



~~SEPTEMBER 2017~~ JULY 2020

MARKET-SENSITIVE DECISIONS COMMITTEE CHARTER V9 TRACKED

1. PURPOSE

The Market-Sensitive Decisions Committee (“Committee” or “the MSDC”) is established by the Board (“Board”) of the Gavi Alliance (“Gavi”) to support the Board in fulfilling its oversight responsibilities.

The Committee will make decisions which are market and/or commercially sensitive, subject to powers reserved specifically to the Board in Article 13 of the Statutes.

Words and expressions used in this Charter shall, unless the context requires otherwise, have the meaning attributed to them in the Gavi ~~By-laws~~ Board and Committee Operating Procedures (“Operating Procedures”).

2. COVAX

Additionally, with Gavi having assumed the administration of the COVAX Facility¹, and established the COVAX AMC², the Committee will undertake any decisions associated with transactions effected through the COVAX Facility (hereinafter shall be taken to include both the COVAX Facility and the COVAX AMC unless expressly stated otherwise, as described).

~~2.3.~~ MEMBERSHIP

The membership, resources, responsibilities and authorities of the Committee to perform its role effectively ~~is-are~~ stipulated in this Charter, which may be amended by the Board as and when required or deemed necessary and ~~is-are~~ specifically governed by Article 18 of the Statutes and Section 18 of the Operating Procedures ~~Gavi’s By-laws, Article 4 which governs Committee member appointment, including relevant~~

¹ COVID-19 Vaccines Global Access (COVAX) Facility – a time-limited mechanism designed to pool global COVID-19 vaccine demand and country resources toward incentivising manufacturers to expand production capacity so that a large number of vaccine doses are available rapidly to deploy globally in an equitable manner.

² The COVAX AMC is a finance mechanism supported by ODA funding to ensure that implementing countries have equitable access to vaccines made available through the COVAX Facility.

~~Alternates, and Article 2.4.4 which governs Committee member removal and resignation, including relevant Alternates.~~

~~With regard to transactions specific to the COVAX Facility, further stipulations regarding expanding membership of the Committee are set out below.~~

A. Composition and size

The composition of the MSDC shall allow it to function efficiently and effectively in fulfilling its functions and responsibilities.

The MSDC shall comprise up to 14 members (~~“Members”~~) according to the following representational composition and shall be chaired by the Board Chair:

- One seat for the Board Chair;
- One seat for the Board Vice Chair;
- Two seats for representatives of the multilaterals (World Health Organization, UNICEF, World Bank);
- One seat for a representative of the Bill & Melinda Gates Foundation;
- Two seats for representatives of ~~developing—implementing~~ country governments;
- Three seats for representatives of donor country governments;
- One seat for a representative of the civil society organisations;
- One seat for the Chair of the Audit and Finance Committee;
- One seat for the Chair of the Programme and Policy Committee; and
- The CEO, who shall serve as a non-voting ~~member—Member~~ of the MSDC.

Only Board ~~Members—members~~ and Alternate Board members may be ~~members~~ ~~Members~~ of the Committee.

~~With regard to transactions specific to the COVAX Facility, membership of the MSDC shall be expanded to include three representatives drawn from the COVAX Shareholders Council (“COVAX Representatives”) of the COVAX Facility³. No meeting of the Committee shall proceed on matters specific to the COVAX Facility without at least one COVAX representative present.~~

B. Competencies and Skills

All MSDC ~~members—Members~~ shall be able to act independently, to ask relevant questions and evaluate answers, act professionally and maintain the highest ethical standards and loyalty to the interests of Gavi, ~~and it is expected that the COVAX Representatives will act professionally and maintain the highest ethical standards.~~

³ ~~Shareholders Council comprises representatives from all self-financing participants in the COVAX Facility and the AMC Stakeholders Group.~~

The overall balance of skills on the Committee, without reference to the COVAX Representatives, shall be periodically evaluated to respond to the needs of Gavi and its Board.

The criteria for MSDC membership shall be consistent with Gavi's gender policy Guiding Principles on Gender for Board and Committee nominations.

The Chair of the MSDC shall:

- Plan and oversee the conduct of meetings;
- Report to the Board on relevant and material matters as appropriate; and
- Participate in and advise on the selection of MSDC ~~members~~ Members in conjunction with the Board and the Governance Committee.

In the event that the Chair is unable to attend a scheduled meeting, the meeting shall be chaired by the Board Vice Chair and in the event of ~~his/her~~ their simultaneous absence, the Chair will, after consultation with other MSDC ~~members~~ Members, nominate a suitable substitute from the membership of the MSDC.

C. Appointment and term of office

~~All~~ MSDC ~~members~~ Members shall be appointed by the Board on the recommendation of the Governance Committee, in consultation with the Chair of the MSDC. MSDC members shall be appointed once every two years, with renewable terms.

The COVAX Representatives shall be nominated by processes defined by the relevant operating procedures of the COVAX Facility and their tenure on the Committee shall be determined in these procedures. These nominations shall be communicated in advance to the Chair of the Committee and Secretary to the Board prior to their taking their seats on the Committee.

The Secretary to the Board or ~~his/her~~ their designated appointee shall be the Secretary of the Committee. The Secretary shall:

- Provide the link between the MSDC, the Board and the Secretariat and, as appropriate, COVAX Facility;
- Assist the MSDC in developing good governance practices; and
- Ensure that the agenda, meeting papers and minutes and other materials to support the MSDC are provided in a timely manner.

3.4. AUTHORITY

The MSDC is established by the Board under Article ~~19-18~~ of the ~~Gavi~~-Statutes and is a Standing Board Committee ~~of the Board~~. It is empowered by the Board to undertake the responsibilities outlined in this Charter. The MSDC will operate under Gavi's Statutes and ~~By laws~~ Operating Procedures.

The MSDC is a decision-making body as set out in ~~4-5~~ below. It shall regularly report on MSDC activities to the Board and shall maintain open communications between MSDC ~~members~~ Members and the Board.

The MSDC shall have reasonable access to information, Gavi personnel and relevant other Gavi parties, and external expertise as appropriate.

The mandate of the MSDC is established in this Charter.

4-5. RESPONSIBILITIES

The MSDC is authorised by the Board to:

A. Approve market and/or commercially sensitive decisions as part of the implementation of the supply and procurement strategy; ~~and~~

B. Approve transactions presented in respect of the COVAX Facility which would ordinarily have market and/or commercially sensitive implications as part of the administration by Gavi of the COVAX Facility; and

B-C. Perform such other duties required by Gavi under its Statutes or ~~By-laws~~Operating Procedures or otherwise as are necessary or appropriate to further the Committee's purposes, or as the Board may assign to the MSDC.

5-6. MODE OF OPERATION

A. Meeting attendance

Only Board members and Alternate Board members appointed to the MSDC shall be entitled to attend meetings of the Committee.

COVAX Representatives shall be entitled only to attend meetings, or that part, of the MSDC meeting, deliberating on COVAX Facility issues.

Members of the Secretariat shall make themselves available to attend all MSDC meetings as appropriate.

MSDC ~~members~~Members and COVAX Representatives shall prepare for and actively participate in Committee meetings.

B. Frequency of meetings

The Committee shall meet as required to discharge the responsibilities outlined in 4.5. above and at the request of the CEO, in consultation with the MSDC Chair.

C. Notice of meetings and confidentiality

Notice of a meeting of the MSDC shall be given to each Committee Member and COVAX Representative, where relevant, at least five business days prior to such meeting. All such notices shall be given in writing and sent by mail to the last recorded address of the Committee Member or COVAX Representative or by email if the Committee member or COVAX Representative has consented to receipt of notice by email. Notice of any such meeting need not be given to any Committee Member or COVAX Representative who submits a signed waiver of notice or who participates in a meeting without protesting, prior thereto or at its commencement, the lack of notice to them.

The MSDC Chair may call a meeting on less than five business days' notice if in their reasonable opinion there exist exceptional circumstances requiring an MSDC meeting

to be held on short notice, provided however that the minimum notice that must be provided to Committee Members and COVAX Representatives is two business days; unless urgent circumstances require that the MSDC should meet in an even shorter period and which shall be solely at the discretion of the Chair to grant such waiver and this will only be in relation to a discussion and/or decision specific to the COVAX Facility.

~~Notice of each meeting confirming the date, time, venue and agenda shall be forwarded to each member of the Committee and other invitees not less than a week prior to the date of such meeting and sent by email.~~

The notice will normally include relevant supporting papers for the agenda items to be discussed. All papers circulated to MSDC Members, and COVAX Representatives, as applicable, shall be retained in the strictest confidence for their specific reference and use and may not be circulated or distributed in any manner or form.

D. Agenda

The MSDC Chair shall establish Committee meeting agendas with the Secretary of the Committee and in consultation with Committee ~~members~~ Members, including the COVAX Representatives, as appropriate, and relevant members of the Secretariat.

E. Quorum

The quorum for the MSDC shall be a majority of voting MSDC ~~members~~ Members. The Committee may only carry out its business while the quorum requirement is met. In the event that an MSDC meeting ceases to be quorate, at the option of the Chair, discussions may continue, but no decisions may be made. The Chair may choose to end the meeting on it becoming inquorate.

With regards to transactions specific to the COVAX Facility, the quorum shall remain a majority of voting MSDC Members without counting the COVAX Representatives but the meeting cannot proceed unless at least one COVAX Representative is present throughout the part of the meeting relevant to the COVAX Facility transaction(s) (see also 2A as read with 6A).

F. Conflict(s) of interest and declarations of interests

All MSDC ~~members~~ Members shall adhere to Gavi's Conflicts of Interest for Governance Bodies and Ethics Policies and shall annually complete an Annual Declaration Form in accordance with these policies. The Declaration shall be updated by MSDC ~~members~~ Members when required.

At the commencement of each meeting, each MSDC ~~member~~ Member, including the COVAX Representatives, if present, shall declare any actual or perceived conflict of interest arising in the matters before the Committee and the relevant provisions in the Statutes, By-laws/Operating Procedures and the Conflicts of Interest Policy for Governance Bodies shall regulate participation.

G. Voting

~~The Chair should aim for consensus on all decisions. If consensus cannot be reached, majority and minority positions shall be reported to the Board as appropriate. All~~

decisions of the MSDC shall be taken by vote and considered approved if a majority of those present in the meeting, and entitled to vote, vote in favour of the decision.

H. Minutes

The Committee shall keep minutes of its meetings in accordance with Gavi's Statutes and ~~By-laws~~Operating Procedures. Minutes shall be shared with MSDC Members, and with the COVAX Representatives for matters pertaining to the COVAX Facility, noting that the minutes will be confidential and shared solely and exclusively for their reference and shall not be circulated or shared.

I. Executive sessions

From time to time, at the discretion of the MSDC Chair, the Committee may hold closed sessions with such parties as it deems appropriate, together or separately without members of the Secretariat present (including the CEO).

6.7. ACCESS TO INFORMATION AND EXPERTISE

The MSDC is authorised by the Board to obtain independent professional advice as it considers necessary, at the expense of Gavi.

Should the professional advice sought by the MSDC relate to a transaction specific to the COVAX Facility, the costs shall be borne by the budget dedicated to the COVAX Facility.

7.8. PERFORMANCE AND REVIEW

The Committee will normally evaluate its performance at least once every two years in conjunction with the Board Evaluation having regard to the principles and requirements of its mandate as set out in this Charter and any additional activities undertaken during the year at the request of the Board.

The MSDC shall report to the Board the results of its review and development actions arising.

The Board shall review the MSDC Charter at least every ~~two~~three years, normally to coincide in conjunction with the ~~biennial~~regular performance evaluation, to ensure its adequacy and that it remains relevant to its programme of work and in accordance with developments in best practice.



JULY 2020

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2. COVAX

Additionally, with Gavi having assumed the administration of the COVAX Facility¹, and established the COVAX AMC², the Committee will undertake any decisions associated with transactions effected through the COVAX Facility (hereinafter shall be taken to include both the COVAX Facility and the COVAX AMC unless expressly stated otherwise, as described).

3. MEMBERSHIP

The membership, resources, responsibilities and authorities of the Committee to perform its role effectively are stipulated in this Charter, which may be amended by the Board as and when required or deemed necessary and are specifically governed by Article 18 of the Statutes and Section 18 of the Operating Procedures.

With regard to transactions specific to the COVAX Facility, further stipulations regarding expanding membership of the Committee are set out below.

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- Three seats for representatives of donor country governments;
- One seat for a representative of the civil society organisations;
- One seat for the Chair of the Audit and Finance Committee;
- One seat for the Chair of the Programme and Policy Committee; and
- The CEO, who shall serve as a non-voting Member of the MSDC.

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B. Frequency of meetings

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The MSDC shall report to the Board the results of its review and development actions arising.

The Board shall review the MSDC Charter at least every three years, normally to coincide with the regular performance evaluation, to ensure its adequacy and that it remains relevant to its programme of work and in accordance with developments in best practice.