

PROPOSED AMENDMENTS TO ARTICLE XIII OF THE IARC STATUTE

1. In accordance with [Resolution GC/62/R17](#), the Governing Council Working Group¹ on the amendment of Article XIII of the IARC Statute met by teleconference on 18 November 2020, to examine additional options to those presented in [document GC/62/15](#), aiming to explore a broader range of legally possible options as a basis for discussions and to determine what option would be in the best interest of IARC, while preserving the interests of its Participating States.
2. Article XIII of the IARC Statute provides that *"A Participating State may withdraw from participation in the operation of the Agency by notifying the Director-General of the World Health Organization of its intention to withdraw. Such a notification shall take effect six months after its receipt by the Director-General of the World Health Organization."*
3. In its current wording this means that a Participating State could withdraw during a current budget cycle or after the budget for IARC's operations in the next budget cycle was approved, which would be detrimental to the operations of IARC.
4. The Working Group discussed the options listed in the [Annex](#) below.
5. IARC Financial Regulation, General Provisions, Article 7.3 already specifies that a state which has submitted notice to leave the Agency 'shall be required to pay the full amount of its contributions up to and including the year in which the withdrawal becomes effective' and not just be required to pay the contributions to the end of the six month notice period.
6. IARC Financial Regulation, General Provisions, Article 7.3 does not cover the full biennium in case the six months' notice period becomes effective in the first year of the biennium.
7. Suggestion was made to leave Article XIII as it is and add a paragraph: "Participating States shall be responsible for the assessed contribution for the year or biennium in which they withdraw."
8. The WHO Principal Legal Officer (LEG) confirmed there was the possibility to leave things as they currently are, and clarified that the Governing Council has the power to change its Financial Regulations which, unlike changes in the Statute, do not need to be accepted by the World Health Assembly.

¹ Working Group composition: Canada (Lucero Hernandez and Jennifer Izaguirre; William Wang as Observer); Spain (Gonzalo Arévalo); the UK (Mark Palmer) [elected Chairperson]; and the USA (Mara Burr) as well as members ex officio: GC Chair (Stephen Robbins, Canada) and GC Vice-Chair (Pål Romundstad, Norway).

9. There was general agreement in the Working Group to keep processes as simple as possible.
10. The Working Group therefore recommends that the full Governing Council discuss the two possibilities below:

- i. Leave Article XIII of the Statute and Article 7.3 of the Financial Regulations as they currently are.

OR

- ii. Leave Article XIII of the Statute as it is and modify Article 7.3 of the Financial Regulations to "7.3 A Participating State which withdraws from participation in the operation of the Agency under the provisions of Article XIII of the Statute shall be required to pay the full amount of its contributions up to and including the **second year of the biennium** in which the withdrawal becomes effective."

11. When presenting the options, it is recommended that Governing Council Members ensure that the fact that the financial liabilities already extend and, under item 2, would potentially extend further beyond the six months' notice period for withdrawal, is clear to Participating States decision making authorities.

Annex: Option A and its variations

Option A:

A Participating State may withdraw from participation in the operation of the Agency by notifying the Governing Council [Director-General of the World Health Organization] during the first year of a biennium of its intention to withdraw. Such a notification shall take effect at the beginning of the following biennium.

Option A.1:

A Participating State may withdraw from participation in the operation of the Agency by notifying the Governing Council [Director-General of the World Health Organization] provided that any contributions due for a budget that has already been approved shall be paid. The Governing Council shall determine the effective date of withdrawal to ensure that the running of current IARC operations is not impacted.

Under international law, withdrawal from a treaty is possible either in conformity with the withdrawal provisions contained in the treaty itself or the consent of all members of the treaty, and, in the absence of a provision, is subject to 12 months' notice (Vienna Convention on the Law of Treaties, Articles 54 and 56).

The IARC Statute contains a specific provision for withdrawal, however, the provisions of the Vienna Convention can be used as a guide when it comes to best practice for withdrawal.

Alternative (a):

A Participating State may withdraw from participation in the operation of the Agency by notifying the Governing Council and by giving no less than twelve (12) months' notice of its intention to withdraw. The Governing Council shall accept [take note of] the effective date of the withdrawal and notify the Director-General of the World Health Organization.

Alternative (b):

A Participating State may withdraw from participation in the operation of the Agency by notifying the Governing Council and by giving no less than twelve (12) months' notice of its intention to withdraw. The Governing Council shall decide whether to accept the withdrawal or not. If the Governing Council accepts the withdrawal, it shall determine the effective date of the withdrawal and notify the Director-General of the World Health Organization.

Alternative (c):

A Participating State may withdraw from participation in the operation of the Agency by notifying the Director-General of the World Health Organization and by giving no less than twelve (12) months' notice of its intention to withdraw. The Governing Council shall take note of the withdrawal and approve its effective date.

Alternative (d):

A Participating State may withdraw from participation in the operation of the Agency provided that:

- (i) the Participating State has notified the Governing Council by giving no less than twelve (12) months' notice of its intention to withdraw;
- (ii) a valid reason is provided for the withdrawal; and
- (iii) the Governing Council accepts the withdrawal.

The Governing Council shall notify the Director-General of the World Health Organization of the effective date of the withdrawal.

Alternative (e):

It is not normally foreseen that Participating States would withdraw from IARC. Therefore, any withdrawal must be approved by the Governing Council. Should the Governing Council approve a withdrawal it will set the effective date and inform the Director-General of the World Health Organization accordingly. On no account shall the notice period for withdrawal be less than twelve (12) months.