

REPORT OF THE SPECIAL SESSION OF THE PROGRAMME COORDINATING BOARD MEETING

Additional documents for this item: *none*

Action required at this meeting—the Programme Coordinating Board is invited to:

Adopt the report of the Special Session of the Programme Coordinating Board.

Cost implications for decisions: *none*

1. OPENING

1. The Chair of the Programme Coordinating Board (PCB), Li Mingzhu, Commissioner, Department of International Cooperation, National Health Commission, China, opened the special session of the PCB.
2. The meeting honoured all people who have died of AIDS-related causes with a minute of silence.
3. The Chair told the PCB that it was meeting at a critical time for the Joint Programme. Harassment, bullying and abuse of power had no place in any organization and had to be addressed with firm action so UNAIDS could continue to lead the global AIDS response, he said.
4. The Chair noted that a great deal of work had been done since the previous PCB session in December 2018. A Working Group on prevention of and response to harassment and a search committee for a new executive director had been set up and had met several times already. He thanked the PCB Bureau for its expeditious approach and called on the meeting to work together and to provide UNAIDS with the clarity it needed to move forward. A strong UNAIDS was needed now more than ever, he said.
5. The Chair presented the agenda, which the meeting adopted.

2. UPDATE ON PREVENTION OF AND RESPONSE TO HARASSMENT, INCLUDING SEXUAL HARASSMENT; BULLYING AND ABUSE OF POWER AT UNAIDS SECRETARIAT

6. Michel Sidibé, Executive Director of UNAIDS, expressed solidarity with the people who had lost loved ones in the Ethiopian Airlines disaster, the massacre in New Zealand, the cyclone in Mozambique and violence in his own country, Mali.
7. He thanked the Chair and the PCB Bureau for organizing the Special Session and thanked all UNAIDS staff for their ongoing commitment to ending the AIDS epidemic. He also welcomed Shannon Hader, who recently joined UNAIDS as Deputy Executive Director, Programme, and thanked Tim Martineau, Director of the Fast-Track Implementation Department, for managing multiple roles and acting as the interim Deputy Executive Director during the previous nine months.
8. Mr Sidibé said UNAIDS was a young organization, which had been created under extraordinary circumstances with the chief aim of saving lives. It had done so commendably and would continue to be a trend setter as it adapted to rapid changes and competing priorities.
9. The changes undertaken by UNAIDS, he said, were happening alongside a broader process of UN reform; it was important for the Joint Programme to leverage those changes and continue to act a path-finder in the wider UN system.
10. Mr Sidibé stressed the need to pay attention to the challenges of financial and programmatic sustainability. Noting that 54 countries were experiencing rising numbers of new HIV infections, he said the AIDS response had to maintain strong momentum. It was UNAIDS' responsibility to make leaders aware of the challenges and to promote and support stronger action at country level.

11. The Executive Director noted that the integration of the AIDS response into Universal Health Coverage (UHC) was an important challenge, but added that UHC should be about more than coverage—it had to lead to impact and outcomes.
12. He assured the meeting that the Joint Programme was turning a difficult moment into a moment of opportunity. The entire senior management team was committed to continue strengthening transparency and accountability in order to make UNAIDS even more effective in the global AIDS response, he said.
13. Important markers of change included the fact that women comprised 75% of the cabinet, 45% of senior management posts and 48% of country directorships, while 55% of all staff were women.
14. Ongoing changes were being made with close engagement of staff and the Secretariat was well-prepared to implement the proposed Management Action Plan (MAP). The MAP should serve as a pathfinder for the UN system, Mr Sidibé said, and UNAIDS had to be a model for the wider UN family with regards to gender parity, protecting and promoting staff wellbeing, maintaining strong systems and accountability, and ensuring that a culture of human rights prevails.
15. Mr Sidibé thanked Laurie Newell for Chairing the PCB Working Group, which was reviewing the proposed MAP and the recommendations of the Independent Expert Panel. The ultimate purpose of the MAP, he said, was to strengthen the Joint Programme so that it could continue its life-saving work, ensure that no-one was left behind in the AIDS response and uphold the right to health for all.
16. Gunilla Carlsson, Deputy Executive Director for Management and Governance, thanked UNAIDS staff for their commitment and noted that it had been a difficult year for the Secretariat. She said she was proud to report on the progress being made.
17. The MAP was fundamentally about strengthening the leadership and accountability of the senior management team and ensuring that staff were at the centre of the change agenda, she said.
18. Ms Carlsson told the meeting that the Action Plan was aimed at enhancing a positive organizational culture; clearly setting out and promoting desired behaviours; strengthening the awareness of managers and staff of their accountability, rights and responsibilities; and strengthening systems for action. The Secretariat recognized that it had to do more to prevent and act against harassment and abuse of authority. It was therefore also sharing experience with and advocating for staff wellbeing to be a core function of the Office of the Resident Coordinator in countries.
19. The MAP, she said, would contribute to and draw on UN system-wide reform processes, including the CEB Task Force on addressing sexual harassment; the Duty-of-Care working group; the staff mental health and wellbeing strategy; and the UN System-wide Action Plan on Gender Equality and the Empowerment of Women (UN-SWAP).
20. In moving this agenda forward, she said, UNAIDS was using core lessons learnt in the AIDS response: there are no quick fixes, diverse actions are needed, changes are best made in unison, and leadership matters.
21. The MAP would strengthen accountability—e.g. through enhanced transparency (sharing quarterly staffing and budgeting data with all staff), increased staff dialogue in

the Gender Action Plan, and seeking continuous guidance from staff and partners. Workplace climate surveys would be conducted to complement the important work of UNAIDS Staff Association, whom Ms Carlsson thanked for its hard work and dedication. An internal Dignity-at-Work Task Force had been set up and civil society stakeholders (including gender equality and human rights experts) would continue to be engaged.

22. Staff engagement was critical for change, she told the PCB. The MAP had been developed and would be implemented with strong consultation and engagement of staff and by using evidence of what works best. Several rounds of consultation had been held, which had also informed the work of the Dignity-at-Work Task Force.
23. Ms Carlsson emphasized that the MAP was a work-in-progress. She thanked the PCB Working Group for advising and supporting that process and invited input from other stakeholders to strengthen the Plan further.
24. She then outlined the five main action areas for change:
 - Staff at the centre—ensuring dignity at work, upholding the duty of care, taking the UN staff mental health and wellbeing strategy forward, ensuring all staff can access confidential services, and providing pre-deployment and in-post training and support;
 - Senior management accountability and capacity building—making the MAP a standing item on Senior Management Team and Regional Management Meetings, and consolidating the delegation of authority framework;
 - Systems strengthening and transparency—including through routine inspection visits for all offices, strengthened policies and enforcement, a service-level agreement with WHO IOS, and the use of common UN human resources services;
 - Performance management and career development—redesigning the staff mobility policy, workforce planning and career development modalities, using assessment centres for staff recruitment, and implementing "upward feedback" processes; and
 - Monitoring progress and the impact of change—through an annual staff survey, engagement with PCB on strengthened oversight on strategic human resources issues, and monitoring and publicly reporting on progress against the Gender Action Plan targets.
25. The proposed measures of success, she told the meeting, included making significant progress towards both the goal of zero incidence of harassment, sexual harassment, ill treatment and abuse of authority and the goal of zero discrimination.
26. Other measures included staff feeling comfortable in reporting exclusionary behaviours in the workplace and having confidence in mechanisms such as the Integrity Hotline, Ethics Office, Ombudsman and Internal Oversight Services. Staff also had to feel confident that managers would act on concerns about substandard performance or inappropriate conduct. The organization had to show commitment to provide a workplace that is conducive to good mental health. Finally, staff had to feel that their skills and contributions were valued and that management decisions were based on the best interests of the organization and staff.
27. The MAP was an ambitious undertaking, requiring trust, courage and commitment, Ms Carlsson said. Going forward, there would be further engagement with staff and the Staff Association, as well as with the PCB Working Group. The proposed activities would be costed and budgeted, a more detailed timeline for implementation would be developed, and a progress report would be presented at the June 2019 session of the PCB.

28. The Chair of the PCB Working Group Laurie Newell, UNFPA Human Resources, presented an oral update on the activities of the Working Group. She said the Group had met three times already, focusing on a review of the findings of the IEP report, the UNAIDS Secretariat's management response and the proposed MAP, as mandated by the 43rd session of the PCB in December 2018. Notes from the meetings would be available on the Working Group website.
29. Ms Newell told the meeting that David Webb, Director of the Office of Internal Oversight Services (IOS) at WHO, had addressed the first meeting of the Working Group and had confirmed that the IOS was independent of UNAIDS authority and that he had never been pressured by the UNAIDS Executive Director to influence or speed up investigations. He had said it required on average nine months to complete an investigation.
30. The Working Group had mapped the proposed MAP actions against the key recommendations of the IEP report, she said. It had also reviewed the MAP in relation to UN system-wide work on harassment and related matters. The Working Group noted that the Secretariat had accepted responsibility for taking action and was doing so in a collaborative manner, as shown in the extensive consultation that led to the development of the Action Plan.
31. Ms Newell said that the large majority of IEP recommendations were addressed, directly or indirectly, in the Management Action Plan. She commended the Secretariat for setting for itself the goal of eliminating harassment in the workplace and for the actions taken to date. She reminded the meeting that the Secretariat could benefit from similar, ongoing work in other UN agencies. The latter could also learn from the Secretariat's efforts.
32. She also told the meeting that some matters that were not specifically addressed in the MAP were on the agenda of UN system-wide processes, such as the Chief Executives Board for Coordination (CEB) model policy and the Inter-Agency Working Group focusing on strengthening investigations across the UN system.
33. Overall, the PCB Working Group welcomed the MAP draft and had provided detailed feedback to the Secretariat regarding remaining issues that required attention, Ms Newell said. In particular, the Group appreciated the multimodal nature of the Action Plan, the actions aimed at increasing accountability and the proposed use of objective means of assessment. The main outstanding issues involved a full costing of the Plan and steps for ensuring that field staff would benefit fully from the envisaged changes.
34. In discussion from the floor, several members pointed to the divisions that had been evident at the 43rd meeting. They stressed the need for quick, decisive action to ensure zero tolerance for harassment and bullying. They commended the steps taken by the Secretariat, thanked the Executive Director for supporting the IEP process and the development of the MAP, and thanked staff for their contributions.
35. Members also commended the commitment and achievements of the Executive Director in advancing the global AIDS response and keeping it prominent among global health priorities. The meeting heard that the African Union recently had paid special tribute to Mr Sidibé's contribution to the AIDS response in Africa and globally.
36. Going forward, the priority should be to strengthen the UNAIDS Secretariat and the Joint Programme, speakers said. They expressed the hope that the current process would strengthen the structures and work of UNAIDS so that its staff could continue to

support countries to reach the 2020 and 2030 targets. A stable UNAIDS was essential to deliver tangible results, they added.

37. The meeting commended the Working Group on the work done in a short period of time. Speakers requested the Working Group to take account of their expressed reservations about the findings of the IEP. Several members stated that, in their view, the IEP panel had overstepped its mandate and that its report lacked balance and conveyed ill-conceived conclusions. They proposed that UNAIDS' prospective actions be informed by good practices and processes in other UN agencies.
38. Other speakers noted that the IEP findings were in line with the findings from previous staff surveys and said that the Panel's recommendations therefore were merited. They called on the PCB to ensure that UNAIDS led by example.
39. Members welcomed the development of the MAP and the inclusive and consultative manner in which it had been drawn up. They looked forward to engagements based on the MAP which, they said, represented a significant step forward since the previous PCB meeting.
40. The Plan recognized and addressed the need for systemic change in the working culture at UNAIDS, they said. They noted the Management Action Plan was aligned with UN-wide reforms and actions and that it included review mechanisms and timelines. It was suggested that the Plan could distinguish sexual harassment more clearly from other forms of harassment. The Secretariat was asked to draw on good practices from elsewhere in the UN system and from other countries, including those that take account of the multicultural nature of UNAIDS staff, especially at country level.
41. The Secretariat was asked to clarify the implementation mechanisms for the MAP and how the Staff Association would be involved. Speakers emphasized the importance of accountability and staff engagement in these processes and suggested regular reviews of progress in conduct at all levels, including mid-level management. There was also a suggestion that a senior management team be tasked with ensuring that the envisaged actions are carried out.
42. It was suggested that the recommendations of the PCB be brought to the attention of the UN Secretary-General so that UNAIDS' actions and reforms could be shared with the wider UN system. Speakers also proposed that the PCB be updated on the MAP's implementation via annual reports.
43. The Secretariat was asked to provide the 44th meeting of the PCB (in June 2019) with additional details about the Plan's timelines, costing, expected results and initial implementation. It was also asked to develop indicators for measuring progress and identifying gaps in the implementation of the MAP.
44. Some members suggested that the Working Group closely monitor implementation of the MAP, while others said it was inappropriate for the PCB to "micromanage" the Secretariat. Members emphasized that any oversight role assigned to the PCB should be in line with the ECOSOC Resolution and should not exceed standard practice in other agencies.
45. In further discussion, members underlined the need for stronger internal systems to restore trust, especially regarding formal complaints. They highlighted the need to respect the principles of due process and presumptions of innocence during investigations. The Secretariat was asked how it would ensure that victims of harassment receive redress while offenders are disciplined appropriately. Members

asked for information about envisaged changes to improve the investigative capacity and processes at WHO IOS.

46. Ms Carlsson thanked the meeting for the comments and suggestions. She acknowledged the need for expert guidance and said the Secretariat would welcome further inputs.
47. The necessary changes had to be achieved by senior management as a group, she said, and should draw on the wealth of experience and expertise that exists in the Secretariat and across the UN system. She also emphasized earlier remarks that had noted the distinctiveness of sexual harassment and stressed that actions and processes had to take account of gender-based power imbalances.
48. Ms Carlsson agreed on the need for cost estimates, timelines and criteria for measuring progress. Regarding costs, she said many of the MAP actions were part of broader, systemic initiatives aimed at having clear policies and procedures (e.g. a delegation of authority framework, a comprehensive policy on sexual harassment in conjunction with WHO, a new policy on "stretch assignments", setting up assessment centers, etc.). Time and resources were needed to implement these initiatives, communicate new agendas and monitor their impact, but many initiatives were not especially costly.
49. Regarding data, Ms Carlsson said UNAIDS has relied on Staff Association survey data that provide considerable insight into staff experiences and views. The last external "climate survey" on staff had been done before 2010. The MAP, she said, envisaged a global survey on staff wellbeing and the working environment.
50. She highlighted the need to take account of developments in the UN-wide justice system, as well. The Working Group had noted that UNAIDS was working to improve its response to allegations of misconduct. The Secretariat recognized that this is best done by drawing on various model policies that exist or are being developed (e.g. regarding sexual harassment in UN and for enhancing investigation service standards).
51. Ms Newell thanked the meeting for its approving remarks about the Working Group's activities. Referring to the MAP, she highlighted the importance of putting staff at the centre of processes and changes, and reiterated the need for more detailed costings of the envisaged actions. Greater clarity was also needed about the PCB's role in monitoring implementation of the MAP and on relating those actions to initiatives and processes in the wider UN System.
52. David Webb, Director of the Office of Internal Oversight Services (IOS) at WHO, told the meeting that he had briefed the Working Group about the background, powers and procedures of the Internal Oversight Services. An external independent assessment done in late 2017 had concluded that the functioning and resourcing of the IOS complied with international standards applied in UN system. The IOS was pursuing the implementation of specific recommendations from that assessment.
53. Regarding staffing and other resources available for conducting UNAIDS investigations, Mr Webb said the IOS has consistently prioritized deploying capacity for those investigations, sometimes to the detriment of services for WHO investigations. The IOS continued to strengthen its internal capacity in response to increased "reports of concern" received in 2018 (a trend that matched those seen in other UN agencies).
54. He said the IOS is entering into an external contract with specialized investigations services to provide additional short-term capacity while strengthening its own internal

capacity. The IOS would provide the June 2019 session of the PCB with a summary of UNAIDS-related work done in the past year.

PCB views on the MAP and PCB's oversight role

55. Ms Newell said the Working Group had not yet reached consensus on a note which the PCB would possibly convey to the UN Secretary-General. The Group would seek legal and other expert guidance on several such outstanding issues.
56. In discussion from the floor, members noted the important progress made since the 43rd session of the PCB. Speakers emphasized the need for systematic actions and strong, reliable processes to prevent and remedy cases of harassment. They said further deliberation was needed on how stronger accountability could be achieved at both top and middle management levels. Along with systems and processes, attitudes and behaviours also had to change, they added.
57. Several speakers said it was important to keep the Secretary-General abreast of recommendations made by the PCB and of actions (including the Management Action Plan) taken by the Secretariat to prevent and deal with harassment and abuse of authority, since they were potentially relevant across the UN.
58. Some members expressed concern, however, that communication to the Secretary-General should not be based on the findings and recommendations of the IEP report. They said that the report had made erroneous findings and did not provide a basis for consensus in the PCB. Instead the PCB should focus on communicating practical changes that were underway (e.g. as outlined in the MAP, which they saw as an important step in the right direction).
59. Members emphasized that all staff should have access to effective complaint mechanisms and all cases should be investigated impartially. Some speakers said that no other UN organization had accepted an external investigative function regarding possible cases of harassment. Others suggested that an independent complaint mechanism and/or external body investigating and addressing cases of harassment should be considered. The Working Group was asked to consider options, drawing on best practice and taking account of lessons from other UN organizations and the UN model policy.
60. Ms Newell said the issues under discussion were clearly not limited to UNAIDS only. Both it and the rest of the UN system could learn from each other. She noted that at least one other UN organization, UNICEF, was undergoing an independent expert review process —UNAIDS was not unique in that respect. She told the meeting that a survivor-centred approach was being taken in the inter-agency agenda and that UNAIDS also followed such an approach.
61. Ms Newell assured the meeting that the concerns expressed by members had been noted. However, many of the actions outlined in the MAP were standard, good human resource practice, she said, regardless of one's opinion of the recommendations of the IEP report. This included actions such as using assessment centres and active testing as selection methods (which UNAIDS is piloting for senior-level posts), having an externally administered staff survey initiated by management (which is standard human resources practice) and establishing a delegation of authority framework. She also noted that recommendations very similar to those in the IEP report featured (independently) in the UN model policy and in ongoing inter-agency review processes (e.g. regarding standards of proof in harassment cases).

62. The PCB Chair told the meeting that, since some of the issues discussed had legal implications, the input of the independent legal counsel would be useful to guide further discussions (annex 3).
63. Loïc Picard, the independent legal counsel for the PCB, recalled the unique nature of UNAIDS as a Joint Programme that is coordinated by a Board with representatives from 22 elected Member States, 11 Cosponsors and 5 nongovernment organizations.
64. The Joint Programme's creation and working methods were guided by limited legal text and were based on ECOSOC resolutions adopted in 1994 and 1995, he said. They also set out the mandate and functions of the PCB. Issues related to management of the Secretariat do not fall under the scope of the functions outlined in the ECOSOC resolutions, he explained; none refer to the PCB being responsible for intervening in staff matters at the Secretariat.
65. Regarding possibly transmitting updates about human resources management to the UN Secretary-General, UNAIDS' biannual reports go to ECOSOC, Mr Picard said. If the PCB wishes to convey such information to the Secretary-General, it would have to do so via ECOSOC.
66. Two draft decision points were presented to the meeting. Discussion followed. It was suggested that the decision points include reference to statements made by members, including those regarding the IEP report recommendations.
67. Asked whether one of the decision points fell within the PCB's mandate, Mr Picard said that as long as the PCB Working Group focuses on general principles, it could offer advice to the Secretariat regarding systems and actions to fight harassment. But it was not the Working Group's responsibility to ensure implementation any of those actions. It was therefore legitimate for the Working Group to continue working on the issues outlined in the decision point.
68. After further discussion, the meeting adopted the decision points.

3. SELECTION PROCESS OF THE NEXT EXECUTIVE DIRECTOR OF UNAIDS

69. The Board received an update on the process for the nomination of the next Executive Director of UNAIDS.
70. Speaking on behalf of the search committee, Yury Ambrazevich, Ambassador and Permanent Representative of the Republic of Belarus to the UN Office in Geneva, said that Mr Sidibé had demonstrated the importance of strong, capable leadership and that the next Executive Director would have to be chosen from as strong a field of candidates as possible.
71. He assured the meeting that the committee would follow a transparent and fair process. The search committee hoped to report a list of candidates to the PCB at the June 2019 session.
72. Mr Ambrazevich said the first meeting of the search committee, held on March 20, had finalized a code of conduct which was based on the terms of reference as approved by the PCB. The committee established its rules, approved the text for an advertisement for the position of Executive Director, and agreed on a process for submitting applications and on a selection of publications where the advertisement would be run

(which the committee would share with the PCB). Social media opportunities would also be used.

73. The committee had also drafted a letter setting out the competencies and qualifications for the post (this had been shared with PCB members), Mr Ambrazevich said, and it was developing a scoring tool (based on the one used in 2008), which it would share with the PCB in its report at the June meeting.
74. He said the committee had decided to contract a consultant to support its work. It had also discussed the need for additional support, either from within the UN system or from an external executive search firm. It was mindful of the need to achieve as short a transition period as possible. The committee had also agreed to make an advance call for applications to permit as much time as possible for applicant submissions, which had been submitted to all PCB stakeholders on March 26. The advertisement would be placed shortly, he said.
75. The Secretariat then briefly informed the meeting that the letter sent to stakeholders on March 26 had included a small error regarding the languages for receiving applications and conducting interviews. The letter should have stipulated that candidates were invited to submit their application in English and/or French
76. In discussion from the floor, members commended the outgoing Executive Director for his leadership and contributions to the AIDS response globally and in Africa. His leadership, they said, had enabled UNAIDS to make great achievements. UNAIDS needed model leadership to meet existing and new challenges, they said.
77. Members noted the ambitious commitment to present the UN Secretary-General with a list of candidates by the beginning of July, but agreed that the inter-leadership period had to be as short as possible. Some were concerned, however, about the feasibility of the tight timeline and the possibility of a gap between the departure of the outgoing Executive Director and the arrival of his successor. The Secretariat was asked to clarify how such a gap would be handled.
78. The meeting welcomed the report on the selection process and the committee's commitment to provide the PCB with notes on each meeting held. Speakers asked that the scoring tool be shared as soon as possible with all PCB members. They underlined the need for full transparency and for avoiding any conflicts of interest in the selection process.
79. While some speakers said it was advisable to engage an independent firm for recruitment, others argued this would be expensive and may slow the process. The meeting was told that the PCB had recommended the hiring of an external search firm following the 2008 process. It was suggested that the support of the independent legal counsel should be available to the committee, if requested.
80. In selecting the candidates, speakers said it was vital that the search committee take the challenges of the current AIDS response fully into account. Speakers proposed a variety of criteria. Candidates, they said, had to be conversant with the 2030 agenda, have extensive experience in high-prevalence AIDS epidemics, have a strong record working with and for communities affected by AIDS, show commitment to gender equality and diversity, and be multilingual. There was a suggestion that it was the "right time" to have a woman, particularly from the global south, leading UNAIDS.

81. The committee was asked to clarify which elements in the terms of reference were deemed essential and which were seen as desirable. Clarity would help ensure that strong candidates would not be screened out in the search, it was suggested.
82. In response, Mr Ambrazevich said that the search committee had developed the competencies and experience for the post based upon the adopted terms of reference that incorporates many of the qualities and requirements proposed in the discussion. The committee intends to have a list of candidates ahead of the June 2019 session where the PCB can express its perspectives.
83. Regarding the hiring of an external firm, he said the committee was discussing the options, including utilizing internal UN resources. One possibility was to task such a firm to contact prospective candidates who were unlikely to be reached through the standard search process. An external agency would not replace the search committee, but would add value to it. A decision on this matter would be taken shortly. The scoring tool was still being developed, he said.

4. ANY OTHER BUSINESS

84. No other issues were raised.

5. CLOSING OF THE MEETING

85. Presenting the closing remarks, Mr Sidibé said the meeting had confronted difficult issues. UNAIDS would not have achieved all it had without being united and without confronting difficult, contentious issues. Mr Sidibé thanked the Board for its support and said he was grateful that UNAIDS had given him the opportunity to fight for those who were underprivileged and whose rights were being denied, and that he would continue doing so.
86. The Special Session of the PCB was adjourned.

[Annexes follow]

Annex 1

Annotated Agenda

THURSDAY, 28 MARCH 2019

1. Opening the meeting and adoption of the agenda

The Chair will provide the opening remarks to the special session of the PCB.

Document: UNAIDS/PCB (EM)/2.1.rev1

2. Update on prevention of and response to harassment, including sexual harassment; bullying and abuse of power at UNAIDS Secretariat

The Board will receive:

- *Update from the UNAIDS Secretariat on the implementation of the UNAIDS Management Action Plan (MAP) including in response to the IEP report¹ and progress since December 2018;*
- *Oral update of the PCB Working Group on the MAP and strengthening the PCB oversight of UNAIDS Secretariat. Followed by:*
- *PCB views on the MAP and PCB's oversight role.*
- *PCB Working Group reflections on the IEP recommendations with possible relevance for the broader UN system and for the UN-Secretary General's consideration.*

Followed by:

- *PCB views on IEP recommendations with possible relevance for the broader UN System and for the UN-Secretary General's consideration.*

Documents: UNAIDS/PCB (EM)/2.2.rev1, UNAIDS/PCB (EM)/CRP1, UNAIDS/PCB (EM)/CRP2

3. Selection process of the next Executive Director of UNAIDS

The Board will receive an update on the process for the nomination of the next Executive Director of UNAIDS.

Followed by:

- *PCB perspectives on the Executive Director search process.*

Documents: UNAIDS/PCB (EM)/CRP3, UNAIDS/PCB (EM)/CRP4

4. Any other business

5. Closing of the meeting

¹ Report of the Independent Expert Panel on prevention of and response to harassment, including sexual harassment, bullying and abuse of power at UNAIDS Secretariat

Annex 2

Special Session of the UNAIDS Programme Coordinating Board

Geneva, Switzerland

28 March 2019

Decisions

The UNAIDS Programme Coordinating Board,

Recalling that all aspects of UNAIDS work are directed by the following guiding principles:

- Aligned to national stakeholders' priorities;
- Based on the meaningful and measurable involvement of civil society, especially people living with HIV and populations most at risk of HIV infection;
- Based on human rights and gender equality;
- Based on the best available scientific evidence and technical knowledge;
- Promoting comprehensive responses to AIDS that integrate prevention, treatment, care and support; and
- Based on the principle of non-discrimination;

Agenda item 1: Opening of the meeting and adoption of the agenda

1. *Adopts* the agenda;

Agenda item 2: Update on prevention of and response to harassment, including sexual harassment; bullying and abuse of power at UNAIDS Secretariat

- 2.1. *Takes note* of the Management Action Plan for a healthy, equitable and enabling workplace for all UNAIDS staff;
- 2.2. *Takes note* of the oral update of the Working Group of the Programme Coordinating Board (PCB) to strengthen the PCB's monitoring and evaluation role on zero tolerance against harassment, including sexual harassment, bullying and abuse of power at the UNAIDS Secretariat, and requests the Working Group to consider the views expressed by the Board;

Agenda item 3: Selection process of the next Executive Director of UNAIDS

3. *Takes note* of the oral update of the Search Committee for the nomination of UNAIDS Executive Director, and requests the Search Committee to consider the views expressed by the Board.

Annex 3

Mandat du Conseil de coordination du programme de l'ONUSIDA – Communication des recommandations du Conseil aux organes des Nations Unies

Le Président du Conseil de coordination du programme de l'ONUSIDA a demandé un avis juridique d'une part quant aux propositions relatives aux fonctions que le CCP pouvait exercer en matière de contrôle de la gestion du personnel du secrétariat de l'ONUSIDA et, d'autre part, quant aux propositions de transmettre des recommandations du CCP au Secrétaire général des Nations Unies.

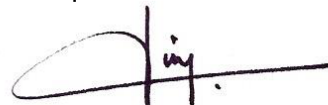
Sur le premier point, il est nécessaire de rappeler le caractère unique de l'ONUSIDA. L'ONUSIDA n'est ni une organisation ni un fonds. ONUSIDA est un programme, un programme commun et coparrainé des Nations Unies pour organiser la riposte à l'épidémie de VIH/SIDA. Ce programme commun est coordonné par un Conseil composé, pour une part, de représentants de 22 Etats membres élus des Nations Unies. Ces Etats ne sont pas membres d'ONUSIDA mais ils représentent au sein du CCP les membres des Nations Unies. Le Conseil est également composé des représentants des 11 organisations internationale coparrainantes qui sont à l'origine, au moins pour 6 d'entre elles, du programme commun. Enfin, 5 représentants élus d'organisations non-gouvernementales issues des régions sont également membres du CCP et participent de plein droit à ses travaux selon des modalités appropriées. Ceci est également unique dans le système des Nations Unies.

La création et le fonctionnement du programme d'ONUSIDA est régi par un très petit nombre de textes, ce qui dans une certaine mesure favorise la souplesse de fonctionnement du programme. Ces textes proviennent pour l'essentiel de deux résolutions du Conseil économique et social des Nations Unies (ECOSOC), adoptées en 1994 et 1995². Les résolutions établissent les attributions, la composition de la structure de gouvernance du programme et les fonctions du CCP. Les huit fonctions définies par l'ECOSOC ont été reproduites in extenso dans le Modus Operandi du Conseil de coordination du programme commun des Nations Unies sur le VIH/SIDA (ONUSIDA) qui devrait être, toute proportion gardée, le livre de chevet des membres du CCP. Les questions relatives à la gestion du personnel du secrétariat de l'ONUSIDA et au contrôle (oversight) de cette gestion ne relèvent pas du champ d'application d'aucune de ces huit fonctions.

En outre, il n'est pas dans le mandat du Conseil de coordination du programme de l'ONUSIDA d'ajouter de nouvelles fonctions à celles qui ont été définies et décidées par l'ECOSOC. Pour reprendre une notion familière aux spécialistes de droit constitutionnel, le Conseil de coordination du programme n'a pas la compétence de sa compétence. Autrement dit, le CCP n'est pas compétent pour étendre sa compétence à des questions qui ne sont pas expressément prévues par l'organe qui a créé le Programme commun et coparrainé de l'ONUSIDA, le Conseil économique et social de l'ONU.

En ce qui concerne la seconde partie de la demande du Président du CCP, à savoir la transmission de recommandations du Conseil au Secrétaire général des Nations Unies, le paragraphe 6 du Modus Operandi prévoit que « [I]es rapports annuels soumis au CCP sur les travaux du Programme commun, accompagnés des observations éventuelles du Conseil, seront transmis aux organes directeurs de chacun des Organismes coparrainants et à l'ECOSOC ». Ainsi, les recommandations du CCP doivent être communiquées à l'organe des Nations Unies compétent pour en connaître qui est l'ECOSOC.

28 mars 2019



Loïc Picard
Conseiller juridique du CCP

² Résolutions 1994/24 et 1995/2.

Annex 3: English Translation

Mandate of the UNAIDS Programme Coordinating Board – Communication of the Board's recommendations to the United Nations bodies

The Chair of the UNAIDS Programme Coordinating Board has requested legal advice on the proposals concerning the functions that the PCB might exercise about human resources management control of UNAIDS Secretariat staff and proposals to transmit PCB recommendations to the United Nations Secretary General.

On the first point, it is important to recall the unique nature of UNAIDS. UNAIDS is neither an organization nor a fund. UNAIDS is a program, a cosponsored joint program of the United Nations to organize the response to the HIV/AIDS epidemic. This joint program is coordinated by a Board, composed of representatives of 22 elected Member States of the United Nations. These States are not members of UNAIDS but, within the PCB, they represent the United Nations members. The Board also counts representatives from the 11 international cosponsor organizations, six of which initiated the joint program. Finally, 5 elected representatives from regional non-governmental organizations are also members of the PCB, and participate fully in its work, according to appropriate conditions. This is also unique within the United Nations System.

The creation and operation of UNAIDS is governed by a very small number of texts, which, to some extent, makes the program more flexible to run. These texts mainly come from two resolutions of the Economic and Social Council of the United Nations (ECOSOC), adopted in 1994 and 1995³. These resolutions set out the allocations, the composition of the program governance structure and the functions of the PCB. The eight functions defined by the ECOSOC have been reproduced *in extenso* in the *Modus Operandi* of the Coordinating Board of the joint United Nations Programme on HIV/AIDS (UNAIDS), which should, in a manner of speaking, be bedside reading for all PCB members. The questions concerning the human resources management of UNAIDS Secretariat and the control (oversight) of this management do not come within the scope of any of these eight functions.

Furthermore, it is not part of the UNAIDS Programme Coordinating Board's mandate to add new functions to those already defined and decided by the ECOSOC. To use a notion familiar to specialists in constitutional law, the Programme Coordinating Board does not have jurisdiction over its jurisdiction. In other words, the PCB does not have the jurisdiction to extend its jurisdiction to issues that are not expressly indicated by the body that created the UNAIDS cosponsored joint program, the Economic and Social Council of the United Nations.

With regard to the second part of the PCB Chair's request, i.e. the transmission of the recommendations of the Board to the United Nations Secretary General, paragraph 6 of the *Modus Operandi* states that "Annual reports submitted to the PCB on the work of the Joint Programme, together with any comments as the PCB may wish to make, shall be made available to the governing bodies of each of the Cosponsoring Organizations and ECOSOC". Thus, the recommendations of the PCB must be communicated to the competent United Nations organization, i.e. ECOSOC.

28 March 2019

Loïc Picard
PCB Legal Counsel

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³ Resolutions 1994/24 and 1995/2.