>	<p><i>Rule 12</i></p> <p>Subject to the provisions of Rule 11 regarding new activities and to the provisions of Rule 96, a supplementary item may be added to the agenda during any session, if upon the report of the General Committee the Health Assembly so decides, provided that the request for the inclusion of the supplementary item reaches the Organization within no later than six days from the day of prior to the opening of a regular session or no later than two days from the day of prior to the opening of a special session, both periods being inclusive of the opening day. Any such request shall be accompanied by an explanatory memorandum.</p>

Item B – “Time-limits for tabling draft resolutions and/or decisions to the Executive Board or World Health Assembly”

1. Following the discussion on item B of the “Paper for consultation with Member States on Governance Reform”, the Secretariat has developed revised draft amendments to the relevant Rules of Procedure of the World Health Assembly and Executive Board, as set out in the table below.
2. The proposed amendments reflect the proposal that Member States be encouraged to submit draft resolutions and/or decisions at least 15 days before the opening of a regular session of the Board or Health Assembly and, in any case, no later than the first day, as required by the current Rules. Should this proposal be pursued, early submission of draft resolutions and decisions would be encouraged and formalized in the Rules as a matter of good governance, but would not become a mandatory requirement.
3. The proposed amendments to Rule 48 of the Rules of Procedure of the World Health Assembly also reflect the proposal to provide the World Health Assembly with the authority to exceptionally permit the late introduction of draft resolutions and/or decisions, even beyond the first day of a regular session, an authority that the Board already enjoys under Rule 28 bis of its own Rules of Procedure.

Table. Proposed amendments to the Rules of Procedure of the World Health Assembly and Executive Board

World Health Assembly	
Current version	Proposed amended version
<p style="text-align: center;"><i>Rule 48</i></p> <p>Formal proposals relating to items of the agenda may be introduced until the first day of a regular session of the Health Assembly and no later than two days before the opening of a special session. All such proposals shall be referred to the committee to which the item of the agenda has been allocated, except if the item is considered directly in a plenary meeting.</p>	<p style="text-align: center;"><i>Rule 48</i></p> <p>Formal proposals relating to items of the agenda should may be introduced at least fifteen days before the opening of a regular session of the Health Assembly and may, in any event, be introduced not later than until the first day of a regular session of the Health Assembly and no later than two days before the opening of a special session. All such proposals shall be referred to the committee to which the item of the agenda has been allocated, except if the item is considered directly in a plenary meeting. The Health Assembly may, if it deems it appropriate, permit the late introduction of such proposals.</p>
Executive Board	
Current version	Proposed amended version
<p style="text-align: center;"><i>Rule 28 bis</i></p> <p>Proposals for resolutions or decisions to be considered by the Board relating to items of the agenda may be introduced until the close of the first day of the session. However, if a session is scheduled for two days or less, such proposals may be introduced no later than 48 hours prior to the opening of the session. The Board may, if it deems it appropriate, permit the late introduction of such proposals.</p>	<p style="text-align: center;"><i>Rule 28 bis</i></p> <p>Proposals for resolutions or decisions to be considered by the Board relating to items of the agenda should may be introduced at least fifteen days before the opening of the session and may, in any event, be introduced not later than until the close of the first day of the session. However, if a session is scheduled for two days or less, such proposals may be introduced no later than 48 hours prior to the opening of the session. The Board may, if it deems it appropriate, permit the late introduction of such proposals.</p>

Item C – “Alignment of the terminology used in the Rules of Procedure of the governing bodies with that used in the Framework of Engagement with Non-State Actors”

1. The Rules of Procedure of the Executive Board and World Health Assembly refer to the participation of, *inter alia*, “representatives of nongovernmental organizations in official relations with the Organization” in sessions of the Executive Board and World Health Assembly.¹ Until May 2016, such participation was governed by the “Principles Governing Relations between the WHO and nongovernmental organizations”, a text that had been adopted by the World Health Assembly through resolution WHA3.113 (1950) and revised through resolution WHA40.25 (1987).

2. In May 2016, the World Health Assembly adopted the “Framework of Engagement with non-State actors” (FENSA). FENSA identifies four categories of non-State actors, namely: nongovernmental organizations, private sector entities, philanthropic foundations and academic institutions. Further, by adopting FENSA, the World Health Assembly decided that:

(a) FENSA replaces, *inter alia*, the Principles mentioned above.² Accordingly, these Principles are no longer applicable.

(b) Non-State actors’ participation in meetings of the governing bodies “is determined by the governing bodies’ respective rules of procedure, policies and practices as well as the section of this framework that deals with official relations.”³

(c) Non-State actors in official relations under FENSA are conferred a number of privileges, including the possibility to participate in sessions of WHO’s governing bodies in an observer capacity.

(d) Among non-State actors, only nongovernmental organizations, international business associations and philanthropic foundations may be granted “official relations”, which allows them to attend sessions of the Executive Board and World Health Assembly in an observer capacity.⁴ In contrast, private sector entities (other than those that qualify as international business associations) and academic institutions may not be granted official relations, and may therefore not participate in sessions of WHO’s governing bodies.

3. The question of which organizations should be eligible for official relations was extensively debated during FENSA negotiations. There was consensus among Member States that the existing interpretation of eligibility should continue to be applied, but that the appropriate terminology should be used to differentiate between the different types of non-State actors.

¹ In particular, Rule 4 of the Rules of Procedure of the Executive Board, and Rules 3, 14, 19, 22 and 47 of the Rules of Procedure of the World Health Assembly.

² Resolution WHA69.10 (2016), operative paragraph 2 and paragraph 48 of the overarching framework.

³ Paragraph 15(a) of the overarching framework.

⁴ Paragraphs 50 through 57 of the overarching framework.

4. Consistent with the World Health Assembly's request to "immediately start implementation" of the Framework¹ and the spirit of the FENSA negotiations:

(a) the Secretariat has implemented the section of FENSA relating to official relations, including with respect to the participation of non-State actors in sessions of the Executive Board and World Health Assembly, as described above;

(b) the Secretariat has been operating on the basis that any reference, in the governing bodies' rules of procedure, to the Principles mentioned above should now be understood as referring to FENSA; and that the term "nongovernmental organizations in official relations with the Organization" should now be understood as referring to "non-State actors in official relations with the Organization", in accordance with FENSA. It should also be noted that, although FENSA introduced a narrower definition of the term "nongovernmental organization", this term in the Rules of Procedure has historically been understood as also including "international business associations" and "philanthropic foundations".

(c) The Executive Board has been operating under the same understanding by admitting and confirming nongovernmental organizations, international business associations and philanthropic foundations into official relations.

5. In light of the above, and given the apparently different uses of the term "nongovernmental organization" in FENSA and the governing bodies' rules of procedure, it is proposed, as a matter of good governance and transparency, to amend relevant provisions of the rules of procedure to ensure that they are consistent with the terminology used in FENSA and to replace the reference to the Principles with a reference to FENSA.

¹ Resolution WHA69.10, operative paragraph 3(1).

Item D – “Submission of written statements in lieu of/in addition to the delivery of oral interventions”

1. During the governance reform consultation held on 12 and 13 September 2018, Member States considered whether opportunities should be expanded for submitting written statements for temporary posting on a dedicated webpage and whether such written statements should become part of the official records of the meetings of the governing bodies.
2. Member States highlighted the usefulness of the current practice of allowing statements to be posted on the website, which allowed for the sharing of more detailed information than could be communicated during discussions by the governing bodies, in view of the time limits for verbal statements. In addition, it was pointed out that such a practice allows for the sharing of country experiences or innovations that relate to the agenda item under discussion.
3. At the same time, Member States cautioned that statements posted on the website should not form part of the official records of the meeting and that guidelines for the posting of statements should be provided.
4. Following the discussion, the Chairperson summarized the outcome as follows:

Delegations present conveyed support for continuing to follow the current practice under which Member States can submit written statements for posting on a dedicated WHO webpage in the language of submission, without such statements being included in the official records of the governing bodies. The existing disclaimer will remain.

Furthermore, delegations expressed support for the following proposals:

- 1. First, the proposal to align the duration of publication on the website of written statements submitted by Member States and those submitted by non-State actors in official relations.*
 - 2. Secondly, the proposal to request the Secretariat to develop “guidelines” or a code of conduct for Member States to be applied before posting a written statement on the dedicated website.*
5. **CHAIRPERSON'S PROPOSAL:** Informal consultation to recommend that EB144 request that the Secretariat take forward these proposals. The Executive Board may wish ask the Secretariat to submit the guidelines or a code of conduct to the Executive Board at its 145th session.

Item E – “Participation of non-State actors in governing body meetings”

1. Non-State actors participate at meetings of WHO’s governing bodies on the basis of Article 71 of WHO’s Constitution. At the Third World Health Assembly this participation was defined by the “Principles Governing Relations between the World Health Organization and Nongovernmental Organizations.”¹ The Principles were subsequently replaced at the Sixty-ninth World Health Assembly by the Framework of Engagement with Non-State Actors (FENSA)², which has not, however, changed the modalities of participation of non-State actors in official relations.

2. Although the number of speakers making interventions on behalf of non-State actors has significantly increased, their contribution tends to be less meaningful due to the changed dynamic of the debates. Dissatisfaction with the current system has been expressed by Member States and echoed in two letters from groups of non-State actors.

3. During the first consultation those Member States intervening demonstrated some convergence around the following points:

- the contribution of non-State actors in official relations to the governing bodies is appreciated
- the status quo does not seem to be satisfactory
- while there is an interest in setting limits to the number of delegates and number of statements, there is at the same time support for the goal of making inputs more meaningful
- incentives could be created for non-State actors to speak as clusters or constituencies
- non-State actors’ proposals for improving their involvement should be heard
- written statements from non-State actors could be posted more in advance, such as two weeks to allow Member States to take them into account while formulating their own position
- there could be scope to have a platform of exchange between Member States and non-State actors immediately prior to the WHA and the EB

The following additional aspects should be taken into account when considering changing the modalities of involvement. The intergovernmental nature of WHO whereas Member States take the decisions should be considered as a given. Non-State actors should be able to provide inputs to contribute to the debate, while Member States alone take the decisions.

CHAIRPERSON'S PROPOSAL: The second consultation could discuss the following set of measures:

- Non-State actors are encouraged to post their statements two weeks in advance of the meeting in order to allow Member States, if they so wish, to take them into account while formulating their own positions.

¹ Resolution WHA3.114 (1950).

² See document WHA69/2015/REC/1, resolution WHA69.10 and Annex 5.

- A meeting/forum immediately prior to the World Health Assembly could bring together Member States and non-State actors to debate the main agenda items of the governing body meetings in panel discussions.
- Such a meeting could also accommodate side events currently overlapping with the proceedings of the World Health Assembly.
- To establish a limited number of speaking slots for non-State actors per session of the World Health Assembly and the Executive Board.
- Limited speaking times, as applied to EB members and non-members.

Item F – "Methods of work of the World Health Assembly and Executive Board: reporting requirements in resolutions and decisions"

1. The Executive Board has discussed the issue of agenda management extensively in the context of the WHO reform process and has considered a number of reports dealing with the matter.¹ As suggested in those reports, the main challenge is to avoid overcrowding the agendas of the governing bodies, thereby allowing more time for the Executive Board and World Health Assembly to focus on strategic decision-making, and having appropriate time for substantive debate on reports. One way of reducing the number of agenda items would involve ensuring that reporting to the governing bodies on the implementation of resolutions and decisions, which occurs through the presentation of reports by the Director-General under relevant items on the agenda, does not continue in perpetuity. This could be done by establishing end dates for reporting in respect of draft resolutions and decisions under consideration for adoption. Also, where the duration of reporting is unspecified "sunsetting" of the reporting requirements of existing resolutions and decisions may be a way forward. Another way to reduce the number of agenda items would involve streamlining the reporting requirements contained in resolutions and decisions that relate to similar subjects.

2. During the informal consultation on governance reform held on 12 and 13 September 2018, the Secretariat was requested to prepare a technical paper on streamlining reporting on resolutions and decisions and agenda management. It was envisaged that the technical paper would set out the possible scope, criteria, methodology and objectives of the sunsetting exercise, as well as options on how to streamline draft resolutions and decisions presented to the governing bodies. This paper has been developed in response to that request.

Sunsetting

3. The proposed objectives of the sunsetting exercise would be to improve agenda management and increase transparency and predictability in the development of future agendas. To this end, the Secretariat proposes that the exercise focus on resolutions and decisions with unspecified reporting requirements. Approximately 80 resolutions and decisions fall into this category. Concentrating on that scope would potentially reduce the number of reporting requirements and provide greater clarity on the frequency and duration of reporting.

4. In contrast, the exercises undertaken by some of the WHO regional offices have focused on resolutions and decisions adopted during a particular period of time, such as the previous 10 or 15 years; these have included a review of 78 resolutions at the Regional Office for South-East Asia and a review of 255 resolutions at the Regional Office for the Americas. If a review of resolutions and decisions over a period of, for example, 10 years were undertaken in relation to the work of the global governing bodies, it would involve examining a significantly larger number of resolutions and decisions,² which would be a long and labour-intensive process. At the same time, such a review would not necessarily lead to any additional benefits in terms of agenda management. Most of the resolutions and decisions that would be reviewed during such a process contain specified reporting requirements and will therefore automatically cease to appear on the agenda, in line with their scheduled expiry date for reporting.

¹ See, for example, documents EB132/5 Add.3, EB133/3, EB134/6 and EB136/6.

² More than 800 resolutions and decisions have been agreed by the governing bodies during the previous ten years.

5. A possible option with respect to the methodology is set out below.
- The Executive Board may wish to request that the Secretariat undertake a review and make recommendations on the resolutions and decisions with unspecified reporting requirements. Furthermore, the Executive Board may wish to request that an informal consultation be held by the Secretariat to present those recommendations to Member States prior to the Executive Board at its 146th session. A report outlining the recommendations would subsequently be submitted for consideration by the Executive Board at its 146th session (2020).

Streamlining the reporting of resolutions and decisions and agenda management

6. A recent review of reporting requirements examined the extent to which the Secretariat has already taken steps towards consolidating and streamlining reports on similar subjects. This has been done, for example, with respect to resolutions and decisions on the subjects of health emergencies and nutrition. In instances where further streamlining is required, the Secretariat plans to provide a proposal to that effect in the relevant governing body report for consideration.

CHAIRPERSON'S PROPOSAL: to request the Secretariat to submit to the EB a suggestion of consolidation and streamlining of reports on similar subjects.

7. With respect to future resolutions and decisions, the Secretariat continues to recommend that reporting requirements be limited to a maximum of three biennial reports. At the same time, the Secretariat could indicate in the reports themselves when the six-year cycle of reporting is coming to an end. In this way, the governing bodies would have the opportunity to consider the possible need for any adjustments to the reporting cycle and/or more broadly, the mandate to which the report responds. Such information may be of particular interest where global strategies and action plans are expiring.

CHAIRPERSON'S PROPOSAL: new resolutions/decisions should contain, where appropriate, a reporting cycle of up to 6 years, with biennial reports.

8. Another suggestion that emerged during the informal consultation on governance reform was that the Secretariat should update the forward-looking schedule of agenda items for the Executive Board and World Health Assembly contained in document EB140/INF./3 and mandated by decision WHA69(8) (2016). Once updated, the schedule could potentially help Member States to plan more effectively for proposals on future agendas.

CHAIRPERSON'S PROPOSAL: the Secretariat should take priorities set out in GPW 13 into account in updating the referred schedule.

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