

## **GAVI ALLIANCE APPEALS TRIBUNAL**

### **Statute and Rules of Procedure**

An Appeals Tribunal (hereinafter “the Tribunal”) of the Gavi Alliance (hereinafter “Gavi”) is hereby established and shall be governed by the present Statute and Rules of Procedure (hereinafter the “Rules”), as amended on 27 June 2019, as well as any internal rules which the Tribunal may adopt and amend from time to time in accordance with Article 10(3) below.

#### **ARTICLE 1 – COMPOSITION OF THE TRIBUNAL**

1. The Tribunal shall be composed of five members. The seat of the Tribunal is in the canton of Geneva, Switzerland, and it can conduct its proceedings in any other location in Switzerland.
2. The Tribunal shall meet in plenary session (full Tribunal) or as a panel of three members.
3. The Tribunal shall meet in plenary session in order to:
  - (a) elect members of the Tribunal to serve as the President and Vice-President of the Tribunal;
  - (b) decide on cases in accordance with Article 3(1); and
  - (c) adopt additional internal rules in accordance with Article 10(3).
4. The Tribunal, whether in a plenary session or as a panel, shall take its decisions by majority vote, with the exception of any decision made under Article 4(3).
5. A minimum of four members shall constitute a quorum for plenary sessions. In the event of a tie, the President shall have the casting vote. If all members agree, decisions may be taken by written procedure or teleconference.
6. Members shall be appointed by the Gavi Board based on a recommendation by the Gavi Secretariat after appropriate consultation, including with the Staff Council. Candidates shall have no personal or financial relationship with any Gavi Secretariat staff or members of the Gavi Board.
7. Each member shall be appointed for a period of up to five years; he or she may be reappointed by the Gavi Board, upon the recommendation of the Gavi Secretariat, with appropriate consultation. A member appointed to replace a member whose term has not expired shall hold office for the remainder of the predecessor's term.

8. Any member may be removed from office by the Gavi Board upon the unanimous decision of the other members if it is established on objective grounds that he or she is unsuited for further service.
9. Any member who has an actual, potential or perceived conflict of interest in a case shall recuse himself or herself.
10. The President shall, with the assistance of the Gavi Secretariat and/or a secretary in some cases in accordance with Article 3(2), take care of the day to day business of the Tribunal. He or she shall preside over the plenary sessions.
11. The Vice-President shall be the alternate of the President of the Tribunal in all circumstances.
12. Meetings of the Tribunal may take place in person or by teleconference or videoconference. A member of the Tribunal participating in such fashion shall be deemed present for purposes of quorum.

## **ARTICLE 2 - COMPETENCE OF THE TRIBUNAL**

1. The Tribunal will be called upon as needed when an employee of Gavi submits an appeal (hereinafter "the appellant") in accordance with the rules of procedure outlined below, and the internal procedures established to resolve the matter have been fully exhausted in accordance with their terms.
2. The Tribunal and any panel constituted to hear a case shall be competent to hear and make decisions on disputes arising out of the alleged non-observance, in substance or in form, of:
  - i) the terms of appointment of the employee; and/or
  - ii) such provisions of the Gavi Policies and Procedures Manual as are applicable to the case.
3. For the purpose of the present Rules, the expression "employee" shall mean:
  - i) any person whose current or former employment agreement, whether open-ended or fixed-term (temporary), provides that he or she shall be an employee,
  - ii) any person on whom the rights of the employee as defined in point i) above have devolved on his or her death,
  - iii) any other person who can show that he or she is entitled to some rights under the terms of appointment of a deceased employee as defined in point i) above.

4. The Tribunal and any panel constituted to hear a case shall decide on its competence.

### **ARTICLE 3 – COMPOSITION OF PANEL**

1. Cases shall be decided by a panel of three members of the Tribunal (each a “Panel”) or in plenary session if the case relates to a question of principle, in the opinion of one or more members of the Panel, or if requested by a member of the original panel.
2. As soon as an appeal has been submitted to him/her but in any event within 30 days of receipt, the President shall designate the Panel to decide on the case. As and when necessary and upon consultation with the parties, the Tribunal will appoint a secretary to a particular case to assist with the proceedings.
3. In case any member cannot act in a case for whatever reason, including due to a conflict of interest, the President shall appoint a replacement from the two remaining Tribunal members.
4. The President shall in principle be the presiding member of any Panel of which he or she is a member. If the President is not a member of a Panel, the Vice-President shall be the presiding member of that Panel. If neither the President or the Vice-President are members of a Panel, the President shall appoint one member to be the presiding member of that Panel (whether the President, Vice-President or another member of the Panel, the “Presiding Member”). The Presiding Member shall deliver the decision in accordance with Article 9(4), unless another member of the Panel is designated by the Panel to do so.
5. The parties shall be notified of the composition of the Panel, and whether any members of the Tribunal have been recused, following its designation by the President.

### **ARTICLE 4 - ADMISSIBILITY**

1. The Panel shall examine the admissibility of the appeal and of all procedural documents. To this end, Gavi may file a motion within 30 days of receipt of an appeal alleging non-admissibility of the appeal, which suspends the period of time to respond to the appeal under Article 6 until the motion is acted on by the Panel.
2. If Gavi has filed a motion alleging non-admissibility of the appeal, the Presiding Member shall transmit a copy of the motion to the appellant. The appellant may file with the Presiding Member a written objection to the motion within 30 days after the date of receipt by the appellant of the motion. At the

Panel's request, either party may be allowed to make oral arguments in support of their pleadings if deemed necessary by the Panel.

3. Upon receipt of the appeal and/or any related pleadings (including any oral hearings), the Panel may decide by unanimous vote not to examine the substance of the appeal if it is inadmissible or amounts to an abuse of process.
4. Summary reasons shall be given for the decision as to inadmissibility or abuse of process.

## **ARTICLE 5 - SUBMISSION OF APPEAL**

1. The appellant shall address his or her appeal against Gavi in writing for the attention of the President, care of the Gavi Director of Human Resources within 90 days after the date of the notification of the final decision on the matter by Gavi's Chief Executive Officer.
2. The appeal must state the decision to be contested and set out the facts of the case, the request for relief and the legal basis for contesting the decision as well as the evidence in support of the appeal,
3. Upon receipt of the appeal, the President shall convene the panel in accordance with Article 3 and provide the appeal to Gavi to prepare its response in accordance with Article 6.
4. The appellant will be provided with a copy of this Statute and Rules of Procedure together with any relevant contact details of the Presiding Member, if different from the President, or the secretary to the Tribunal.
5. The filing of an appeal with the Tribunal shall not suspend the execution of Gavi's Chief Executive Officer's decision challenged by the appellant.
6. An appeal may be submitted in either English or French. The appellant must append to any text which is not in English or French a translation into English. The Panel may order that the translation be certified if the circumstances so require. Subsequent phases of the proceedings will be conducted in English, unless the Panel decides otherwise taking into account all relevant circumstances.

## **ARTICLE 6 - GAVI'S RESPONSE**

1. Within 30 days after the date of receipt of the appeal (unless extended in accordance with Article 4), Gavi shall submit to the Presiding Member, with a copy to the appellant, a response to the appeal in English, as well as the evidence in support of its answer.

2. Upon a reasoned request by Gavi, this 30-day time limit may be extended at the discretion of the Panel or in accordance with Article 4. If Gavi files no response within the time limit fixed, the written pleadings shall be deemed closed.

## **ARTICLE 7 – APPELLANT’S REPLY BRIEF AND GAVI’S REJOINDER BRIEF**

1. Within 30 days after the date of receipt of Gavi’s response, the appellant may submit to the Presiding Member, with a copy to Gavi, a further brief in reply.
2. Upon a reasoned request by the appellant, this 30-day time limit may be extended at the discretion of the Panel. If the appellant files no reply brief within the time limit fixed, the written pleadings shall be deemed closed.
3. If the appellant files a reply brief, Gavi may submit to the Presiding Member, with a copy to the appellant, a rejoinder brief within 30 days after the date of receipt of the appellant’s reply.
4. If Gavi files no rejoinder brief, the written pleadings shall be deemed closed.
5. All pleadings referred to in Articles 5 to 7 shall be brief and limited to the facts and evidence relating to the disputed decision and any questions of law.

## **ARTICLE 8 – PROCEEDINGS OF TRIBUNAL**

1. The Panel shall have full power to review the facts and the applicable Gavi Policies and Procedures Manual.
2. The Panel may, on its own motion or on the application of either party, order the submission of any further written statement or any document and may set a time limit for such submission.
3. The Panel may, on its own motion or on the application of either party, take evidence and order any appropriate measures of investigation as it deems fit, including the appearance of the parties before it, the hearing of any witness and/or expert, and the consultation of any competent authority.
4. Any Gavi employee who establishes a sufficient interest in the result of a case submitted to the Tribunal may be authorised by the Tribunal to intervene in that case. Submissions made in an intervention shall be limited to supporting the submissions of one of the parties.
5. In principle, the Panel will conduct a hearing, unless the Tribunal decides that a hearing is not necessary, or the parties request not to hold any hearings. The proceedings of the Panel shall not be public.

6. Parties shall identify any witness and/or expert whom that party wants the Panel to hear and the issues which the party wants the witness and/or expert to address.
7. In any hearing, the Panel shall allow oral submissions by the parties and may also hear oral testimony and/or expert evidence from any witness/expert as permitted by the Panel.
8. The appellant may plead his or her own case or appoint a lawyer or other representative at his or her own cost.
9. Gavi's representative(s) shall be one (or more) of its own serving or former staff members, or outside legal counsel at Gavi's discretion.
10. Any statement by a witness, whether oral or written, must contain the following declaration: "I solemnly declare upon my honour and conscience that I will state the truth, the whole truth and nothing but the truth."
11. The Panel shall, at the request of a party or on its own motion, exclude from evidence or production any document, statement or oral testimony on the ground of legal privilege.

## **ARTICLE 9 – DECISIONS OF THE PANEL**

1. The Panel shall decide on the merits of the dispute between the appellant and Gavi based on Gavi's Policies and Procedures. The Tribunal may reverse a previous Gavi decision or order other relief as deemed appropriate. When it reverses a previous Gavi decision, the Tribunal shall also fix an amount of compensation that would be paid to the appellant if Gavi's Chief Executive Officer determines, within thirty days of the notification of the Tribunal's decision, that it is in the best interests of Gavi to maintain the previous Gavi decision.
2. If the Panel finds the terms of Gavi's Policies and Procedures to be ambiguous or unclear, then the Panel may refer to and apply general principles of international administrative law concerning the resolution of employment disputes of staff in similar organisations. In all cases, the Panel shall take into account the customs and practices of Gavi.
3. In rendering their decisions, the members of the Panel shall be completely independent and shall not receive any instructions from any person or entity or be subject to any constraint in connection therewith.
4. Each decision shall be in writing, briefly reasoned, dated and signed by the Presiding Member. Where the Panel has made an award of compensation, the decision will include an explanation of the quantum of such compensation.

5. The decision of the Panel shall be final and binding on both the appellant and Gavi and without appeal. Upon a reasoned and timely request by either party, the Panel shall be competent to interpret its decision or correct any clerical errors. If a party can show that new facts that were unknown to a party and that may impact the decision of the Panel have been discovered within a year of the Panel rendering its decision, the Panel shall be competent to revise its decision.
6. Where the Panel deems that the appellant has brought an appeal against Gavi in bad faith, the Panel may order all or part of the costs against the appellant if the circumstances so justify in the Panel's discretion.
7. Gavi may publish an anonymised version of the decision of the Panel on its website.

## **ARTICLE 10 – MISCELLANEOUS PROVISIONS**

1. Gavi will pay for all costs and expenses incurred by the Tribunal, except as awarded pursuant to Article 9(6) above.
2. The present Rules may be amended by the Gavi Board. Any such amendment will only be applicable to new appeals filed under Article 5 after the date such amended rules are adopted by the Gavi Board.
3. The Tribunal may in its own discretion also adopt additional internal rules for its tasks and proceedings as may be required, to the extent such rules supplement the present Rules and are compatible with them, in the Tribunal's discretion.
4. A French translation of these Rules will be made accessible to Gavi employees on the Gavi intranet. In the event of any discrepancy between these Rules and the French translation, these Rules shall prevail.
5. The jurisdiction of the Tribunal may be extended to cover disputes between other similar organisations and their employees, should the appropriate authorities of such organisations so request. In such cases, an agreement governing administrative procedure and arrangements shall be concluded between Gavi and the organisation, expressly providing that the organisation shall bear the cost of compensation awarded by the Tribunal to any of its employees and the costs of such disputes.