



Health Ethics & Law
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The Pandemic Treaty- A Welcome Development to World Health Security

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Introduction

The COVID-19 pandemic exposed significant gaps in global health governance, prompting a renewed focus on reform. In response, WHO Member States established the Intergovernmental Negotiating Body (INB)[1] in December 2021[2] to draft and negotiate a new convention or agreement, under the WHO Constitution, aimed at strengthening pandemic prevention, preparedness, and response. After more than three years of difficult negotiations, WHO member countries finally reached an agreement on the Pandemic Treaty on April 16, 2025.

In today's interconnected world, preventing and responding to pandemics and other emergencies remains vital for protecting communities and countries. A robust global legal framework is key to enabling swift, coordinated, and effective responses to these challenges, ultimately safeguard lives and enhance global resilience.

Challenges and Compromises in Negotiations

Drafting a pandemic treaty that incorporated the concerns of WHO member states posed a difficult task, with contentious negotiations spanning over the course of three years. These included 13 formal negotiating sessions, nine of which were extended, as well as a number of informal and intersessional discussions. Key concessions were made to ensure the finalisation of the draft pandemic treaty.

For instance, European countries at first resisted the strong wording of the provision on technology and intellectual property sharing but later made concession on the wording. Similarly, African countries who advocated for creation of funding mechanism to cater some of the obligations under the treaty, as well as the creation of Pathogen Access and Benefit Sharing System (PBSS), [3] conceded to the requirement on agricultural and wildlife surveillance.[4] The United States of America had also opposed the requirement for technology and intellectual property sharing and following their announcement in January to withdraw from the WHO will not be bound by the treaty once ratified.[5]

Key Provisions of the Draft Treaty

The draft proposal outlines several key commitments, including the creation of a system for pathogen access and equitable benefit sharing.[6] It also focuses on implementing concrete strategies for pandemic prevention, notably through a One Health framework, while expanding research and development capacities across various regions, and promoting the transfer of technology, expertise, and skills for producing pandemic-related health tools, as well as developing a well-trained, multidisciplinary workforce for national and global health emergencies.

[1] Countries meet in-other to Prevent Global Health Crises.

<https://ejghs.org/pdf/10.35500/jghs.2021.3.e18#:~:text=Among%20the%20IHR%20problems%20that,respond%20to%20infectious%20diseases%20against>

[2] WHO, "World Health Assembly agrees to launch process to develop historic global accord on pandemic prevention, preparedness and response." December 1, 2021. <https://www.who.int/news/item/01-12-2021-world-health-assembly-agrees-to-launch-process-to-develop-historic-global-accord-on-pandemic-prevention-preparedness-and-response>

[3] Pandemic Treaty Talks enter Final Stretch, amid deep divides.

<https://genevasolutions.news/global-health/pandemic-treaty-talks-enter-final-stretch-amid-deep-divides>

[4] Countries Agree on Treaties Aimed at Preventing Global Health Crises <https://www.nytimes.com/2025/04/16/health/pandemic-treaty-who.html>

[5] Ibid

[6] Establishment of the Pathogen Access and Benefit-Sharing System (PABS)

Further commitments cover establishing a centralised financial coordination mechanism; enhancing preparedness, response capacities, and the resilience of health systems; and creating a robust global supply chain and logistics infrastructure.[7]

The draft treaty also includes a provision to ensure that countries which share pathogen samples or genetic sequences will have access to any diagnostics, vaccines, or treatments developed using the shared materials.[8]WHO is to receive a minimum of 10% of manufacturers' production as donations, with an additional allocation of up to 10% available at "fair prices," for distribution to the world's poorest countries.[9]

To ease member states' concerns, the draft treaty further reaffirms national sovereignty over public health decisions, explicitly stating that nothing in the agreement grants the WHO the authority to mandate health measures, such as lockdowns, vaccination campaigns, or border closures.[10]

Equity Mechanisms and Limitations

One important thing to note is the draft treaty does not have enforcement mechanism. The implication of this is that when fierce competition arises (e.g., for vaccines) between parties during an emergency, there will be no mechanism to ensure member states comply with the agreed terms.[11]

Other Limitations

Other limitations may hinder the treaty's effectiveness. The U.S. withdrawal from WHO and its prior funding cuts could undermine the treaty, given the country's significant role in global drug, vaccine, and diagnostics production. Additionally, the absence of dedicated funding mechanisms raises concerns, especially since the treaty conditions obligations on "the availability of funds." This caveat creates room for non-compliance, particularly among low- and middle-income countries, and may weaken the treaty's enforceability and long-term sustainability since financial commitments are not clearly defined and guaranteed.[12]

Next Steps and Global Implications

The draft will now be submitted for consideration to the 78th World Health Assembly set to begin on 19th May 2025. It is hoped that the forthcoming ratification of the pandemic treaty at the 78th World Health Assembly will serve as a catalyst for nations to bolster their health systems, enhance international collaboration, and commit to equitable access to medical resources. Despite the absence of major players like the United States, the consensus amongst WHO member states underscores a collective commitment to preventing a repeat of the inequalities and delays witnessed during the COVID-19 pandemic.

[7] Ibid

[8] Countries Agree on Treaties Aimed at Preventing Global Health Crises [1] NBS, "Nigeria Labour Force Statistics Report Q1 2024". https://www.nigerianstat.gov.ng/pdfuploads/NLFS_Q1_2024_Report.pdf

[9] Ibid

[10] Countries Finalize Historic Pandemic Agreement after Three Years of Negotiations [1] NBS, "Nigeria Labour Force Statistics Report Q1 2024". https://www.nigerianstat.gov.ng/pdfuploads/NLFS_Q1_2024_Report.pdf also see Clause 24, paragraph three

[11] Ibid

[12] Countries meet in-other to Prevent Global Health Crises.

<https://ejghs.org/pdf/10.35500/jghs.2021.3.e18#:~:text=Among%20the%20IHR%20problems%20that,respond%20to%20infectious%20diseases%20against>

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