

**WORKING GROUP OF THE EXECUTIVE COMMITTEE ON STREAMLINING  
THE GOVERNANCE MECHANISMS OF PAHO**

CE/WGG2/SR/2

**Summary record of the second meeting**

Thursday, 23 March 2006

*Chairman:*

*Nick Previsich*

*Canada*

The meeting was called to order at 2:12.p.m.

ITEM 5: CONSIDERATION OF ISSUES REQUIRING FURTHER ATTENTION,  
AS FOLLOWS: (*continuation*)

ITEM 5.1: Process of Election of the Director of the Pan American Sanitary  
Bureau (*continuation*)

The CHAIRMAN said that a number of items discussed at the Working Group's first session still had to be resolved. Drawing attention to the item on Process of Election of the Director of the PASB, in the Summary Notes of the First Meeting, he invited comments on the issue of secret ballot versus open ballot.

Ms. DICKINSON (Canada), noting from the intersessional submissions the support for maintaining the secret ballot, as practiced in the majority of international organizations, drew attention to section II of the document entitled "Election procedures in International Organizations" where the advantages and disadvantages of secret and open ballots were set out

Dr. GONZÁLEZ FERNÁNDEZ (Cuba) reiterated that his country's position was to maintain the secret ballot in the electoral process as currently established, and he fully

endorsed the content of the document that the Argentine delegation had submitted for consideration on the website, in which democratic legitimacy was considered to be protected by three basic principles. The electoral process should be the exclusive province of the Member States, and candidates should compete on an equal footing. The ballot should be universal and secret. This was in line with the characteristics of the Pan American Health Organization. He also pointed out that it was no accident that only by maintaining practices consistent with this principle of the secret ballot could freedom be guaranteed for the electors and, hence, greater transparency. Certification of the Organization's results made it possible to exercise functions with legitimacy. He therefore reaffirmed his position of retaining the secret ballot.

Dr. ST. JOHN (Barbados) also expressed support for the secret ballot.

The CHAIRMAN noted that there was consensus in favor of the secret ballot. On the question of a post description for the Director, he asked whether the Working Group still considered a specific description necessary.

Ms. MOREL (Mexico) said that her country proposed modifying the article in the PAHO Constitution on the selection of Bureau staff and specifically suggested that the two positions that could be filled by the Director of the Bureau be those of Deputy Director and Assistant Director, for the terms indicated in the Constitution.

The CHAIRMAN said that descriptions for the posts of Assistant Director, Deputy Director and Director of Administration could be considered later on.

Dr. JIMENEZ (Area Manager, Legal Affairs) said that in international organizations, job or post descriptions were based on mandates emanating from regulations and international standards that classified and determined responsibilities, remuneration, experience, and so forth. PAHO had no post descriptions for executive management but, following internal and external recommendations, the appointed or elected posts would, in future, have post descriptions. Those of Assistant Director, Deputy Director and Director of Administration would include requirements such as academic qualifications and number of years' experience. A post description had already been drawn up for the Director of Administration and descriptions for the other three posts were being prepared. The post description for the Director would have to include certain specific requirements relating to academic qualifications, number of years' experience, and language skills, which might not be compatible with the general criteria that had been discussed. It might therefore be necessary to make a distinction between elective posts, giving them terms of reference, for example, instead of a post description per se, and selected posts, which applied to all other positions in the Organization. It was also important to bear in mind that the salaries of the Director and Deputy Director did not correspond to post descriptions, but were determined by the Directing Council.

The CHAIRMAN said that the Working Group would have to ensure that the criteria it identified for the selection of candidates within Member States did not contradict the specific post descriptions, as realignment might be difficult.

Dr. GONZÁLEZ FERNÁNDEZ (Cuba) noted that the Secretariat could perhaps make a proposal to the Executive Committee regarding the characteristics that the people

named by the Director to occupy the posts should have. It would be good to specify the characteristics necessary for the incumbents of these posts, a recommendation that had already been made by the Working Group on PAHO in the 21st Century.

The CHAIRMAN said that for the time being the Working Group should concentrate on the post of Director.

Mr. ARAÚJO FERREIRA (Brazil) commented that it would suffice for the countries to employ the criteria used in defining the characteristics of the candidates. In his view, the position of Director should not be limited by a post description.

Dr. ST. JOHN (Barbados) asked whether the post description was to be limited to salaries and similar characteristics, or whether such matters as autonomy or accountability should also be taken into consideration.

Dr. JIMENEZ (Area Manager, Legal Affairs) replied that post descriptions were usually detailed, setting out specific responsibilities, minimum educational requirements, experience, language skills, and the competencies required for each post. They also included lines of reporting authority, and identified the supervisor. In the Director's case they would be difficult to define.

Dr. KEAN (Director, Governance, WHO) expressed the view that a post description and lines of reporting for an elected, political position such as that of Director were unnecessary.

The CHAIRMAN said that in the absence of further comment he took it that there was consensus that there should be no written job description for the post of Director.

*It was so agreed.*

The CHAIRMAN, turning to the question of the post descriptions for Deputy Director and Assistant Director, asked when the Secretariat's descriptions would be available.

Dr. JIMENEZ (Area Manager, Legal Affairs) said that because of the existing vacancy, the post description for Director of Administration had already been published. Descriptions for the other two posts were in preparation. General terms of reference for the Deputy Director's post, drafted some years earlier, could be posted on the web site.

The CHAIRMAN suggested that, if there was no objection, he would record a consensus view that specific post descriptions should be provided for all three posts, and that those descriptions should be posted on the web site for further reflection and discussion by the Executive Committee if so desired.

*It was so agreed.*

The CHAIRMAN invited comments on the question of the three months' paid leave for internal candidates, including the Director in the event that he or she was seeking reelection.

Dr. JIMENEZ (Area Manager, Legal Affairs) pointed out that three months' paid leave would constitute an administrative and financial burden for the Secretariat,

particularly if there was more than one internal candidate, as other people would have to be designated to act during their absence. It was important that there should be no leadership vacuum at any time, but particularly in the run-up to an election.

Ms. DICKINSON (Canada) said that, unlike some organizations, such as the Inter-American Institute for Cooperation on Agriculture (IICA), that required internal candidates to take leave without pay, Canada supported the position that all candidates, including the Director, should be given the opportunity to take leave of absence with pay. As discussed at the first session, the Deputy Director would assume the role of Director while the Director was on leave, as was the practice in many other organizations.

Mr. ABDOO (United States of America) supported the Canadian position. The important aspect was that any senior person running for the office of Director should take leave; the question of pay was irrelevant, although there would be no wish to see any candidate incur economic hardship because they were running for office.

Dr. SÁENZ MADRIGAL (Costa Rica) noted that there were three aspects to the payment: the first was whether it was acceptable legally; the second, whether it was politically correct; and the last, if it was ethically acceptable. She joined the consensus that it be paid leave, although she had some doubts about whether it was ethically correct even though it was legal.

Dr. JIMENEZ (Area Manager, Legal Affairs) confirmed that it would be legally correct. PAHO's rules provided that a staff member could be put on special leave with or without pay, and continue to enjoy the full privileges of staff membership, including

health insurance, payment of all benefits and accrual of vacation. However, during the three-month period of leave, the Director would only be able to speak in a personal capacity, not on behalf of PAHO.

Mr. ARAÚJO FERREIRA (Brazil) indicated that, although they were reaching a consensus, he also had some doubts, since no agency except IICA mentioned a leave of absence with pay. In his view, they could accept paid leave, although he believed that that would create a difference with the external candidates.

The CHAIRMAN said that when the point had been discussed at the first session, there had been a strong consensus that internal candidates should be given leave of absence to ensure that they did not use their positions to campaign, and to ensure transparency. The question had then been whether they should be expected to lose their salaries for that period, which might in itself be inequitable because outside candidates would not necessarily be required to give up their jobs. The process therefore, was to create a level playing field between internal and external candidates.

Dr. RADIX (Granada) said that she was in favor of leave without pay. Internal candidates on leave with pay but without responsibilities would have an advantage over external candidates, who would have to attend to their professional responsibilities during their campaigns.

The CHAIRMAN observed that there was no way in which the Working Group or Governing Bodies could influence the situation of an external candidate. The aim was simply to ensure that internal candidates did not use the opportunities that their posts

presented, including travel and meetings with ministers, and, in effect, subsidize their campaigns through work.

Mr. ARAÚJO FERREIRA (Brazil) indicated that his impression was that it would perhaps not be justified, because this practice was not customary in any country or the other agencies, and he reiterated that they would be creating differences with respect to external candidates.

Ms. DICKINSON (Canada) said that charging leave of absence to vacation time was a possibility, provided that the additional limitation of not traveling at the Organization's expense was very clearly outlined.

Dr. SÁENZ MADRIGAL (Costa Rica) requested clarification of the legal implications of a paid leave of absence. If vacation time were involved, which was what Brazil was proposing, what would the legal implications be? The speaker wished to know the implications of the various proposals to facilitate a decision.

Dr. JIMENEZ (Area Manager, Legal Affairs) said that there certainly was a distinction between the two situations. When a person was granted special paid leave, he could not be required to return to work, while if he were simply on vacation, he in fact remained in his post, so that his return could be required. Even so, she believed that in this case, the Governing Bodies and Member States had the flexibility to determine the process that would be adopted in the specific case of staff members who are nominated-- as long as it was reflected in a document approved by the Governing Bodies, the rules could be adapted because they had the flexibility to do so.

Mr. TOBAR (Argentina) wondered whether some type of mechanism couldn't be set up that established when an internal candidate from the Organization could take special unpaid leave. In order to avoid financial hardship, the person could use his respective annual leave. Mr. Tobar was concerned that when a candidate was nominated for the Organization, it was hoped that the winner would be the person most able, the one with the best qualifications, but this proposal was generating disincentives for candidates internal to the Organization to refrain from running for office because they would suffer financial harm. Finally, concerning the matter of discretionary travel and transfers, he believed there would have to be some mechanism to ensure that the individual who takes the place of the Director could not make these discretionary transfers or trips either, because after all, he is a member of the cabinet.

Mr. ARAÚJO FERREIRA (Brazil) pointed out that when he was on staff, there was a rule in PAHO that said that a staff member who replaced another on an interim basis for a three-month period assumed the rights corresponding to that post. It would be important to take that rule into account, if it was still in effect.

Dr. RADIX (Grenada), noting that the IICA appeared to be the only organization that required internal candidates to take leave of absence, wondered how real the concern was that candidates would abuse their positions in the Organization for campaigning purposes, and whether leave was the only way of ensuring transparency.

The CHAIRMAN replied that no other solution had been suggested.

Mr. ABDOO (United States of America) confirmed that the concern was real. A further concern was that PAHO had had a higher percentage of internal candidates becoming Director than any other United Nations body, creating the impression that the post of Director was just another step on the promotional ladder, and that outside candidates were unlikely to succeed. The Organization would be better served if there was an impression of a level playing field. A period of leave was one way of addressing that problem.

Dr. SÁENZ MADRIGAL (Costa Rica) felt that granting special leave with pay might serve as a perverse incentive for people internal to the Organization. She described the following hypothetical situation: if paid leave were granted and there were more than one internal candidate, the Organization would have to pay their salaries. Thus, a candidate who was nominated knowing full well that he had no possibility of being elected would be granted a leave of absence and continue to receive his salary, which could be a perverse incentive. In her opinion, the conditions governing internal and external candidates should be similar. As to this idea of not being paid, she wondered how many people who meet the criteria for candidacy could survive in Washington or any of the countries.

Dr. GARCIA (Deputy Director) said that the utilitarian approach might not be the right one. Three months' leave without pay was not ethically justified unless external candidates were subjected to similar constraints, a matter that was beyond PAHO's control, and the impact on travel and livelihood might easily deter potential candidates. Leave of absence, during which a staff member did not represent the Organization, was

not the same as a vacation period, when a person continued to represent the Organization and could be recalled at any time. From the point of view of transparency, however, it was possible that a candidate would use his position in the Organization to promote his or her own ends.

Dr. JIMENEZ (Area manager, Legal Affairs) said that it was also important not to lose sight of the fact that the decision to stand for election was not always a personal one. Candidates, both internal and external, were nominated by governments, and therefore had government backing wherever they were based.

As far as practicalities were concerned, the staff regulations gave the Organization the discretionary power to make exceptions to the rules in specific cases, and the Governing Bodies would without doubt authorize the addition of a special clause permitting staff to take paid or unpaid leave or vacation, and not be considered as holding office during that period.

Dr. ARAÚJO FERREIRA (Brazil) observed that the issue is not whether to pay or not to pay, but whether internal candidates would have an advantage over external candidates. He voiced concern that the person that who occupied the post on an interim basis for more than two months because the candidate had temporarily left would end up acquiring rights to the post, and declared that he was in favor of ensuring that this period would not exceed two months.

Dr. SÁENZ MADRIGAL (Costa Rica) commented that the delegate from Argentina had made the proposal that paid leave be taken and that if, the candidate

wished, vacation time could be used; thus, the situations did not appear to be mutually exclusive. She was concerned, however, about the fact that since they are working, internal candidates could make use of Organization resources during the campaign. One could not pretend that this was not a matter of concern. In her country, labor rights were inviolable, and no one could oblige a worker to take vacation when he did not wish to, unless he had accumulated many years of vacation time. In light of all this, she was more inclined to favor paid leave, even though that meant changing her position, in order to try to reach a consensus. She added that if the candidate had vacation time and wished to use it, it would be necessary to give him that opportunity, but not to oblige him to take it so he could campaign.

Mr. TOBAR (Argentina) said that he was not sure whether the leave of absence should be with or without pay, but that to prevent financial harm, one option would be to offer candidates the right to use their vacation on a voluntary basis. That way, the right to vacation would not be violated. Concerning the proposal of the delegate of Brazil, to the effect that the separation from the post be for two months to avoid giving the interim Director the right to the benefits of three months and possibly generating a lawsuit, he was not in agreement.

Dr. GARCIA (Deputy Director) pointed out that Brazil had referred to a period of two months and 25 days.

Mr. ABDOO (United States of America) said that as vacation meant absence with pay and from duties, the concern remained that a person would be free to campaign while still drawing a salary.

Dr. ARAÚJO FERREIRA (Brazil) wished to make it clear that no one was obliged to accept a nomination, and that if someone voluntarily decided to be a candidate, he could use his vacation time to campaign, so that vacation pay would not be an additional expense. On the other hand, two-month vacations were not the two months and 25 days that gave the interim Director the right to remain in the post. More serious, however, was the fact that once the issue of payment was defined, it would once and for all prevent external candidacies--that is, hereafter, all candidates could only be internal. In Latin America there was an enormous disparity between the customary salaries and the salary paid by the Organization, so that someone from the outside would be at a clear disadvantage with respect to someone from the inside.

Dr. JIMENEZ (Area Manager, Legal Affairs) explained that the rule on temporary assumption of duties related solely to the right to be paid the salary for the post; it did not give the person concerned any right to the post itself.

Dr. ST. JOHN (Barbados) said that internal candidates should not be expected to take leave without pay. The Director, if standing for reelection, should be divorced from the process as soon as he or she had issued the call for nominations, so that there could be no abuse of post between then and the three-month period of leave.

Ms. DICKINSON (Canada) said that as leave of absence with vacation also involved the right to paid home leave, the most straight forward solution would be leave of absence with pay but without responsibilities, and without the right to travel or to take home leave.

Dr. JIMENEZ (Area Manager, Legal Affairs) said that certain acquired rights, such as home leave, should be left out of the equation because home leave entitlement depended on the place of recruitment, nationality, and certain other issues; furthermore, the travel involved was strictly to and from the home country. A person who was absent for three months, without representing the Organization, would have no access to the Organization's funds, so a restriction on those funds and on travel would be unnecessary. The only possible concern might be in respect of the use of funds by cabinet representatives on the candidate's behalf.

Mr. ABDOO (United States of America), referring to the point by Barbados, asked why it might be necessary to stipulate that the Director should have nothing more to do with the process once the call for nominations had been issued. His understanding was that the Director played no part in the election process.

Dr. GARCIA (Deputy Director) replied that there would be no conflict of interest in the Director's case: once he or she had issued the call for nominations, it was up to the Governing Bodies and the Secretariat to follow the process through.

Dr. GONZÁLEZ FERNÁNDEZ (Cuba) said that, bearing in mind the election calendar and that the candidates would have to participate in the forum in June, both the Director, if he were seeking reelection, and the internal candidates that aspire to the post would have to cease their functions with their participation in the forum, and the Organization would have to pay their salary. The most reasonable thing to do would be to establish that, after the forum, i.e. for a period of three months, they be given a paid leave

of absence to put them on an equal footing with the external candidates participating in the process.

Dr. RADIX (Grenada) said that leave of absence would not necessarily ensure transparency, nor would it necessarily take away the advantage that an internal candidate was perceived as having. The situation might best be handled by imposing restrictions on an individual's capacities while in office.

Mr. TOBAR (Argentina) noted that another discussion item was the issue of discretionary funds and the potential advantages that the Director could acquire in relation to an opportunistic mechanism with particular countries. He felt that the restriction should be that the minute the candidate is nominated, there could be no possibility of allocating resources. As for travel, it was impossible to say that a Director of an organization like PAHO could not travel, although it would be very difficult to know whether he were traveling for electoral purposes or in the exercise of his functions.

Mr. ABDOO (United States of America) said that the issue of restrictions on travel and resource allocations had nothing to do with whether a Director standing for re-election or any other internal candidate should take leave. It would be relevant, however, in ensuring that a Director who was not running again could not transfer funds to influence the election in favor of a particular external or internal candidate, and should perhaps be discussed later in that context.

The CHAIRMAN said that Grenada's point that a person could use their position to advantage some time before the election was a valid one. Campaigning could start at

country, subregional and regional level a long time in advance of an election without it being known. There nevertheless needed to be a reasonable period of time, such as the three months suggested, during which such behaviour could be subject to some control. Other issues still to be discussed, such as the use of discretionary funds, had also been aligned with that period.

Ms. DICKINSON (Canada) said that Articles 4.3 and 4.4 of the Rules of Procedure of the IICA were particularly relevant to the Working Group's discussions. Article 4.3 provided that no internal candidate should use or communicate restricted or privileged information to their private advantage. Article 4.4 provided that internal candidates for the post of Director should either resign or take leave once they were nominated or began to campaign openly, whichever occurred first, and that the period of leave should last until the election or such time as the internal candidate withdrew his or her candidacy. The rules also provided that the internal candidate could take leave without pay, or, at his or her option, exhaust any accumulated annual leave with pay before going on leave without pay. A candidate who opted to take leave and whose contract did not expire during that period, had the right to return to a post at a level equal to the grade held before taking leave if they were unsuccessful.

The CHAIRMAN said that resignation therefore appeared to be an option six months before the election.

Dr. KEAN (Director, Governance, WHO) said that, as he read it, a candidate could resign at the time of the closing of nominations or at the time of being nominated. The six months applied to the call for nominations, and resignation would not be an

option until the person was actively campaigning. The difficulty was that campaigning could start 12 months earlier.

Dr. JIMENEZ (Area Manager, Legal Affairs) said that it should be the duty of the staff member to declare their intention to take leave or resign as soon as the Secretariat received their official nomination from their country, which could be one week or more before all nominations were made public. While that would enable the person concerned to postpone the decision until the last minute, the date on which it had to be made would be very clear.

Dr. GARCIA (Deputy Director) said that it was conceivable that an internal candidate might receive news of his or her nomination almost as nominations were closed, giving external candidates an advantage. His preference would be for the cleaner process of intentions being announced when the Secretariat formally presented the nomination papers. That did not rule out, or cover, the situation in which a person had been campaigning for two years, but it was impossible to contain every situation.

After the Working Group had briefly examined the Rules of Procedure of the IICA, the CHAIRMAN asked whether members considered that the IICA process, specifically as set out in Article 4, would be appropriate for PAHO. Article 4.5, that contained an exclusion clause in respect of the Director-General, would need some clarification.

Mr. ABDOO (United States of America), supported by Dr. DE ARAUJO FERREIRA (Brazil) agreeing to the use of Article 4, suggested that Article 4.4 should be

amended by inserting the words “Except for the Director” before “A candidate who opts to take leave”, as the provision concerned re-employment rights.

Ms. CAMPBELL (Barbados) said that Article 4.4 was clear as it stood. Article 4.5 was not strictly an exclusion clause as it required the Director to conform to Articles 4.2 and 4.3 but not to Article 4.4. A penalty for breaching the rules should be included, although not necessarily summary dismissal, as at IICA.

Dr. JIMENEZ (Area Manager, Legal Affairs) said that with regard to breach, a general penalty for misconduct would be appropriate, bearing in mind that under PAHO’s rules there were different levels of what constituted misconduct. However, the problem of proof might then arise in relation to action taken outside the Organization, which could be particularly difficult, given that the candidate, once on leave, would not be acting in an official capacity. Responding to a question by the CHAIRMAN she said that misconduct would also be appropriate in the case of employees who were supporting the candidate on leave; dismissal was too specific a penalty. The level of misconduct would then need to be determined, and that would be an internal legal and administrative decision.

With regard to re-employment, it would not be possible for the Director or any other member of the executive management to return to a position of equivalent level as no such posts existed. The executive management positions were in any case filled at the discretion of the Director. The only solution would be to provide for a post commensurate with the experience and qualifications of the individual.

Replying to points raised by Mr ABDOO (United States of America) she agreed that Article 4.8 did not simply provide for dismissal, but to disciplinary action under the staff rules that could include dismissal. As written, therefore, the Article would not pose a problem for PAHO. The question of job entitlement was a complex one. There was no reason why, after 25 years' service, a person who had not attained a political position, and who had not reached retirement age, should be required to resign. Rather, they should have the right to go back to a post commensurate with their experience and background. The Director, too, had a right to a post; there was no reason for him or her to leave the Organization. The real difficulty, from the point of view of the Organization, the successful candidate and an ex-Director, would be where in the Organization they could be placed.

Mr. ABDOO (United States of America) asked whether a Director who had won two terms had the right to be re-employed at the end of the second term..

Dr. JIMENEZ (Area Manager, Legal Affairs) said that in her experience, outgoing Directors who had served two terms had retired, most of them having reached retirement age. Legally, a contract was not automatically renewable, yet a person had the right to be considered for posts commensurate with their experience.

Dr. GARCIA (Deputy Director) wondered whether a Director who had reached retirement age and who lost an election would still have the right to an unclassified post commensurate with his or her expertise, and whether, with the new post descriptions, the Deputy Director and Assistant Director would have the right to career posts at the U2

level, bearing in mind that they had been appointed to their political posts at the discretion of the Director, rather than going through the usual recruitment process.

Dr. JIMENEZ (Area Manager, Legal Affairs) said that the post descriptions would set out the minimum requirements for the post. According to the Constitution, the only political posts were those of Director, Deputy Director and Assistant Director, the latter two being proposed by the Director and endorsed by the Executive Committee. Any change in that situation would require a change in the Rules to make the Deputy Director and Assistant Director posts non-political. Her proposal would be for the holders of those two posts to leave the Organization if the Director lost an election because they had been appointed rather than going through the normal selection process.

Ms. MOREL (Mexico) observed that they were discussing the option of a candidate taking leave or choosing what he had to choose the minute he is nominated, which, in the case of PAHO, would be three months before or when he was designated. In her view, the designation should take place six months before.

The CHAIRMAN said that the Working Group had already agreed that the call for nominations would start a three-month nomination period, ending on 1 May when nominations would be closed.

Dr. JIMENEZ (Area Manager, Legal Affairs) said that in that case the rule covering leave from the time a candidate started to campaign openly might have to be worded differently.

The CHAIRMAN, turning to Article 4.5, said that in his view, it was an exemption for the Director-General of IICA from the provisions of Article 4.4. As providing exemptions for the incumbent seemed inappropriate, he proposed that, in adapting Article 4 for PAHO's use, that provision should be deleted.

*It was so agreed.*

Ms. DICKINSON (Canada) suggested that Articles 4.6, 4.7 and 4.8, that addressed ethical issues and imposed sanctions on staff for their failure to act in an impartial and neutral fashion, might also be useful to PAHO.

Dr. SÁENZ MADRIGAL (Costa Rica) agreed with the delegate of Canada that 4.6, 4.7, and 4.8 should be looked at because they did indeed include some of the ethical issues that were mentioned. While progress had been made in this issue, she wished to know what mechanisms and instruments would be used to verify compliance-- that is, that another person wouldn't support a nominated candidate in some other way, and whether these mechanisms already existed. Noncompliance by a consultant with the provisions in his contract would be considered a violation of his contract and justification for terminating it.

Dr. JIMENEZ (PAHO) said that these mechanisms already existed and that they would soon be much more effective. The Organization had adopted an internal code of ethics, and an Office of Ethics would soon be established. Internal communication mechanisms were being upgraded, as were mechanisms that would enable people outside the Organization to call or write anonymously or openly to the Official Office of Ethics

to ensure that everything applicable to the code of ethics would be strictly monitored by this new person. It should also be mentioned that the new ethics officer would report directly to the Executive Committee.

Dr. SÁENZ MADRIGAL (Costa Rica) felt that they should take advantage of the review of the articles to include these mechanisms, which they had already been developing, in keeping with the code.

Mr. ABDOO (United States of America) said that he saw no reason why, with some adaptations, Article 4 as a whole, with the exception of Article 4.5, should not be used:

Ms. DICKINSON (Canada) said that Article 22 of PAHO's Constitution contained a provision that could quite easily be incorporated into Articles 4.2 and 4.7.

Dr. RADIX (Grenada) said that the matter was not as simple as deleting Article 4.5. Article 4.4, covering resignation, leave-taking and returning to a post, applied to the Director as much as to any other staff member, but whether the Director should be given the same options needed further consideration.

The CHAIRMAN, summing up, said that Article 4 would be adapted to PAHO's needs, rules and procedures, and a text prepared, if possible, for endorsement the following day.

Turning again to the outstanding issues listed in the Summary Notes, and in particular to the question of non-recruitment, for employment in the Organization, of

Delegates at the Conference where the election of the Director took place, he reminded the Working Group that the item again concerned transparency and the need to ensure that there should be no expectation of employment in the Organization in return for electoral favors.

Mr. ABDOO (United States of America) said that his delegation had proposed a three-month period for that purpose.

The CHAIRMAN said that in the absence of any objection he took it that the Working Group supported that proposal.

*It was so agreed.*

The CHAIRMAN, turning to the question of a three-month freeze preceding the election on official travel of internal candidates, said that as the Working Group had agreed that nominees would essentially be on leave of absence during the three months prior to the election, possibly using vacation time, the question of official travel during that period no longer applied.

Then turning to the question of discretionary funds, recalled that although the Working Group had been in favor of a freeze on the use of such funds immediately before and after an election, it had called for more information on the funds available and how they could be accessed. As a person on leave would have no control over discretionary funds, and there was a period after the election when such funds could not be used, a specific freeze should not be necessary.

Mr. ABDOO (United States of America) reiterated his delegation's concern to prevent a situation in which a Director not running again for election could mobilize funds for the benefit of another candidate.

The CHAIRMAN said that it would be extremely difficult to control every aspect of the election, and issues such as how long after the election staff members, including the Director, might reasonably be denied access to funds that might be needed as part of their work, were overly complex. Some situations would have to be left on trust unless there was obvious abuse.

Dr. ST. JOHN (Barbados) asked who was involved in the decision-making process for the use of discretionary funds, and whether there was any oversight.

Mr. SOTELA (Unit Chief, Planning and Program Budget) explained that there were two distinct categories in the Proposed program budget that had a discretionary component. The Regional Director's Development Program was a long-standing line item that could be used on the authorization of the Director, for unforeseen events or needs during the biennium, such as World Health Day events, the Global Links contract, and similar high-level public health events or services. It had traditionally stood at around US\$ 1.5 million until the 2006-2007 prioritization exercise, when it had been reduced to US\$ 500,000. The newly created variable country allocation, approved by the Governing Bodies in 2005, amounted to approximately US\$ 4.9 million, or a maximum of 5% of the total country allocation of some US\$ 100 million, and was to be used subject to three criteria: as support to countries experiencing economic disruption; for activities that would accelerate progress towards the Millennium Development Goals; and to

provide relief to the lower-budget countries whose core funding had been reduced through the Regional Program Budget Policy. As an internal measure he had advised the Director to limit that support to the seven countries that had been given the maximum 40% reduction in core funding over three bienniums.

Mr. TOBAR (Argentina) requested clarification of what was meant by “discretionary funds,” i.e. funds that could be used at the discretion of the Director would belong to the first category and would go to the Regional Director’s Development Program, while those in the other category, since they were subject to the Committee on Planning and Budget, would not be entirely discretionary and would come to US\$500,000 for two years.

Mr. SOTELA (Unit Chief, Planning and Program Budget) indicated that the US\$500,000, i.e. US\$250,000 per year in this biennium, corresponded to the first category and were at the discretion of the Director, while the other category, whose allocation during the biennium was also at the discretion of the Director, was based on requests from the countries, but their purpose had already been determined by the governments.

Mr. TOBAR (Argentina) proposed that the Governing Bodies be consulted about the first category, the discretionary funds that go to the Regional Director’s Development Program, and asked whether his proposal was technically viable.

Mr. SOTELA (Unit Chief, Planning and Program Budget) asked whether the idea was that a request be made each time funds were to be authorized and said that imposing

this requirement was up to the countries. He calculated that part of those funds, actually most of them, were earmarked beforehand in the activities of World Health Day and the Global Link. The Global Link commitment comes to US\$120,000 per year, and if one adds the funds for World Health Day, to which more than US\$100,000 annually are allocated, these two activities eat up the funds for the Regional Director's Development Program. Finally, he indicated that there used to be more money, but today those US\$500,000 go to these two activities.

Responding to a request for clarification by Dr ST. JOHN (Barbados) he confirmed that the Director alone determined where the country allocation went. The US\$ 4.9 million would be allocated on the basis of requests that, he would ensure, met the criteria of the Governing Bodies, the technical impact of the requests being assessed by the country support unit.

Dr. SAÉNZ MADRIGAL (Costa Rica) underscored that never before had they had this variable fund for the countries. She proposed that in election years, a more detailed report be submitted on how the money had been spent. There was no history of the allocations per country; that is, there was no history of how the fund of US\$4.9 million had been allocated in the past, and this would be the first time this had been done.

The CHAIRMAN said that, as he recalled, the 5% variable funding had, in the past, and under a different name, been held back from program budget funds for reallocation by the Director in case of need.

Mr. SOTELA (Unit Chief, Planning and Program Budget) replied that the hold-back in question was not a budgeted item but a measure with a certain discretionary aspect intended to protect the Organization against income shortfalls. The funds were gradually released as the biennium progressed and the question of solvency became clearer.

Replying to Dr SAENZ DE MADRIGAL (Costa Rica), he said that as part of the Regional program budget policy, the Secretariat reported to the Subcommittee on Planning and Programming (SPP), in March of each year, on the fund recipients and the sums involved. No funds had been authorized, however, before the last SPP. Replying to a question by BARBADOS he said that transparency was assured by the fact that the criteria were established, that there was a very detailed allotment allocation process, and because there was a good monitoring and reporting mechanism in place. There would therefore be transparency in an election year.

Dr. ST. JOHN (Barbados) said that as the report came after the fact, it was not a good idea to put an embargo on funds for any period of time. It would be better, in an election year, to have additional oversight before the fact. She noted with interest that because the process was a new one, there had not been a report to the SPP because no allocation had been authorized.

Mr. SOTELA (Unit Chief, Planning and Program Budget) suggested, to meet those concerns, that in an election year reports could be submitted to the SPP, the Executive Committee and the Directing Council.

The CHAIRMAN said that the decision-making on the dispensation of the funds was the issue, rather than the reporting. There needed to be checks and balances particularly in an election year to provide extra oversight in relation to any decision to disburse funds.

Dr. ST. JOHN (Barbados) observed that that would also safeguard a situation in which some of the decision-making was in the hands of an acting Director.

Dr. RADIX (Grenada) said that if a Director seeking re-election, or any other internal candidate, was required to take leave before the election, it should not be necessary to impose additional restrictions, either before or after the election, on the use of discretionary funds that had come into existence because they had been deemed to be necessary.

Ms. DICKINSON (Canada) asked whether the March report to the SPP could include a projection of allocations for the next four or five months.

Mr. SOTELA (Unit Chief, Planning and Program Budget) said that forecasts could only be made on the basis of requests, which would have to come from the countries themselves or the PWR offices.

Mr. ABDOO (United States of America) said that, unlike Grenada, his delegation saw a need for at least a minimum number of checks and balances on the disbursement of discretionary funds for a certain amount of time before and after the election. Such controls should apply to a Director on leave, the Acting Director and the new Director,

who could conceivably have made certain arrangements with countries in return for their vote.

Dr. SAÉNZ MADRIGAL (Costa Rica) wished to know what would happen if the countries did not request resources from the US\$4.9 million, for example; if, even though they request money, they request US\$1 million, leaving a remainder of US\$3.9 million.

Mr. SOTELA (Unit Chief, Planning and Program Budget ) said that the variable fund was an earmarked budget. If the funds were not used, they would be funds from the unexecuted budget, just like the budget from any Representative Office that had had a US\$3 million budget and executed only US\$2.5 million. This was reflected in the overall balance of the unexecuted budget at the end of a biennium, and everything depended on the level of income, whether it was in cash or not, because if they received US\$10 million less in hand than earmarked in the budget, and the US\$5 million from the variable fund were not spent, it represented nothing, that is, zero in terms of the balance.

Dr. SAÉNZ MADRIGAL (Costa Rica) asked, assuming that the cash is there, what happens if the funds are not spent for any reason or the countries do not request it or do not meet the requirements; if it is possible to reallocate that money or does the fund grow.

Mr. SOTELA (Unit Chief, Planning and Program Budget) clarified that, like every element in the regular budget, it was closed on 31 December at the end of the biennium. The election would be in September 2007, so that by 31 December 2007, what had not been spent of the US\$4.9 million that exist today would cease to be counted. In

January 2008, the new budget 2008-2009 would go into effect and what was earmarked for variable funds would begin again in January 2008.

The CHAIRMAN asked whether any other potential candidates in the Organization, such as a Unit Chief, Section Head, or Area Manager, had access to or discretionary powers over certain funds.

Mr. SOTELA (Unit Chief, Planning and Program Budget) said that there were none. All budgetary funds were allocated, with or without a hold-back, at the beginning of a budget period on the basis of the Governing Bodies' approved budget. Once allocated, the funds were programmed and spent. The Director was the only person who could authorize an increase in the allotment.

The CHAIRMAN asked the Working Group whether, in the light of those explanations, it wished to include a provision for a three-month freeze on the use of discretionary funds immediately before or after the election.

Dr. RADIX (Grenada) said that there appeared to be consensus in favor of more reporting or more oversight in respect of the use of discretionary funds three months before and after an election, rather than a freeze.

The CHAIRMAN pointed out that such a mechanism would affect both the Acting Director and the new Director.

Dr. JIMENEZ (Area Manager, Legal Affairs) said that the Working Group should bear in mind that the election took place in September and the new Director did not

assume office until 1 February, leaving an Acting Director and then, possibly, the losing Director, in office for some considerable time.

Mr. SOTELA (Unit Chief, Planning and Program Budget) added that the new Director took office early in a new biennium, so a special oversight mechanism for three months out of a 24-month budgetary period would be meaningless.

The CHAIRMAN said that he took it that the Working Group wished to introduce an oversight mechanism, the details of which would be determined at a later date, that ensured some accountability and reporting alongside an individual's discretion.

*It was so agreed.*

#### ORGANIZATION OF WORK

The CHAIRMAN, replying to a question by Mr ABDOO (United States of America), said that the possibility of an extended March session, a session in Geneva on the margins of the Health Assembly, or, if necessary, in Washington just before the Executive Committee had been discussed at the Working Group's first session and would be discussed again the following day in the light of the Working Group's progress.

Dr. JIMENEZ (Area Manager, Legal Affairs) said that, given the amount of research required, it was unlikely that a text on the items just discussed could be prepared for the following day. The Secretariat would also need the Working Group to decide how its recommendations were to be presented. The possibilities included proposed amendments to the Constitution and Rules of Procedure, a draft resolution, as had been

the case at IICA, modifying relevant documents and Articles, or the addition of Annexes or a Protocol. Should IICA's Article 4, for example, on internal candidates, be included as an Annex to the Rules of Procedure, as had been done at IICA, and then adopted by means of a resolution?

The Working Group also needed to give some thought to the election of an interim Director, and whether similar rules should be followed in the absence of a Director, when, in accordance with the rules, a new Director had to be elected during the five-year term of office.

The CHAIRMAN said that his immediate aim was to go through with the Secretariat the items already discussed and agreed in order to achieve consensus the following day, on the understanding that those items would be further analyzed by the Secretariat. The items could then be posted on the web site at a later date or sent out to countries for comment. The Working Group would need the Secretariat's advice on how best to present its recommendations, and its proposals on the matter of an interim Director.

*It was so agreed.*

*The meeting rose at 5:40 p.m.*