



Preliminary Reflections on the WHO Pandemic Agreement

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Summary

On 16 April 2025, WHO member states—excluding the United States—[concluded negotiations](#) on a new pandemic agreement after three years of negotiations. The agreement will be presented to the 78th World Health Assembly (WHA) in May 2025 for adoption. Comprising 36 articles, the agreement marks a significant step in global health security law, aiming to strengthen pandemic prevention, preparedness, and response. While it addresses long-standing gaps exposed by the COVID-19 pandemic, the agreement is not without limitations, particularly regarding its legal enforceability and delayed opening for signature due to unresolved negotiations on the Pathogen Access and Benefit-Sharing (PABS) system.

This brief provides preliminary insights into the agreement’s content, scope, and implications. The final “greened” text is available [here](#).

Key Points

- Consensus has been achieved among WHO member states (excluding the U.S.), but formal signature is delayed pending completion of the PABS Instrument (to be included as an annex).
- Equity is a central principle of the agreement, and it includes measures aimed at closing gaps between high- and low-income countries. This marks a normative shift from the more functionalist International Health Regulations (IHR).
- The scope of the agreement goes beyond the IHR, addressing many new legal areas such as One Health, technology transfer, and local production.
- However, many ambitious proposals were diluted or removed during the three years of negotiations.

- Legal enforceability is limited, as the legal language remains weak, allowing for significant flexibility in implementation. Also, accountability mechanisms are “soft,” that is, they rely on member state reporting rather than on third- party enforcement.
 - The agreement’s main value lies in creating a global normative framework and keeping pandemic preparedness on the international agenda through the establishment of a Conference of the Parties that will meet periodically.
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Background and Context

The COVID-19 pandemic exposed major weaknesses in the global health security system, including deep inequities in access to vaccines and weak compliance with international obligations under the IHR. In response, in 2021, WHO member states initiated negotiations to create a new legal instrument addressing these issues. The result is a pandemic agreement that is broader in scope and more equity-focused than the IHR.

Equity as a Foundational Principle

The pandemic agreement marks a significant shift in approach. While the IHR has been primarily functional, focused on protecting public health while balancing trade and human rights concerns, the pandemic agreement takes a broader normative stance by placing global equity at its core. The COVID-19 pandemic exposed deep inequities between developed and developing countries, particularly in access to vaccines and other medical countermeasures. The existing international legal framework lacked the tools to address those disparities. In response, the pandemic agreement makes equity a defining principle (Article 3) and embeds it throughout the text, aiming to reduce the gap between high- and low-income countries in pandemic preparedness, response, and access to resources.

Article 3.4 defines equity as “a goal, principle, and outcome of pandemic prevention, preparedness, and response, striving in this context for the absence of unfair, avoidable, or remediable differences among and between individuals, communities, and countries.”

To operationalize this principle, Chapter II is titled “*The world together equitably: Achieving equity in, for, and through pandemic prevention, preparedness, and response.*” It is the heart of the agreement and includes 15 articles (Articles 4-20) specifically aimed at improving equity across key dimensions of pandemic prevention, preparedness, and response. Notably, the agreement places emphasis on improving equitable access to pandemic-related health goods through the regulation of R&D, local

production, technology transfer, access and benefit sharing, and more. Key articles include:

- Strengthening surveillance, health system resilience, and the healthcare workforce (Articles 4, 6, and 7)
- Promoting research and development (Article 9)
- Enhancing local production (Article 10)
- Enabling technology transfer (Article 11)
- Establishing a PABS System (Article 12)
- Strengthening supply chains and logistics (Article 13)
- Strengthening regulatory systems (Article 14)

Scope

As outlined above, the pandemic agreement tackles many of the major gaps identified after the COVID-19 pandemic in global preparedness, prevention, and response. It introduces international legal regulation in areas that had previously been unaddressed, such as R&D, technology transfer, regulatory system strengthening, supply chains, and more. Importantly, this is the first international legal agreement to formally incorporate the One Health approach (Article 5). It is, accordingly, the first agreement to recognize the interdependence of human, animal, and environmental health and—unlike the IHR, which calls for action after an outbreak has occurred—aims to prevent outbreaks at their source.

Contentious Areas and Political Compromise

Some of the most politically sensitive issues—like technology transfer (Article 11) and a TRIPS waiver—were either weakened or dropped. Technology transfer was especially contentious. Developing countries wanted binding commitments, while developed countries insisted it remain voluntary. In the end, all references to obligations were removed. Member states agreed that any transfer must be “as mutually agreed,” meaning governments can’t force companies to share technology.

Under Article 12, members agreed in principle to create a pathogen access and benefit-sharing (PABS) system. This system will govern how PABS materials and sequence information are shared and how benefits from their use are fairly shared. However, the specifics will be negotiated separately in a “PABS instrument,” to be added as an annex. Importantly, the agreement cannot be signed until this annex is finalized (Article 33(2)), which is likely to cause delays.

Legal Nature and Implementation Challenges

Despite its ambitious scope, the agreement is legally weak in several respects:

1. The early drafts of the agreement, proposed three years ago, were far more ambitious in their scope, as well as in their obligatory language and strength of accountability. Key elements—such as binding commitments on technology transfer, liability, a TRIPS waiver, peer review, and preparedness monitoring—have been removed.
2. Many obligations are now weakened by vague qualifiers like “in line with national capacities,” “subject to the availability of resources,” or “within the means and resources at the disposal [of the party].” These phrases effectively make commitments optional, allowing countries to opt out based on their own limitations and significantly undermining enforceability.
3. The agreement contains no binding compliance or enforcement mechanisms. While it creates a Conference of the Parties (Article 21), requires states to report progress (Article 23), and establishes a Secretariat to support implementation (Article 24), these are soft accountability measures. There’s no independent oversight or sanctioning authority.
4. This mirrors one of the main failings of the IHR, where many states failed to meet legal obligations. The pandemic agreement attempts to address this with a stronger focus on monitoring and support, but again, through soft tools like reporting, not inspections or sanctions. The reluctance to adopt stronger accountability measures reflects a broader resistance among states to external interference by the WHO or other states.
5. The agreement ensures regular international engagement through the Conference of the Parties (Article 21), helping maintain momentum. Compared to the fragmented pre-COVID landscape, this is an important development. For example, the Conference of the Parties of the UNFCCC has played an important role in developing and maintaining climate change on the global agenda.
6. The agreement acknowledges the implementation challenges faced by developing countries. As mentioned above, many obligations are framed around national capacity—for example, requiring actions “in line with respective capacities” or “in accordance with capabilities.” To address this, a financial mechanism to support developing countries is being established (Article 20(3)).

Conclusion and Policy Implications

From a legal and policy perspective, the agreement's main value lies in establishing a global normative framework and keeping pandemic preparedness and response on the global agenda. It marks progress in norm-setting, particularly with its emphasis on equity and the inclusion of many new legal topics. While it lacks legal teeth, through the COP, it creates a legal and institutional foundation for future development, coordination, and collaboration. Over time, the agreement may catalyze more concrete action and potentially stronger legal or institutional frameworks.

Its effectiveness, however, will depend on several immediate as well as long-term factors, including

- Adoption by the 78th WHA in May 2025;
- Finalization of the PABS Instrument (according to Article 33(2), the agreement cannot be signed until this annex is finalized). PABS was the most contentious issue in the negotiations, so it's expected to take time for parties to agree on the instrument. As a result, the agreement likely won't be open for signature anytime soon.
- Moreover, to enter into force, at least 60 state parties must join (Article 35). However, following the US's withdrawal from the WHO and it not being a party to the agreement, it will be interesting to see whether there will be enough domestic political will for governments to sign and for parliaments around the world to ratify the agreement.
- Once it comes into force, its implementation will depend on the political will of parties to fund and implement commitments.
- A key question is whether the Conference of the Parties will evolve into a meaningful forum for accountability (similar to the UNFCCC's COP) or remain a procedural gathering with limited oversight power.