



**World Health
Organization**

**EIGHTH MEETING OF THE INTERGOVERNMENTAL
NEGOTIATING BODY TO DRAFT AND NEGOTIATE
A WHO CONVENTION, AGREEMENT OR OTHER
INTERNATIONAL INSTRUMENT ON PANDEMIC
PREVENTION, PREPAREDNESS AND RESPONSE**

14 February 2024

Proposal for negotiating text of the WHO Pandemic Agreement

Chapter III, *with refined textual proposals*

[PLACEHOLDER FOR ART. 20 (SECTION ON FINANCING)]

Chapter III. Institutional arrangements, Dispute settlement, and Final provisions

Institutional arrangements

Article 21. Governing Body

1. A Governing Body is hereby established.
2. The Governing Body shall keep under regular review [, every three years,] the implementation of the WHO Pandemic Agreement and take the decisions necessary to promote its effective implementation. To this end, it shall:
 - (a) consider reports submitted by the {Implementation and Compliance Committee}{Parties in accordance with Article 23 [and adopt regular reports] on the implementation of the WHO Pandemic Agreement}};
 - (b) consider the report of WHO Director General on the overall implementation of the WHO Pandemic Agreement, as well as reports from WHO Production and Distribution Mechanism, Pandemic Technology Access Pool, WHO SCD Network, {and the} Financial Committee {, and the Scientific Advisory Committee};
 - (c) oversee any subsidiary bodies, including by establishing their rules of procedure and working modalities;
 - (d) promote and facilitate the mobilization of financial resources for the implementation of the WHO Pandemic Agreement, in accordance with Article 20;
 - (e) consider and review developed countries' reports on their contribution to the implementation of the WHO Pandemic Agreement pursuant to {*the Articles on financial mechanism, technology access pool transfer of technology otherwise, technical assistance, capacity building*} or any other assistance offered towards the [developing countries][parties or countries that need assistance based on WHO SCL Network mapping] and reports submitted by such parties or countries on receiving such offers, their acceptance, rejection or implementation, both submitted pursuant to Article 19 and provide specific recommendations to the parties concerned on enhancing such cooperation and assistance;
 - (f) invite, where appropriate in order to strengthen the implementation of the WHO Pandemic Agreement, the services and cooperation of, and information provided by, competent and relevant organizations and bodies of the United Nations system and other international and regional intergovernmental organizations and nongovernmental organizations and bodies;
 - (g) promote, including by establishing appropriate processes, cooperation and coordination with and among relevant legal instruments and frameworks and relevant global, regional, subregional and sectoral bodies, with a view to promoting coherence among efforts for pandemic prevention, preparedness and response;
 - (h) provide guidance to the WHO Director-General and to Parties, on effective implementation of the WHO Pandemic Agreement including the matters considered in paragraphs (a) and (e); and

- (i) consider other actions, as appropriate, for the achievement of the objective of the WHO Pandemic Agreement in the light of experience gained in its implementation.
3. With the aim of promoting the coherence of the Governing Body and the Health Assembly, as well as coherence in respect of relevant instruments and mechanisms within the framework of the World Health Organization, the Governing Body shall operate within a third main committee of the World Health Assembly, subject to the establishment of such a committee by the World Health Assembly. In particular:
 - (a) decision-making within such a third main committee of the World Health Assembly will be adjusted, as appropriate, to accommodate the membership of the committee and the Governing Body;
 - (b) the Governing Body shall operate under the rules of procedure of such a third main committee of the World Health Assembly, provided that the Governing Body may agree to amend, supplement or revise such rules of procedure with a view to facilitating the dispatch of its business, with the aim of facilitating reporting by the Parties and avoiding duplication;
 - (c) in the event that the States Parties to the International Health Regulations (2005) determine that a Meeting of States Parties under that instrument will also operate within such a third main committee of the World Health Assembly, further steps will be agreed, as necessary, to accommodate, as appropriate, decision-making within such a third main Committee of the World Health Assembly; and
 - (d) in the event that the World Health Assembly does not establish such a third main committee of the World Health Assembly by the date of the entry into force of the WHO Pandemic Agreement, the Governing Body shall agree on the framework in which the Governing Body shall operate.
4. The first session of the Governing Body shall be convened by the World Health Organization not later than one year after the entry into force of the WHO Pandemic Agreement.
5. Following the first session of the Governing Body:
 - (a) subsequent regular sessions of the Governing Body shall be held [{{bi-}} annually] at the time and date of such a third main committee of the World Health Assembly within the Governing Body operates; and
 - (b) extraordinary sessions of the Governing Body shall be held at such other times, without reference to the regular sessions of the Health Assembly, as may be deemed necessary by the Governing Body, or at the written request of any Party, provided that, within six months of the request being communicated in writing to the Parties by the Secretariat, it is supported by at least [one third][a majority] of the Parties.
6. The Governing Body shall adopt by consensus its Rules of Procedure at its first session.
7. The Governing Body shall establish the criteria for the participation of observers at its sessions.
8. The Governing Body shall by consensus adopt a biennial budget, as well as financial rules for itself, rules governing the funding of any subsidiary bodies of the Governing Body, and financial provisions governing the functioning of the Secretariat [and promoting participation from [developing countries]][parties or countries that need assistance based on WHO SCL Network mapping].

9. The Governing Body may establish subsidiary bodies, as it deems necessary, and on terms and modalities to be defined by the Governing Body. [Such subsidiary bodies may include an Implementation and Compliance Committee, a panel of experts to provide scientific advice [a Data Interoperability & Standards Committee] and a [WHO PABS System Expert Advisory Group].]

Article 22. Right to vote

1. Each Party to the WHO Pandemic Agreement shall have one vote, except as provided for in paragraph 2 of this Article.

2. A regional economic integration organisations that is Party to the WHO Pandemic Agreement, in matters within its competence, shall exercise its right to vote with a number of votes equal to the number of their Member States that are Parties to the WHO Pandemic Agreement. Such a regional economic integration organisations shall not exercise its right to vote if any of its Member States exercises its right to vote, and vice versa.

Article 23. Reports to the Governing Body

1. Each Party shall submit to the Governing Body periodic reports on its implementation of the WHO Pandemic Agreement.

2. The frequency, conditions and format of the reports submitted by the Parties shall be determined by the Governing Body [at its first session].

3. The Governing Body shall adopt appropriate measures to assist Parties, upon request, in meeting their obligations under this Article, with particular attention to the needs of developing country Parties.

[Article 24. Scientific Advisory Committee

1. The Parties hereby establish a Scientific Advisory Committee as a subsidiary body of the Governing Body, to assess the science related to pandemic prevention, preparedness, response and recovery.

2. The Scientific Advisory Committee shall consist of independent experts from various disciplines related to pandemic prevention, preparedness, response and recovery. The experts shall be nominated by the Parties, and appointed by the Director General.

3. The Scientific Advisory Committee shall perform the following functions:

(a) assess the status of available scientific knowledge and evidence relating to pandemics, its causes, predictability, prevention measures, preparedness and response requirements and report the same to the Governing Body;

(b) assess global and regional situations and may forecast the emerging pandemic threats, level of risk such threats possess, or the need for any specific preparedness programme or response options for the Mechanism and its PTAP established under Articles 10 and 11 respectively;

(c) assess the availability of pandemic-related products and provide recommendations for strategic stockpiling during inter-pandemic periods to the Mechanism established under Article 10 as well as the WHO SCD Network under Article 13;

- (d) assess the need for pandemic-related products during a novel pathogen outbreak and make recommendations for the Mechanism established under Article 10;
- (e) coordinate with the Global Health R&D Observatory for prioritization and coordination of R&D, including through the development of R&D blueprints for pandemic-related products and to submit such blueprints to the Governing Body;
- (f) prepare strategies and guidelines for preparedness and response for various known pandemics and to submit such strategies and guidelines to the Governing Body;
- (g) conduct health technology assessments of pandemic-related products and share the results of such assessments with the Parties and relevant WHO Mechanisms;
- (h) monitor of all types of genetic research, including “gain of function” research and big data analyses associated with highly transmissible pathogens, alert the scientific community about any potential biosecurity concerns and develop standards and operating procedures to avoid such biosecurity concerns;
- (i) supervise research involving pandemic potential pathogens including genetic engineering and “gain of function” research with a view to avoiding biosafety and biosecurity concerns, including accidental laboratory leakages of disease-causing agents and in this regard, develop guidelines and submit to the Governing Body; and
- (j) Any other tasks so entrusted to the Scientific Advisory Committee by the Governing Body or the World Health Assembly.

4. In accordance with its functions as set out in paragraph 3 above, the Scientific Advisory Committee shall:

- (a) carry out the systematic review of the published scientific and public health literature and develop recommendations ensuring highest levels of scientific quality, independence and credibility at all stages of its functioning;
- (b) take into account the information provided to it by the Parties and the institutional mechanisms established under the WHO Pandemic Agreement;
- (c) take into account the need for exploring different disciplines and knowledge systems, gender balance, and effective contribution and participation by experts from [developing countries][parties or countries that need assistance based on WHO SCL Network mapping]; and
- (d) perform any other relevant activities to fulfil its mandate, as appropriate.

5. The Scientific Advisory Committee shall meet at least once annually and may set up committees or panels of experts, as appropriate, to carry out its functions. The Scientific Advisory Committee shall carry out its functions in a transparent way and its meetings shall be open to all WHO Member States, and NSAs in official relation with WHO.]

[Placeholder for Article XX. Other technical committees.]

[Article 25. Implementation and Compliance Committee

1. The Parties hereby establish an Implementation and Compliance Committee as a subsidiary body of the Governing Body, to facilitate and consider the implementation of and promote compliance with the provisions of the WHO Pandemic Agreement. The committee shall be facilitative in nature and function in a manner that is transparent, non-adversarial and non-punitive.
2. The Implementation and Compliance Committee shall consist of members possessing appropriate qualifications and experience, nominated by the Parties and elected by the Conference of the Parties, with due consideration to gender balance and equitable geographical representation.
3. The Implementation and Compliance Committee shall operate under the modalities and rules of procedure adopted by the Governing Body at its first meeting, consider issues of implementation and compliance at the individual and systemic levels, inter alia, and report periodically and make recommendations, as appropriate while cognizant of respective national circumstances, to the Governing Body.
4. In the course of its work, the Implementation and Compliance Committee may draw on appropriate information from any bodies established under the WHO Pandemic Agreement or the WHO, as well as from any information submitted to the WHO by Parties through other mechanisms.
5. The Implementation and Compliance Committee shall meet jointly, as appropriate with any Committee that may be established to review IHR implementation and compliance.]

Article 26. Secretariat

1. [A Secretariat for the WHO Pandemic Agreement is hereby established.] Secretariat functions for the WHO Pandemic Agreement shall be provided by the World Health Organization.
2. Secretariat functions shall be to:
 - (a) provide administrative and logistic support to the Governing Body and its subsidiary bodies as may be established under the WHO Pandemic Agreement or by the Governing Body for the purpose of the implementation of the WHO Pandemic Agreement, and
 - (b) make arrangements for the sessions of the Governing Body and its subsidiary bodies and to provide them with services, as required;
 - (c) transmit reports and other relevant information regarding the implementation of the WHO Pandemic Agreement received by it pursuant to the WHO Pandemic Agreement;
 - (d) provide support to the Parties, upon request, particularly developing country Parties and Parties with economies in transition, in implementing the WHO Pandemic Agreement, including the compilation and communication of information required in accordance with the provisions of the WHO Pandemic Agreement or pursuant to requests of the Governing Body;
 - (e) prepare reports on its activities under the WHO Pandemic Agreement under the guidance of the Governing Body, and to submit them to the Governing Body;
 - (f) ensure, under the guidance of the Governing Body, the necessary coordination with the Secretariats of other competent international organizations, regional intergovernmental organizations, and other bodies;

(g) enter, under the guidance of the Governing Body, into such administrative or contractual arrangements as may be required for the effective discharge of its functions; and

(h) perform other secretariat functions specified by the WHO Pandemic Agreement and such other functions as may be determined by the Governing Body or assigned to it under the WHO Pandemic Agreement.

3. Nothing in the WHO Pandemic Agreement shall be interpreted as providing the Secretariat of the World Health Organization, including the WHO Director-General, any authority to direct, order, alter or otherwise prescribe the domestic laws or policies of any Party, or to mandate or otherwise impose any requirements that Parties take specific actions, such as ban or accept travellers, impose vaccination mandates or therapeutic or diagnostic measures, or implement lockdowns.

Dispute settlement

Article 27. Settlement of disputes

1. In the event of a dispute between two or more Parties concerning the interpretation or application of the WHO Pandemic Agreement, the Parties concerned shall seek through diplomatic channels a settlement of the dispute through negotiation or any other peaceful means of their own choice, including good offices, mediation or conciliation. Failure to reach a solution by good offices, mediation or conciliation shall not absolve the parties to the dispute from the responsibility of continuing to seek to resolve it.

2. [When ratifying, accepting, approving, formally confirming or acceding to the WHO Pandemic Agreement, or at any time thereafter, a Party may declare in writing to the Depositary that, for a dispute not resolved in accordance with paragraph 1 of this Article, it accepts, as compulsory ipso facto and without special agreement, in relation to any Party accepting the same obligation: (a) submission of the dispute to the International Court of Justice; and/or (b) ad hoc arbitration in accordance with [procedures to be adopted by consensus by the Governing Body][the Permanent Court of Arbitration Rules of 2012]. [The Parties that have agreed to accept arbitration as compulsory shall accept the arbitral award as binding and final.]

[3. The provisions of this Article shall apply with respect to any protocol as between the parties to the protocol, unless otherwise provided therein.]

Final provisions

[Propose that it be stated in Chapter I that: “1. The interpretation and application of the WHO Pandemic Agreement shall be guided by the Charter of the United Nations and the Constitution of the World Health Organization.”]

Article 28. Relationship with other international agreements and instruments

1. The Parties recognize that the WHO Pandemic Agreement and the International Health Regulations should be interpreted so as to be [complementary and] compatible.

2. The provisions of the WHO Pandemic Agreement shall not affect the rights and obligations of any Party under other legally binding international instruments to which it is party.

3. [The provisions of the WHO Pandemic Agreement shall in no way affect the ability of Parties to enter into bilateral or multilateral agreements, including regional or subregional agreements, on issues relevant or additional to the the WHO Pandemic Agreement[, provided that such agreements are compatible with their obligations under the the WHO Pandemic Agreement]. [The Parties concerned shall communicate such agreements to the Governing Body, through the Secretariat.]

Article 29. Reservations

No reservations may be made to the WHO Pandemic Agreement [unless permitted by other articles of the WHO Pandemic Agreement].

[Article 30. Declarations and statements

1. Article 29 does not preclude a State or regional economic integration organization, when signing, ratifying, approving, accepting or acceding to the WHO Pandemic Agreement, from making declarations or statements, however phrased or named, with a view, inter alia, to the harmonization of its laws and regulations with the provisions of the WHO Pandemic Agreement, provided that such declarations or statements do not purport to exclude or to modify the legal effect of the provisions of the WHO Pandemic Agreement in their application to that State or regional economic integration organization.

2. A declaration or statement made pursuant to this Article shall be circulated by the Depositary to all Parties to the WHO Pandemic Agreement.]

Article 31. Amendments

1. Any Party may propose amendments to the WHO Pandemic Agreement, [including its annexes and protocols]. Such amendments shall be considered by the Governing Body.

2. The Governing Body may adopt amendments to the WHO Pandemic Agreement. The text of any proposed amendment to the WHO Pandemic Agreement shall be communicated to the Parties by the Secretariat at least six months before the session at which it is proposed for adoption. The Secretariat shall also communicate proposed amendments to the signatories of the WHO Pandemic Agreement and, for information, to the Depositary.

3. The Parties shall make every effort to adopt any proposed amendment to the WHO Pandemic Agreement by consensus. If all efforts at consensus have been exhausted and no agreement has been reached, the amendment may as a last resort be adopted by a three-quarters majority vote of the Parties present and voting at the session. For the purposes of this Article, Parties present and voting means Parties present and casting an affirmative or negative vote. Any adopted amendment shall be communicated by the Secretariat to the Depositary, which shall circulate it to all Parties for acceptance.

4. Instruments of acceptance in respect of an amendment shall be deposited with the Depositary. An amendment adopted in accordance with paragraph 3 of this Article shall enter into force, [for those Parties having accepted it,] on the ninetieth day after the date of receipt by the Depositary of an instrument of acceptance by at least two thirds of the Parties to the WHO Pandemic Agreement.

5. The amendment shall enter into force for any other Party on the ninetieth day after the date on which that Party deposits with the Depositary its instrument of acceptance of said amendment.

Article 32. [Annexes

1. Annexes to the WHO Pandemic Agreement and amendments thereto shall be proposed, adopted and shall enter into force in accordance with the procedure set forth in Article 31 (Amendments).
2. Annexes to the WHO Pandemic Agreement shall form an integral part thereof and, unless otherwise expressly provided, a reference to the WHO Pandemic Agreement constitutes at the same time a reference to any annexes thereto.
3. [Annexes shall be restricted to procedural, scientific, technical or administrative matters.]

Article 33. [Protocols]

1. Any Party may propose protocols to the WHO Pandemic Agreement. Such proposals shall be considered by the Governing Body.
2. The Governing Body may adopt protocols to the WHO Pandemic Agreement. In adopting these protocols, every effort shall be made to reach consensus. If all efforts at consensus have been exhausted and no agreement has been reached, the protocol may as a last resort be adopted by a three-quarters majority vote of the Parties present and voting at the session. For the purposes of this Article, Parties present and voting means Parties present and casting an affirmative or negative vote. In the event that a protocol is proposed for adoption under Article 21 of the Constitution of the World Health Organization, it shall further be considered for adoption by the Health Assembly.
3. The text of any proposed protocol shall be communicated to the Parties by the Secretariat at least six months before the session of the Governing Body at which it is proposed for adoption.
4. [States that are not Parties to the WHO Pandemic Agreement may be Parties to a protocol, provided the protocol so provides.][Only Parties to the WHO Pandemic Agreement may be Parties to a protocol.]
5. Any protocol to the WHO Pandemic Agreement shall be binding only on the Parties to the protocol in question. Only Parties to a protocol may take decisions on matters exclusively relating to the protocol in question.
6. The requirements for entry into force of any protocol shall be established by that instrument.]

Article 34. Withdrawal

1. At any time after [two][one] years from the date on which the WHO Pandemic Agreement has entered into force for a Party, that Party may withdraw from the Agreement by giving written notification to the Depositary.
2. Any such withdrawal shall take effect upon expiry of one year from the date of receipt by the Depositary of the notification of withdrawal, or on such later date as may be specified in the notification of withdrawal.
3. Any Party that withdraws from the WHO Pandemic Agreement shall be considered as also having withdrawn from any protocol to which it is a Party [, unless the said protocol requires its Parties to formally withdraw in accordance with its relevant terms].

Article 35. Signature

1. This Agreement shall be open for signature by all States, and by regional economic integration organizations.

2. This Agreement shall be open for signature at the World Health Organization headquarters in Geneva, immediately following its adoption by the World Health Assembly at the Seventy-seventh World Health Assembly, from XX [May] 2024 to XX [June] 2024, and thereafter at United Nations Headquarters in New York, from XX [June] 2024 to XX [June] 2025.

Article 36. Ratification, acceptance, approval, formal confirmation or accession

1. This Agreement shall be subject to ratification, acceptance, approval or accession by all States and to formal confirmation or accession by regional economic integration organizations. This Agreement shall be open for accession from the day after the date on which the Agreement is closed for signature. Instruments of ratification, acceptance, approval, formal confirmation or accession shall be deposited with the Depositary.

2. Any regional economic integration organization that becomes a Party to the WHO Pandemic Agreement, without any of its Member States being a Party shall be bound by all the obligations under the WHO Pandemic Agreement. In the case of those regional economic integration organizations for which one or more of its Member States is a Party to the WHO Pandemic Agreement, the regional economic integration organization and its Member States shall decide on their respective responsibilities for the performance of their obligations under the Agreement. In such cases, the regional economic integration organization and its Member States shall not be entitled to exercise rights under the WHO Pandemic Agreement concurrently.

3. Regional economic integration organizations shall, in their instruments relating to formal confirmation or in their instruments of accession, declare the extent of their competence with respect to the matters governed by the WHO Pandemic Agreement. These organizations shall also inform the Depositary, who shall in turn inform the Parties, of any substantial modification in the extent of their competence.

Article 37. Entry into force

1. This Agreement shall enter into force on the thirtieth day following the date of deposit of the [XXX] instrument of ratification, acceptance, approval, formal confirmation or accession with the Depositary.

2. For each State that ratifies, accepts or approves the WHO Pandemic Agreement or accedes thereto after the conditions set forth in paragraph 1 of this Article for entry into force have been fulfilled, the WHO Pandemic Agreement shall enter into force on the thirtieth day following the date of deposit of its instrument of ratification, acceptance, approval or accession.

3. For each regional economic integration organization depositing an instrument of formal confirmation or an instrument of accession after the conditions set forth in paragraph 1 of this Article for entry into force have been fulfilled, the WHO Pandemic Agreement shall enter into force on the thirtieth day following the date of deposit of its instrument of formal confirmation or of accession.

4. For the purposes of this Article, any instrument deposited by a regional economic integration organization shall not be counted as additional to those deposited by Member States of that regional economic integration organization.

Article 38. Depositary

The Secretary-General of the United Nations shall be the Depositary of the WHO Pandemic Agreement and amendments thereto and of any protocols and annexes adopted in accordance with the terms of the WHO Pandemic Agreement.

Article 39. Authentic texts

The [original of the WHO Pandemic Agreement, of which the] Arabic, Chinese, English, French, Russian and Spanish texts are equally authentic[, shall be deposited with the Secretary-General of the United Nations].

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