

Research Briefing

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The WHO Pandemic Preparedness Treaty

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In March 2021, a group of world leaders announced an initiative for a new treaty on pandemic preparedness and response. This initiative was taken to the World Health Organization (WHO) and will be negotiated, drafted, and debated by a newly-established Intergovernmental Negotiation Body.

[A petition](#) on the UK Parliament website is calling for the Government “to commit to not signing any international treaty on pandemic prevention and preparedness established by the WHO, unless this is approved through a public referendum”. At the time of writing, it had gathered over 120,000 signatures.

This briefing will give an overview of the key background, progress, and developments of the treaty as of May 2022.

2 Background

2.1 What is the WHO?

The World Health Organization (WHO) is the United Nations agency “that connects nations, partners and people to promote health, keep the world safe and serve the vulnerable – so everyone, everywhere can attain the highest level of health”.¹

The WHO Constitution was signed in July 1946 and entered into force on 7 April 1948. The UK is among 194 WHO Member States. The [WHO website](#) provides information about the organisation’s priorities and work.

2.2 How did the proposed treaty come about?

The [Independent Panel for Pandemic Preparedness and Response](#) was set up by the WHO to “provide an evidence-based path for the future, grounded in lessons of the present and the past to ensure countries and global institutions, including specifically WHO, effectively address health threats.” The Panel based its work on “insights and lessons learned from the health response to COVID-19 as coordinated by WHO”.² One of its recommendations in its Main Report recognised a need for a “Pandemic Treaty”.³

On 30 March 2021, Prime Minister Boris Johnson, alongside more than 20 world leaders and senior figures of international organisations, [published a joint article](#) in several international newspapers, calling for a more joined-up approach to pandemics in the future.⁴

¹ World Health Organization, [About WHO](#), accessed 18 May 2022

² Independent Panel for Pandemic Preparedness and Response, [About the Independent Panel](#), accessed 18 May 2022.

³ Independent Panel for Pandemic Preparedness and Response, [COVID-19: Make it the Last Pandemic](#), May 2021, p45

⁴ ‘[Covid-19: World leaders call for international pandemic treaty](#)’, BBC News, 30 March 2021. The signatories were: J. V. Bainimarama, Prime Minister of Fiji; António Luís Santos da Costa, Prime Minister of Portugal; Klaus Iohannis, President of Romania; Boris Johnson, Prime Minister of the United Kingdom; Paul Kagame, President of Rwanda; Uhuru Kenyatta, President of Kenya; Emmanuel Macron, President of France; Angela Merkel, Chancellor of Germany; Charles Michel, President of the European Council; Kyriakos Mitsotakis, Prime Minister of Greece; Moon Jae-in, President of the Republic of Korea; Sebastián Piñera, President of Chile; Carlos Alvarado Quesada, President of Costa Rica; Edi Rama, Prime Minister of Albania; Cyril Ramaphosa, President of South Africa; Keith Rowley, Prime Minister of Trinidad and Tobago; Mark Rutte, Prime Minister of the Netherlands; Kais Saied, President of Tunisia; Macky Sall, President of Senegal; Pedro Sánchez,

[The article](#) proposed that “nations should work together towards a new international treaty for pandemic preparedness and response.”⁵

The leaders agreed that the world would face other pandemics and major health emergencies in the future, and that no state or multilateral agency can address these threats alone. The leaders stressed that:

... we must be better prepared to predict, prevent, detect, assess and effectively respond to pandemics in a highly co-ordinated fashion. The Covid-19 pandemic has been a stark and painful reminder that nobody is safe until everyone is safe.

With that, the leaders committed to “ensuring universal and equitable access to safe, efficacious and affordable vaccines, medicines and diagnostics for this and future pandemics.” They stressed that the world needed capacity to develop, manufacture, and deploy vaccines quickly in response to such threats, as well as going more to “promote global access” to vaccines.

2.3

What is being proposed?

In the March 2021 joint article, the group of leaders said:

The main goal of this treaty would be to foster an all of government and all of society approach, strengthening national, regional and global capacities and resilience to future pandemics. This includes greatly enhancing international co-operation to improve, for example, alert systems, data-sharing, research and local, regional and global production and distribution of medical and public health counter-measures such as vaccines, medicines, diagnostics and personal protective equipment.⁶

The article acknowledges existing provision for a coordinated international response under the [International Health Regulations](#), which would “underpin such a treaty”.

In October 2021, the Working Group on Strengthening WHO Preparedness for and Response to Health Emergencies (WGPR) [published a “zero draft” report](#) outlining an assessment of the benefits of a new WHO convention, agreement or other international instrument on pandemic preparedness and response, for consideration by the World Health Assembly.⁷ This Report, among other

Prime Minister of Spain; Erna Solberg, Prime Minister of Norway; Aleksandar Vučić, President of Serbia; Joko Widodo, President of Indonesia; Volodymyr Zelensky, President of Ukraine; Dr Tedros Adhanom Ghebreyesus, Director-General of the World Health Organisation.

⁵ See, for example, Prime Minister's Office, 10 Downing Street, '[No government can address the threat of pandemics alone – we must come together](#)', 30 March 2021.

⁶ Prime Minister's Office, 10 Downing Street, '[No government can address the threat of pandemics alone – we must come together](#)', 30 March 2021.

⁷ WHO, [ZERO DRAFT Report of the Member States Working Group on Strengthening WHO Preparedness for and Response to Health Emergencies to the special session of the World Health Assembly](#), WHO Doc A/WGPR/4/3, 28 October 2021.

things, suggested that such an initiative “could include promoting high-level political commitment and whole-of-government whole-of-society approaches, addressing equity, enhancing the One Health approach, and strengthening health systems and their resilience.”⁸

On 29 November – 1 December 2021, the WHO’s World Health Assembly (WHA) [met in a special session](#) to discuss the proposal and the way forward. This was only the second ever special session of its kind in the history of the Assembly.⁹

In this session, the WHA agreed to establish an Intergovernmental Negotiating Body to draft and negotiate “a WHO convention, agreement, or other international instrument on pandemic prevention, preparedness and response.”¹⁰

When drafting the treaty, the WHO stressed that the Negotiating Body “should be informed by evidence and should take into account the discussions and outcomes of the Member States Working Group on Strengthening WHO Preparedness and Response to Health Emergencies.”¹¹

A WHO press release [provided an overview of the proposal](#), setting out details about its plan to “kickstart a global process to draft and negotiate a convention, agreement or other international instrument under the Constitution of the World Health Organization to strengthen pandemic prevention, preparedness and response”.¹² The press release provides more detail:

The Health Assembly met in a Special Session, the second-ever since WHO’s founding in 1948, and adopted a sole decision titled: “The World Together.” The decision by the Assembly establishes an intergovernmental negotiating body (INB) to draft and negotiate a WHO convention, agreement, or other international instrument on pandemic prevention, preparedness and response, with a view to adoption under Article 19 of the WHO Constitution, or other provisions of the Constitution as may be deemed appropriate by the INB.¹³

⁸ WHO, [ZERO DRAFT Report of the Member States Working Group on Strengthening WHO Preparedness for and Response to Health Emergencies to the special session of the World Health Assembly](#), WHO Doc A/WGPR/4/3, 28 October 2021, p1 and p8 para 29.

⁹ For a full record of the Session and the decisions adopted, see: WHO, [World Health Assembly Second Special Session, 29 November – 1 December 2021](#), WHO Doc WHASS2/2021/REC/1.

¹⁰ WHO, [World Health Assembly Second Special Session, 29 November – 1 December 2021](#), WHO Doc WHASS2/2021/REC/1, Decision SSA2(5) The World Together: Establishment of an intergovernmental negotiating body to strengthen pandemic prevention, preparedness and response, p20-21.

¹¹ WHO, [World Health Assembly Second Special Session, 29 November – 1 December 2021](#), WHO Doc WHASS2/2021/REC/1, Decision SSA2(5) The World Together: Establishment of an intergovernmental negotiating body to strengthen pandemic prevention, preparedness and response, p20-21.

¹² WHO Press Release, [World Health Assembly agrees to launch process to develop historic global accord on pandemic prevention, preparedness and response](#), 1 December 2021.

¹³ WHO Press Release, [World Health Assembly agrees to launch process to develop historic global accord on pandemic prevention, preparedness and response](#), 1 December 2021.

2.4 Does the UK support the Treaty?

Prime Minister Boris Johnson was a signatory to [the article proposing the treaty initially](#).¹⁴ The UK's position on the substance of the treaty remains to be seen, once a draft has been completed.

In response to a [Parliamentary Question from Fleur Anderson MP](#) on how the proposed treaty may address the prioritisation of access to essential public health measures, including the availability of clean water, safe sanitation and good hygiene, the Government said:

The UK was proud to co-sponsor a resolution at the World Health Assembly Special Session in November 2021. This resolution approves the formation of an Intergovernmental Negotiating Body (INB) to draft and negotiate a WHO convention, agreement, or other international instrument on pandemic prevention, preparedness and response.

The INB will hold its first meeting by 1 March 2022 and submit its outcome for consideration by the 77th World Health Assembly in 2024. The UK will engage stakeholders as negotiations begin, with a view to a final outcome that learns the lessons of COVID-19 to strengthen preparedness for and response to, future potential pandemics. This will include engaging relevant water, sanitation and hygiene stakeholders.¹⁵

3 What is happening now?

3.1 How do negotiations work?

Negotiations are governed by the [Intergovernmental Negotiating Body](#) at the WHO, set up specifically to negotiate this proposed treaty.

The Intergovernmental Negotiating Body (INB) held a series of meetings in March and April 2022 to discuss proposals for the treaty. Minutes of the meetings are available [on the WHO INB website](#).

¹⁴ Prime Minister's Office, 10 Downing Street, '[No government can address the threat of pandemics alone - we must come together](#)', 30 March 2021.

¹⁵ [PQ 125555 \[on Disease Control: International Cooperation\]](#), 18 February 2022, Answered on 28 February 2022.

3.2

What will the treaty do?

At the time of writing, the Intergovernmental Negotiating Body had not yet produced a working draft of the treaty, and no draft is expected until 1 August 2022 at the latest.

This is because negotiations, public consultations and hearings on the proposal are still underway.

Commentary in the BMJ suggests “[i]t will take years to draw up any convention and it is unclear exactly what it will cover and how much global authority it will hold, with countries pushing and pulling in different directions.”¹⁶

Experts at the London School of Economics outline proposals for the treaty in a blog post from March 2022.¹⁷ The post is based on a more detailed policy brief by the German Alliance on Climate Change and Health, King’s College London, and LSE.¹⁸ The LSE post suggests that the treaty is expected to be modelled as a Framework Convention - a broader agreement setting out consensus on high-level principles and commitments. They suggest that Protocols, guidelines and standards could be used to lay out more specific details and commitments in the future. This would be similar to conventions such as the [UN Framework Convention on Climate Change](#) (UNFCCC), which hosts the annual “COP” or “Conference of Parties” on tackling climate change.¹⁹

The post by LSE academics lists a number of substantive issues that many different stakeholders have called for including in the treaty, noting that including everything would be unlikely, because there is not likely to be consensus on all of these issues among member states, especially if some issues are “seen to infringe on trade or sovereignty.”²⁰

The substantive suggestions called for, as summarised by these experts, include:

¹⁶ Luke Taylor, ‘[World Health Organization to begin negotiating international pandemic treaty](#)’, (2021) BMJ 375 n2991.

¹⁷ Maïke Voss, Clare Wenham, Mark Eccleston-Turner, Rithika Sangameshwaran, and Bianka Detering, [A new pandemic treaty: what the World Health Organization needs to do next](#), LSE Blogs, 30 March 2022.

¹⁸ Maïke Voss, Clare Wenham, Mark Eccleston-Turner, Rithika Sangameshwaran, and Bianka Detering, ‘[A new Treaty on Pandemics – Key to \(re\)build trust in international cooperation?](#)’, German Alliance on Climate Change and Health, March 2022.

¹⁹ See, for example, [COP26: the international climate change conference, Glasgow, UK](#), Commons Library Briefing Paper CBP-8868, 12 October 2021.

²⁰ Maïke Voss, Clare Wenham, Mark Eccleston-Turner, Rithika Sangameshwaran, and Bianka Detering, [A new pandemic treaty: what the World Health Organization needs to do next](#), LSE Blogs, 30 March 2022.

- Anchoring the treaty in human rights and addressing the principles of the right to health, equity, solidarity, transparency, trust, and accountability;
- Using a One Health approach for pandemic prevention and early detection;
- Stronger health systems information and reporting mechanisms; including a better use of digital technology for data collection and sharing;
- A reform of the WHO alarm mechanism, the public health emergency of international control (PHEIC) declaration process and travel and travel restrictions;
- Pathogen and genomic data sharing;
- Resilience to and response to pandemics, including universal access to medicines, vaccines, diagnostics, medical equipment and treatments as well as resilient supply chains, technology transfer;
- Investments in health system strengthening and increased financing for pandemic preparedness and response;
- Stronger international health framework with a strengthened WHO at the centre and increased global coordination;
- Reinforcing legal obligations and norms of global health security and standard settings of health care systems;
- Coordination of research and development (R&D).²¹

Proposals from stakeholders on what should be included in the treaty were heard by the INB at public hearings in April 2022 and can be accessed on [the INB's website](#).

3.3 How is the UK involved in negotiations?

The INB is set up to be open to all WHO Member States and has said in its proposed methods of work that it “will work in an inclusive manner.”²² This means that the UK can participate in the INB in the same way as it participates in the World Health Assembly.

²¹ Maïke Voss, Clare Wenham, Mark Eccleston-Turner, Rithika Sangameshwaran, and Bianka Detering, [A new pandemic treaty: what the World Health Organization needs to do next](#), LSE Blogs, 30 March 2022.

²² WHO International Negotiating Body, ‘[Proposed method of work](#)’, 10 March 2021, WHO Doc A/INB/1/3 Rev.1.

The UK is represented at the WHO by the [UK Mission to the WTO, UN and Other International Organisations \(Geneva\)](#).

3.4 Is there a public consultation?

The WHO has explained that, through the WHA Decision, the WHA requested that the WHO Director-General “convene the INB meetings and support its work, including by facilitating the participation of other United Nations system bodies, non-state actors, and other relevant stakeholders in the process to the extent decided by the INB.”²³

The INB has been taking public consultations on the proposal since early 2022. The INB has planned [two rounds of public hearings](#).

The first took place in April 2022, and invited limited submissions from stakeholders and the general public in response to a guiding question of “What substantive elements do you think should be included in a new international instrument on pandemic preparedness and response?”²⁴ The second round is due to take place in June 2022. The deadline for written submissions from the public was 13 April 2022.

Ahead of plans for the INB to submit its outcome for consideration by the 77th WHA in 2024, the UK Government has said it will engage stakeholders as negotiations begin, with a view to a final outcome that learns the lessons of Covid-19 to strengthen preparedness for and response to, future potential pandemics.²⁵

At the European Parliament, a Parliamentary Question [was put to the European Commission](#) about the treaty, and the participation of citizens in the process.²⁶ The Commission was asked “to what extent will [it] ensure that the citizen, who has no direct vote in a body such as the WHO, is not bypassed in the decision-making process and that a shift of competence further and further away from the voter does not lead to an increasing ‘de-democratisation’ of our society?”

The response, given on behalf of the Commission, referred to commitments from the INB and WHO Director-General to hold public hearings and work with relevant stakeholders:

²³ WHO Press Release, [World Health Assembly agrees to launch process to develop historic global accord on pandemic prevention, preparedness and response](#), 1 December 2021.

²⁴ See, WHO INB, [Public hearings regarding a new international instrument on pandemic preparedness and response](#), 12-13 April 2022 (accessed 17 May 2022).

²⁵ [PQ 125555 \[on Disease Control: International Cooperation\]](#), 18 February 2022, Answered on 28 February 2022.

²⁶ See European Parliament, Question reference [P-000921/2022](#), 7 March 2022.

The principle of ‘Informed opinion and active cooperation on the part of the public are of the utmost importance in the improvement of the health of the people’ is anchored in the preamble of the Constitution of the World Health Organisation (WHO).²⁷

4 What happens next?

4.1 How will the treaty be adopted?

The initial proposal by the World Health Assembly suggested that the treaty could be adopted according to Article 19 of the WHO Constitution, or any other appropriate mechanism under the WHO Constitution.

Article 19 of the [WHO Constitution](#) provides for one such mechanism, which states:

Article 19

The Health Assembly shall have authority to adopt conventions or agreements with respect to any matter within the competence of the Organization. A two-thirds vote of the Health Assembly shall be required for the adoption of such conventions or agreements, which shall come into force for each Member when accepted by it in accordance with its constitutional processes.

Any convention or international treaty adopted using this procedure would require agreement of at least two-thirds of the WHO Members.

But the final method and procedure for adopting the treaty will be proposed by the Intergovernmental Negotiating Body after its consultation and negotiation processes have been completed.

4.2 Will the treaty be legally binding?

The [WHO’s initial release](#) refers to the plans leading to “a convention, agreement or other international instrument under the Constitution of the World Health Organization”.²⁸

Recent academic commentary by Clare Wenham, Mark Eccleston-Turner and Maïke Voss suggested that the WHA’s mandate for the INB leaves room for an outcome that is not legally binding. They suggest:

²⁷ See European Parliament, Question reference [P-000921/2022\(ASW\)](#), 19 April 2022.

²⁸ WHO Press Release, [World Health Assembly agrees to launch process to develop historic global accord on pandemic prevention, preparedness and response](#), 1 December 2021.

the language of ‘a legally binding instrument to be adopted under Article 19 of the WHO Constitution’ was changed to ‘WHO convention, agreement or other international instrument ... with a view to adoption under Article 19, *or under other provisions of the WHO Constitution as may be deemed appropriate by the INB*’ (emphasis added), meaning that the resulting ‘pandemic treaty’ may not actually be a treaty at all, but some other instrument, lacking the legally binding force of a treaty.²⁹

However, the initial proponents of the initiative, including the UK, EU, and others have [supported a legally binding treaty](#) at this stage, with the EU suggesting that an “international instrument” would also be binding in international law.³⁰

One of the main avenues proposed by the WHA is to adopt a convention under Article 19 of the [WHO Convention](#). This provides:

Article 19

The Health Assembly shall have authority to adopt conventions or agreements with respect to any matter within the competence of the Organization. A two-thirds vote of the Health Assembly shall be required for the adoption of such conventions or agreements, which shall come into force for each Member when accepted by it in accordance with its constitutional processes.

The [WHO’s press release noted](#) that the treaty would be drafted “with a view to adoption under Article 19 of the WHO Constitution, or other provisions of the Constitution as may be deemed appropriate by the INB.” It also said:

Article 19 of the WHO Constitution provides the World Health Assembly with the authority to adopt conventions or agreements on any matter within WHO’s competence. The sole instrument established under Article 19 to date is the WHO Framework Convention on Tobacco Control, which has made a significant and rapid contribution to protecting people from tobacco since its entry into force in 2005.³¹

Should the final outcome be legally binding in international law, it will usually require ratification by each participating state. The exact scope and extent of the obligations under the treaty will depend upon the outcome of negotiations for the treaty.

²⁹ Clare Wenham, Mark Eccleston-Turner, Maïke Voss, ‘[The futility of the pandemic treaty: caught between globalism and statism](#)’, (2022) 98(3) *International Affairs* 837-852, p 844.

³⁰ See, for example, European Council, [An international treaty on pandemic prevention and preparedness](#), 25 March 2022 (accessed 17 May 2022).

³¹ WHO Press Release, [World Health Assembly agrees to launch process to develop historic global accord on pandemic prevention, preparedness and response](#), 1 December 2021.

4.3

Key dates moving forward

According to the WHA's initial decision establishing the INB,³² and the INB's work since,³³ the following are key dates in the progress of the treaty.

- The INB will host its [second round of public consultation hearings](#) on 16-17 June 2022.
- The INB will meet by 1 August 2022 to discuss and consider a working draft treaty.
- The INB will deliver a progress report to the 76th World Health Assembly in 2023.
- The INB will submit its outcome for consideration by the 77th World Health Assembly in 2024.

Further Reading

- Luke Taylor, '[World Health Organization to begin negotiating international pandemic treaty](#)', (2021) BMJ 375 n2991.
- Haik Nikogosian and Ilona Kickbusch, '[The case for an international pandemic treaty](#)', (2021) BMJ 372 n527,
- Clare Wenham, Mark Eccleston-Turner, Maïke Voss, '[The futility of the pandemic treaty: caught between globalism and statism](#)', (2022) 98(3) International Affairs 837-852
- Panel for a Global Public Health Convention, [The Pandemic Convention We Need Now; A Call to Action](#), April 2022

³² WHO, [World Health Assembly Second Special Session, 29 November – 1 December 2021](#), WHO Doc WHASS2/2021/REC/1, Decision SSA2(5) The World Together: Establishment of an intergovernmental negotiating body to strengthen pandemic prevention, preparedness and response, p20-21.

³³ WHO International Negotiating Body, '[Proposed method of work](#)', 10 March 2021, WHO Doc A/INB/1/3 Rev.1.

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