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NEWS ANALYSIS

Covid-19: WHO treaty hopes to overcome "catastrophic failures" of pandemic response

Negotiations start later this month on delivering a more coherent global strategy in the event of another pandemic. **Luke Taylor** looks at the challenges ahead

Luke Taylor

The World Health Organization published the first draft of its pandemic treaty earlier this month, giving a glimpse of what could end up in the historic international agreement.[1]

WHO's 194 member states agreed to create the international convention in December 2021 to prevent a repeat of failures in the response to covid-19.[2] *The BMJ* has spoken to experts to find out why some parts of the agreement are getting them excited and where question marks remain.

Breaking with tradition

The pandemic treaty was conceived from a global realisation that the best existing framework, the International Health Regulations (IHR), was not strong enough to prevent the "catastrophic failure" seen during the covid-19 pandemic. Drawn up in the 19th century and revised after the 2005 SARS outbreak, the IHR determines what countries should do in a global health emergency in terms of data sharing, border control, and travel restrictions.

One main criticism, which observers hope will be dealt with in the new treaty, is that at times the IHR is toothless and can't actually compel states to take the necessary action. But it's also limited by its initial scope because the world's conception of what health security entails has evolved significantly, becoming much broader since the regulations' conception.

"The IHR is very much focused on what I would call traditional health security core capacities," says Arush Lal, member of the Chatham House Commission for Universal Health and a community and civil society representative for WHO's Access to Covid-19 Tools (ACT) Accelerator.

The IHR stipulates that technical expertise and technical information must be shared between countries to tackle cross border threats, and it sets out travel and trade restrictions. But, as demonstrated by the world's failure to contain covid-19, responding to pandemics isn't just about sharing laboratory information: it's also about sharing vaccines and clinical trial data, having a strong health workforce, and utilising capacity in the private sector.

The new treaty uses a modern conception of health, viewing it instead as an issue interlinked with many others.

"Civil society in general has been quite excited by the zero draft," says Lal. "I think a lot of people were surprised by the scope of it and the way it's trying to address a lot of different issues."

Equity and transparency

The response to covid-19 was a "catastrophic failure of the international community in showing solidarity and equity," the treaty begins by saying. To smooth out inequity and improve pandemic response the current draft proposes that international property should be waived during a pandemic, allowing poorer countries to manufacture vaccines and treatments as they become available. It also proposes that 20% of all tests, vaccines, and treatments should be reserved by WHO so that it can distribute them to poorer countries, preventing global stocks from being hoarded.

The draft also stipulates that prices and contracts should be made public—a proposal staunchly opposed by large drug companies, as it would diminish their profits. Bidding wars between countries during the covid-19 pandemic were fuelled by vaccine prices remaining secret.

One issue dividing member states is the mention of "differentiated responsibilities." This term is used in the United Nations Framework Convention on Climate Change to suggest that all nations have to play a role in the global response but that their obligations will depend on how affluent they are.

One of the most novel and exciting parts of the treaty, says Lal, is a focus on the provision of healthcare, specifically universal healthcare. Universal healthcare coverage is mentioned 13 times in the draft, and article 11 opens by saying, "The parties recognize the need for resilient health systems, rooted in universal health coverage, to mitigate the shocks caused by pandemics and to ensure continuity of health services, thus preventing health systems from becoming overwhelmed."

The document also mentions increasing pay and eliminating gender disparities in healthcare. The language it uses—unimaginable in such a document just five years ago, says Lal—reflects the realisation from Ebola and other infectious outbreaks that, without enough highly trained medical staff and an accessible health system, the world will be incapable of containing health threats.

"We look to the IHR to kind of solve all the problems with outbreak response, but it's not enough if you don't have health workers who are trained," he says.

"And if you don't have trust in your primary healthcare system or affordable health services people just don't use those health facilities, and then there's no way you're going to properly be able to have good surveillance or good laboratory networks that actually are effective and in the wake of an outbreak."

Enforceability

Negotiations on the accord will begin on 27 February and should continue into 2024. There's still a chance that the treaty may not pass, and some elements are almost certain to be watered down. Some nations firmly oppose particular proposals in the accord, as do drug companies, particularly on the issue of intellectual property.

All will be little more than symbolism if WHO fails to find ways to make the treaty more enforceable than the IHR, critics have said. The IHR is already legally binding, but much of it was ignored during the pandemic. The treaty obliges countries to share genomic information as soon as possible, and in return they should not be punished with exceptional restrictions on travel or trade, for example—neither of which was adhered to when politics trumped science during covid-19.

Article 22 has two brief paragraphs on "oversight mechanisms" but so far says little on what they could be. A leading proposal is that countries will make democratic decisions at a conference of the parties, a process that an editorial in the journal *Nature* has opposed for being too slow and expensive in practice.[3]

Jesse Bump, executive director of the Takemi Program in International Health at the Harvard T H Chan School of Public Health in Massachusetts, said that terms such as "shall" and "must" needed to be used in the treaty rather than suggestive terms such as "encourage." Ultimately, the treaty's success will hinge on whether WHO can find new ways to get nations to buy into the accord or force them to comply.

Bump said, "Nations already know how to cooperate, and they can when they want to, but as shown in the covid-19 pandemic, most chose not to. It would be deceitful for anyone to claim that the shameful and selfish actions of rich countries in the covid pandemic were the result of poorly written international agreements.

"Selfishness, greed, and fear hold much more explanatory power, although those actions violated international norms, commitments to the UN and WHO, to Covax [the global covid vaccine initiative], and to any reasonable standard. The major issue is not what the draft says but what nations will do, or what provisions there are for incentives and punishments."

1 World Health Organization. Zero draft of the WHO CA+ for the consideration of the Intergovernmental Negotiating Body at its fourth meeting. 1 Feb 2023. https://apps.who.int/gb/inb/pdf_files/inb4/A_INB4_3-en.pdf

2 Taylor L. World Health Organization to begin negotiating international pandemic treaty. *BMJ* 2021;375:. doi: 10.1136/bmj.n2991 pmid: 34857541

3 Global pandemic treaty: what we must learn from climate-change errors. *Nature* 2023 Feb 7. https://www.nature.com/articles/d41586-023-00339-z