

URGENT Call to Action

Last Opportunity for INB-9 Negotiations on the WHO Pandemic Agreement

April 24, 2024

As we approach the final stretch of Negotiations, scheduled for April 29 to May 10, 2024, in Geneva, it is imperative to address crucial elements that will shape the effectiveness of the WHO Pandemic Agreement. The AHF Global Public Health Institute, in partnership with the University of Miami Public Health Policy Lab, underscore the following critical items for consideration:

KEY POINTS

1. **Equity.** We express profound concern that developed nations have strongly defended the private interest of pharmaceutical companies over the collective common interest of achieving global health security in a sustainable and equitable manner. Such disregard is observed in the compromise provisions for the WHO Pathogen Access and Benefit-Sharing System (PABS), which the Lancet, the world-leading medical journal, described as “not only shameful, unjust, and inequitable,” but also “ignorant.”¹

Under the provisions for PABS, a mere 20% of pandemic-related health products are guaranteed to the WHO in the event of a pandemic. As the Lancet points out, such an arrangement will effectively leave 80% of crucial vaccines, treatments, and diagnostics “prey to the international scramble seen in COVID-19.”² Furthermore, these pandemic-related health products are now made available *only* in the event of a pandemic. We propose that, in the least, these become available upon the declaration of public health emergencies of international concern *in addition to* pandemics, as previously proposed in the March 13, 2024, revised draft of the negotiating text.³

We also urge that monetary financial contributions to PABS not be “administered by WHO” but rather directed to existing global health financing mechanisms according to formulations agreed-upon in advance within the pandemic agreement.

2. **Accountability and compliance.** “Lack of effective accountability and enforcement is the chief impediment to success of most international treaties.”⁴ Furthermore, research proves that without enforcement mechanisms such agreements fail to achieve their intended outcomes.⁵ While accountability mechanisms promote transparency and oversight, enforcement mechanisms function as incentives and disincentives for compliance. **As the final stretch of negotiations approach, a simple fact remains – equity will not be achieved without these mechanisms in the agreement.**

Despite repeated recommendations by technical experts,^{6 7 8} the INB has, throughout the negotiations, persistently failed to include meaningful provisions for accountability and enforcement. In the current proposal, Article language regarding *Preparedness Monitoring and Functional Reviews* no longer includes any accountability mechanisms; Article 19, *Implementation and Support* does not include adequate reporting and verification requirements; previously proposed mechanisms for a Compliance and Implementation Committee have been deleted instead of strengthened, and the text now moves forward without any effective means for timely and accurate independent verification of party compliance.

Calls for strong mechanisms of accountability in the pandemic agreement are widespread but have not been heeded. They have been made by the United Nations General Assembly⁹ and prominent international bodies, most notably – the Global Preparedness Monitoring Board (GPMB)¹⁰ and the Independent Panel for Pandemic Preparedness and Response (IPPPR).¹¹ In addition, the Panel for a Global Public Health Convention¹² and Sparks Street Advisors¹³ have also emphasized the critical need for independent oversight.

The absence of any form of independent oversight¹⁴ is concerning because history proves and practical experience confirms that relying solely on state self-reporting mechanisms does not work.¹⁵ **Instead of learning from the widespread delays and incomplete self-reporting experience of the International Health Regulations (IHR),¹⁶ the Proposal for the WHO Pandemic Agreement promotes more of the same practices that**

compromised global health security in the past.¹⁷ To ensure its objectivity and effectiveness, the agreement should, at minimum, consider establishing an independent oversight body that is “politically, financially, technically and operationally independent of the WHO and donors.”¹⁸

In addition to oversight, accountability also requires a clear framework of incentives and disincentives for compliance. The two major treaties under the authority of the WHO – the Framework Convention on Tobacco Control and the IHR – are described in the literature as “plagued by incomplete compliance.”¹⁹ Incomplete compliance with the IHR, for example, “contributed to COVID-19 becoming a protracted global health pandemic.”²⁰

However, **despite the critical importance of compliance for the success of this agreement, it continues to be left out of the text.** In fact, the current text does not mention the word *compliance* even once. To this end, we echo the concerns of the Panel for a Global Public Health Convention that the idea of a Compliance and Implementation Committee should not have been dropped from the text,²¹ but rather improved upon by giving it autonomy, independence and teeth.

To this end, we also endorse the Panel’s assessment that the Conference of the Parties (CoP) should be independent of WHO because pandemics are not just a health issue but “require a whole-of-government and whole-of-society approach.”²² We are, thus, concerned that modifications to the proposed text, which now call for the WHO to function as the Secretariat for the entire agreement, undermine the independence of the CoP.

If member states are serious about their commitments, why do they fear accountability? “Absent compliance and funding, the binding norms in the treaty are just a piece of paper.”²³

3. **Financing. Without adequate sustainable financing, it is unlikely that the pandemic agreement will achieve its objectives.** “One of the central failings of the IHR has been that its requirements for states to collaborate, including with respect to mobilizing financing, lacks specificity,” and that “without benchmarks, formulas, or other such details . . . the requirements have little force.”²⁴ Here, the same mistakes are being repeated – most notably through the lack of binding financial commitments in the letter of the agreement. We would also suggest that the language deleted from Article 20, calling for the development of a five-year financial implementation strategy, be re-included in the final text.
4. **Civil Society Engagement.** The current proposed text can be strengthened with the inclusion of civil society and other non-government actors. The sole mention of civil society, in Article 17, is immediately followed by a caution regarding potential conflicts of interest, as if conflicts only arise when civil society is involved. Despite their critical contributions during the COVID-19 pandemic and numerous previous health crises, **the voices of civil society remain marginalized in the decision-making processes of the WHO, the pandemic agreement negotiations and its implementation.** Moving forward, this could be solved by weaving civil society in the fabric of the CoP to ensure its meaningful participation.

In conclusion, countries will be wise to remember how we got here, what needs to be accomplished through this pandemic agreement, and most importantly – what the consequences will be if it fails. Hoarding of essential public health goods, and policies that tolerate corporate greed to take precedent over human lives should not be allowed anymore. We, therefore, urge that delegates heed the warnings of experts and take action to correct critical flaws in the proposed text. Empty handshakes in Geneva will not prevent another global health disaster, nor will it keep countries from trampling over each other when the next pandemic comes.

Should you require more detailed briefings on any of the topics discussed above, please don't hesitate to contact our team at guilherme.faviero@ahf.org

¹ Editorial. The Pandemic Treaty: shameful and unjust. Lancet. 2024;403(10429):781. Available from: [https://www.thelancet.com/journals/lancet/article/PIIS0140-6736\(24\)00410-0/fulltext](https://www.thelancet.com/journals/lancet/article/PIIS0140-6736(24)00410-0/fulltext)

² *Id.*

³ World Health Organization. Ninth Meeting of the Intergovernmental Negotiating Body to Draft and Negotiate a WHO Convention, Agreement or Other International Instrument on Pandemic Prevention, Preparedness and Response. Provisional agenda item 2; Revised draft of the

negotiating text of the WHO Pandemic Agreement. A/INB/9/3. 13 Mar 2024. Available from:

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⁴ Friedman EA, Finch A, Gostin LO. Pandemic Treaty: The Conceptual Zero Draft [Internet]. Georgetown Law; 2022 [cited 2023 Aug 16].

Available from: <https://oneill.law.georgetown.edu/publications/pandemic-treaty-the-conceptual-zero-draft/>

⁵ Hoffman SJ, Baral P, Rogers Van Katwyk S, Poirier MJP, et al. International treaties have mostly failed to produce their intended effects. PNAS. 2022. Available from: <https://www.pnas.org/doi/full/10.1073/pnas.2122854119>

⁶ Faviero GF, Stocking BM, Hoffman SJ, Liu A, Bausch DG, Galea S, et al. An effective pandemic treaty requires accountability. Lancet Public Health. 2022;7(9):e730-e731. Available from: [https://www.thelancet.com/journals/lanpub/article/PIIS2468-2667\(22\)00192-X/fulltext](https://www.thelancet.com/journals/lanpub/article/PIIS2468-2667(22)00192-X/fulltext)

⁷ Patnaik P. Independent Assessment & Governance Committees: Addressing Accountability and Governance in a Pandemic Accord [Guest Essay]. Treaty Talks. 2023 Jun 28; Newsletter Edition #31. Available from: <https://genevahealthfiles.substack.com/p/independent-assessment-and-governance>

⁸ Jerving S. Pandemic treaty draft lacks accountability. Devex. 2023 Sep 22. Available from: <https://www.devex.com/news/pandemic-treaty-draft-lacks-accountability-106258>

⁹ United Nations General Assembly. Political Declaration of the United Nations General Assembly High-level Meeting on Pandemic Prevention, Preparedness and Response [Internet]. 2023 Sep 1 [cited 2024 Apr 24]. Available from: <https://www.un.org/pga/77/wp-content/uploads/sites/105/2023/09/PPPR-Final-Text.pdf>

¹⁰ Global Preparedness Monitoring Board. A Fragile State of Preparedness: 2023 Report on the State of the World's Preparedness [Internet]. 2023 Oct 30 [cited 2024 Apr 24]. Available from: <https://www.gpmb.org/reports/m/item/a-fragile-state-of-preparedness-2023-report-on-the-state-of-the-worlds-preparedness>

¹¹ Independent Panel for Pandemic Prevention, Preparedness and Response. Final-Road-Map-Report_May-2023 [Internet]. 2023 May 3 [cited 2024 Apr 24]. Available from: https://theindependentpanel.org/final-road-map-report_may-2023_interactive/

¹² Panel for a Global Public Health Convention. The Pandemic Convention We Need Now: A Call to Action [Internet]. 2022 Apr [cited 2024 Apr 24]. Available from: <https://gphcpanel.org/the-pandemic-convention-we-need-now/>

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¹⁴ Schwalbe N, Hannon E, Lehtimäki S. The new pandemic treaty: Are we in safer hands? Probably not. BMJ. [Internet]. Available from: <https://www.bmj.com/content/bmj/384/bmj.q477.full.pdf> [Accessed 2024 Apr 24].

¹⁵ Lehtimäki S, Hannon E, Hanbali L, Soltan DF, Peek K, Nassiri-Ansari T, et al. Where there is a will, there is a way: independent assessment of member state compliance with the pandemic agreement. Lancet Glob Health. 2023 Nov;11(11):e1545-e1546. Available from:

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¹⁷ Lehtimäki S, Hannon E, Hanbali L, Soltan DF, Peek K, Nassiri-Ansari T, et al. Where there is a will, there is a way: independent assessment of member state compliance with the pandemic agreement. Lancet Glob Health. 2023 Nov;11(11):e1545-e1546. Available from:

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²¹ Panel for a Global Public Health Convention. Statement from the Panel for a Global Public Health Convention. [Internet]. 2024 Mar 18 [cited 2024 Apr 24]. Available from: https://apps.who.int/gb/inb/pdf_files/INB9-written-statements/GPHC.pdf

²² Panel for a Global Public Health Convention. Statement on behalf of the Panel for a Global Public Health Convention on the April 16, 2024 Pandemic Agreement. [Internet]. 2024 [cited 2024 Apr 24]. Available from: <https://www.gphcpanel.org/wp-content/uploads/2024/04/Statement-on-behalf-of-the-Panel-for-a-Global-Public-Health-Convention-.pdf>

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