AHF GLOBAL PUBLIC HEALTH INSTITUTE

MILLER SCHOOL OF MEDICINE
DEPARTMENT OF PUBLIC HEALTH SCIENCES
PUBLIC HEALTH POLICY LAB

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 9 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 Assembly[9] 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 Convention[12] and Sparks Street Advisors[13] have also emphasized the critical need for independent oversight.

The absence of any form of independent oversight[14] 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.

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

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About the AIDS Healthcare Foundation and its work in Global Health

The AIDS Healthcare Foundation is a global nonprofit organization that provides cutting-edge medicine and advocacy worldwide to over 1.7 million people in 45 countries. We are currently the world's largest provider of HIV/AIDS medical care in the world, working to ensure prevention, testing, and treatment of HIV and AIDS for all people, regardless of ability to pay. Since 1987, AHF has cared for thousands of people living with HIV and AIDS worldwide, implementing new programs in communities, and expanding delivery of healthcare and influence over policy with the aim of saving more lives.

To address global health issues, AHF created the AHF Global Public Health Institute, which has been involved in promoting a legally binding global health agreement since prior to the inception of the COVID-19 pandemic. At the institute, we leverage our applied research to enhance international health law, policy, and governance outcomes through advocacy. Our efforts are aimed at addressing and bridging the existing gaps in the global health security architecture, with the goal of helping the world prevent, prepare for, and respond to future pandemics.

In response to COVID-19, the Institute commissioned a study which led to the publication "A Global Public Health Convention for the 21st Century," in the prestigious Lancet Public Health. This study, served as the impetus for the launch of collaborative efforts that included the Panel for a Global Public Health Convention, an independent coalition of global leaders committed to strengthening the world's ability to prevent pandemics, the University of Miami Public Health Policy Lab, and the Global Pandemic Policy Group.

During the most critical phase of the COVID-19 pandemic, AHF acted through the Institute by initiating the SARS-CoV-2 Genomic Sequencing Fund. AHF extended this grant opportunity to Faculty at Institutions of Higher Learning, Research, and Academic Institutions, with the aim to enhance research efforts and offer a distinct avenue for generating high-quality evidence concerning the rapidly proliferating variants worldwide. From 2021 to 2023, the Sequencing Fund has sponsored 15 projects in 14 different countries, playing a pivotal role in bolstering genomic sequencing capabilities across the globe, particularly in low-and middle-income countries.

The University of Miami Public Health Policy Lab

The University of Miami Public Health Policy Lab is dedicated to advancing an equitable world that is accountable for the health of all people. It seeks to promote improved global health by advocating for evidence-based solutions. The lab was established in 2022, and is led by Dr. José Szapocznik, PhD.

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