

The International Pandemic Treaty: What is at Stake?

Series | COVID-19 and response strategy

ISGlobal Barcelona Institute for Global Health

Author: Germán Velásquez*

[This document is one of a series of discussion notes addressing fundamental questions about global health. Its purpose is to transfer scientific knowledge into the public conversation and the decision-making process. These documents are based on the best information available and may be updated as new information comes to light.]

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Photo: WHO / Pierre Albouy

On 30 March 2021, twenty-five world leaders¹ joined the President of the European Council, Charles Michel, and Director General of the World Health Organisation (WHO), Tedros Adhanom Ghebreyesus, in an **open call for an international pandemic treaty** informed by the lessons learned during the COVID-19 crisis.²

The call document recognises the inevitability of future pandemics and other major health emergencies. The only unknown is when the next one will occur. **We must be better prepared to predict, prevent, detect and assess pandemics and to mount an effective and coordinated response.** This call makes the point that a new international treaty on pandemic prevention and preparedness is needed to ensure such a response.

The COVID-19 pandemic highlighted the need for coordinated joint action on an international level guided by public interest and prioritising equitable treatment for all nations.

The 2020-2022 global health crisis has—once again—clearly demonstrated the fragility of the WHO and highlighted the fact that the agency either does not have or does not use the legal instruments and mechanisms it needs to enforce its regulations and guidelines in situations like the COVID-19 crisis or future pandemics ●

* **Germán Velásquez** is special advisor on policy and health for The South Centre intergovernmental organisation in Geneva, Switzerland.

¹ The leaders who have, to date, joined WHO Director General Tedros Adhanom Ghebreyesus in this call for action represent the following countries: Albania, Chile, Costa Rica, the European Council, Fiji, France, Germany, Greece, Indonesia, Italy, Kenya, the Netherlands, Norway, Portugal, the Republic of Korea, Romania, Rwanda, Senegal, Serbia, South Africa, Spain, Thailand, Trinidad and Tobago, Tunisia, Ukraine and the United Kingdom.

² European Council, Council of the European Union, “An international treaty on pandemic prevention and preparedness”. <https://www.consilium.europa.eu/en/policies/coronavirus/pandemic-treaty/>

1. An International Treaty Under the WHO

“The proposal to develop an international treaty raises many questions that must be answered before negotiations can begin.”

The COVID-19 pandemic represents a global challenge. **No single government can meet the challenges posed by this or future pandemics.** The Council of Europe has, therefore, recognised the importance of having a treaty that would be legally binding under international law. “An agreement on pandemic prevention, preparedness and response adopted under the WHO would enable countries around the globe to strengthen national, regional and global capacities and resilience to future pandemics.”³

This treaty must be anchored in the principles of fairness, inclusiveness and transparency and guarantee universal and equitable access to diagnostics, vaccines and medicines. The outcome must be a stronger international health framework, with WHO as the governing authority on global health.

This would imply a complete overhaul of international health management and a **fundamental reform of how the WHO works.**

The proposal to develop an international treaty raises **many questions** that must be answered before negotiations can begin. The first of these relates to the role of the WHO itself. It would appear that the failure of the current global system of health governance has been recognised and that the WHO has been unable to fulfil the role expected of it. If the intention now is to negotiate an international treaty under Article 19 of the WHO Constitution and, at the same time, to revise and amend the International Health Regulations (IHR), **it will be important to ensure that these two processes are consistent and that the treaty negotiations lead to a mechanism that will function within the WHO framework rather than outside of it,** as has hap-

pened in past initiatives (for example, UNAIDS, the Global Fund, GAVI, UNITAID, and COVAX). If not, the resulting mechanism will only serve to weaken rather than strengthen the organisation.

At its second special session in December 2021, the World Health Assembly established an **intergovernmental negotiating body (INB)** to draft and negotiate a convention, agreement or other international instrument under the Constitution of the WHO to strengthen pandemic prevention, preparedness and response, with a view to its adoption under Article 19 or other provisions of the WHO Constitution as deemed appropriate by the INB. The INB’s work will be based on the principles of inclusiveness, transparency, efficiency, Member State leadership and consensus.⁴

In the decision that established the INB, the World Health Assembly also requested the WHO Director-General to support the work of the new body by **holding public hearings to inform its deliberations**, in line with standard WHO practice. The WHO Secretariat **has created a website** as part of its support for the INB and to facilitate these public hearings ●⁵

³ European Council, idem

⁴ WHO. Intergovernmental Negotiating Body <https://inb.who.int/>

⁵ WHO, idem <https://inb.who.int/>

2. The Content of the Treaty

“The main objective of the treaty is to strengthen the WHO’s capacity to address and manage future pandemics; it must therefore be binding on Member States and function within the framework of the WHO and be administered by the WHO.”

The WHO Secretariat prepared a draft consolidated document outlining the substantive elements to be used as a basis for consideration and discussion⁶ with a view to **moving towards a zero draft** on which negotiations could begin. That draft document proposes 74 elements for

discussion and, rather than facilitating the process, it threatens to confuse and complicate it.

The substantive elements proposed by the WHO can be grouped into five broad categories:

- a)** **Governance.** The main objective of the treaty is to strengthen the WHO’s capacity to address and manage future pandemics; it must therefore be binding on Member States, function within the framework of the WHO and be administered by the WHO. The Member States will be the parties to the new instrument. 
- b)** **R&D and technology transfer.** Research and innovation must be open so that results can be accelerated at non-speculative costs. Mechanisms are needed to ensure that pandemic-related health supplies are considered global public goods and made accessible. Other topics for discussion in this category include the following: unrestricted access to diagnostics, vaccines, drugs and the technologies required to produce them; transparency in R&D costs and the pricing of pandemic-related pharmaceutical products; and waiver of intellectual property rights on products and technologies financed by public resources or any global public R&D fund. 
- c)** **Funding.** Coordination and transparency of international public funding to combat pandemics. The proposal is to pool funding in a global research and development fund that would support research and results sharing, including support for open science, with the participation of institutions and researchers from developing countries. The document calls for transparency in public research contracts and advance purchase agreements. 
- d)** **Laboratory capacity, clinical trials and data exchange.** Increased laboratory and surveillance capacity is needed to identify animal diseases in all countries. There is also a need for closer collaboration between health research centres around the world. Clinical trials must be transparent and independent, and must include mechanisms designed to ensure the sharing of pathogens, biological samples and genomic data. 
- e)** **Communication and information.** Scientific communication must be independent, reliable and accurate. It should also be accessible through digital technologies designed to facilitate the collection and sharing of pandemic-related data. 

⁶ WHO. First meeting of the Intergovernmental Negotiating Body to draft and negotiate a WHO convention, agreement or other international instrument on pandemic prevention, preparedness and response A/INB/1/8 Geneva, 24 February 2022, 14 and 15 March 2022, 6–8 June 2022 https://apps.who.int/gb/inb/pdf_files/inb1/A_INB1_8-en.pdf

3. Strengthening the Financial Independence of the WHO

“In the debate, everyone agrees that the WHO must be strengthened. In practice, the money goes to the World Bank, in the form of funds that will be used to expand countries external debt for health investment.”

No international treaty will succeed while the WHO continues to be economically and politically weak. One of the most significant consequences of COVID-19 for the WHO occurred in May 2022, when the World Health Assembly adopted the recommendations of the working group on sustainable financing led by German delegate Bjorn Kummel. The group proposed progressively increasing regular contributions to the agency until these account for 50% of its total budget in the 2028-2029 biennium (i.e. six years from now). At present, regular contributions from Member States account for less than 20% of the WHO’s regular budget,⁷ which has been frozen and restricted by a zero growth policy since the early 1980s.⁸

A brief published by Springer Publishing in January 2022 for The South Centre argues that the WHO should “define mechanisms to progressively regain the public character of the organisation, so as to control at least 51% of its budget within a period of, for instance, seven years. This means that the regular mandatory assessed contributions of the Member States should represent at least 51% of the agency’s total budget.”⁹

In the recent international debate, COVAX, the World Health Assembly as well as the G7 and G20 have all agreed that **one of the lessons of the COVID-19 pandemic is that the role of the WHO must be strengthened.** Paradoxically, the total increase in contributions to the agency’s regular public budget would only amount to about US\$1.2 billion while, by contrast, the World Bank is receiving US\$50 billion for its new pandemic prevention fund.^{10,11} In the debate, everyone agrees on the need to strengthen WHO; **in practice, the money goes to the World Bank** and the funds will go to expanding external debt for health purposes.

It would be a good philosophy to accept, as a lesson learned from COVID-19, that countries—especially developing countries—should not have to finance the right to health by increasing their external debt ●

⁷ WHO. Meeting Report of the Working Group on Sustainable Financing. EB/WGSF/7/4. 9 May 2022. https://apps.who.int/gb/wgsf/pdf_files/wgsf7/WGSF_7_4-en.pdf

⁸ See: Reddy, S, Mazhar S., Lencucha, The financial sustainability of the World Health Organization and the political economy of global health governance: a review of funding proposals. BMC, Part of Springer Nature, Open Access, November 2018. “In the early 1980s, the WHA [World Health Assembly] introduced a “zero-real growth policy” for the regular budget. This policy froze membership dues (i.e. ACs) in real dollar terms so that only inflation and exchange rates would influence membership assessment adjustments . In 1993, the WHA voted for a more stringent budgetary policy, moving the organisation from “zero real growth” to “zero nominal growth” for ACs. The zero nominal growth policy decoupled ACs from inflation or currency adjustments.” <https://globalizationandhealth.biomedcentral.com/articles/10.1186/s12992-018-0436-8>

⁹ G. Velasquez, Vaccines, Medicines and COVID 19. How Can WHO be given a stronger voice ? Springer Briefs in Public Health, page 105, January 2022. https://www.southcentre.int/wp-content/uploads/2022/01/Velásquez2022_Book_VaccinesMedicinesAndCOVID-19.pdf

¹⁰ World Bank Group ramps up financing to help countries amid multiple crises. <https://www.worldbank.org/en/news/press-release/2022/04/19/-world-bank-group-ramps-up-financing-to-help-countries-amid-multiple-crises>

¹¹ The World Bank. World Bank Board approves new fund for pandemic prevention, preparedness and response (PPR), WB press release, June 30, 2022. <https://www.worldbank.org/en/news/press-release/2022/06/30/-world-bank-board-approves-new-fund-for-pandemic-prevention-preparedness-and-response-ppr>

4. Conclusion

“Pandemic. War. Climate chaos. As Antoni Guterres said in his opening remarks at COP 27: ‘We are in the fight of our lives. And we are losing.’”

The possibility of another pandemic like COVID-19 or a similar future crisis has led the international community to consider the **creating a binding international treaty**. We have seen in the recent pandemic how **international solidarity failed in the case of access to vaccines, diagnostic tests and treatments**. Less than 15% of the population of the African continent had access to COVID-19 vaccines, as compared to vaccine coverage of over 80% in the industrialised world.

Even before we emerged from the pandemic, Russia started an absurd and expensive war against Ukraine and the NATO alliance launched an arms race that is diverting urgent investment in health to the purchase of weapons. **Pandemic. War. Climate chaos**. As Antoni Guterres put it at the opening of COP 27: “We are in the fight of our lives. And we are losing” ●

TO LEARN MORE

- Nirmalya Syam, [Mainstreaming equity in the International Health Regulations and future WHO legal instruments on pandemic preparedness and response](#). The South Centre, Policy Brief 108, 25 March 2022.
- Germán Velásquez and Nirmalya Syam, [A new WHO International Treaty on Pandemic Preparedness and Response: Can it address the needs of the Global South?](#) The South Centre, Policy Report 93, July 2021.
- Viviana Muñoz Tellez, [Can negotiations at the World Health Organization lead to a just framework for the prevention, preparedness and response to pandemics as global public goods?](#) The South Centre, Research Paper 147, 28 February 2022


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