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Key Considerations for the U.S. Government with respect to the WHO Pandemic Convention/Agreement

1. **Equity** is the backbone of this agreement, and it involves ensuring that all nations, regardless of income or size, have equal opportunity to protect their citizens against health threats. This includes preparing for, detecting, and effectively responding to pandemics. Current disparities in pandemic preparedness and response have led to preventable illness, fatalities, and societal stress, disproportionately affecting vulnerable populations.[1] Among other things, these discrepancies arise from weak national healthcare systems, centralized production of essential medications, vaccines, and strategic resources, as well as limited access to scientific and technological access for low- and middle-income countries.[2] **Prioritizing pandemic preparedness necessitates ensuring that every region has achieved a minimum level of capacity in critical areas like surveillance, laboratory systems, and genomic sequencing;[3] has adequate and timely access to pandemic countermeasures;[4] and national workforce capacity.[5]** Mere promises, however, will not achieve equity and effectiveness in pandemic prevention, preparedness, and response – **what is needed are binding commitments that grounded in accountability by all, and long-term, sustainable financing for low and middle-income countries**.

2. **Accountability and compliance**. The primary obstacle to the success of most international treaties is the lack of effective accountability and enforcement mechanisms.[6] Empirical research further highlights that **international agreements without enforcement mechanisms fail to achieve their intended outcomes**.[7] That the existing global health legal architecture is deficient in mechanisms for oversight and enforcement of compliance is well established. [8,9] For example, **the Framework Convention on Tobacco Control and the International Health Regulations (IHR) – the two major treaties under the authority of the WHO – are "plagued by incomplete compliance,"**[10] Furthermore, incomplete compliance with the IHR, particularly on preparedness, has "contributed to COVID-19 becoming a protracted global health pandemic." [11] **These mistakes should not be built into the architecture of the pandemic agreement.**

   Despite this understanding, **INB negotiators have repeatedly failed to adequately address the issues of transparency, accountability, and enforcement (incentives and disincentive for compliance).** We question, for example, whether the lack of specificity/vagueness proposed under article 8 (preparedness monitoring and functional reviews), and the lack of binding obligations under article 19 (implementation capacities and support) are fit for purpose. Most seriously, however, is the fact that the agreement does not even attempt to adequately tackle accountability and enforcement. Member-states appear happy to delegate these responsibilities to sometime to a future which may never come – more of the same will not lead to different results. **Experience has proven that "relying solely on state self-reporting and peer-review mechanisms do not work."**[12]

   We are thus concerned that the absence of well-defined binding mechanisms for accountability and enforcement of compliance will render key provisions of this agreement merely aspirational, which can frustrate the primary purpose of the agreement. While informed that it is unlikely that a comprehensive accountability and enforcement framework will be considered, **we urge that, in the least, the United States push for some form of independent oversight for accountability.** The accurate and timely assessment of compliance is key to understanding blind spots and enable effective action, even if not mandated by the agreement. The world cannot afford to be flying blind for another decade while most countries trickle in their incomplete reporting without consequence, as it has happened in the past.[13] Spark Street Advisors has put forth a reasonable and modest proposal that we endorse – and urge that the United States consider advocating for this position in negotiation.

3. **Global health Financing.** Without adequate sustainable financing, it is unlikely that the pandemic agreement will achieve its objectives. However, the lack of binding obligations and specificity when it comes to financial commitments by parties in the letter of the agreement is problematic. That is because the lack of such tangible and binding commitments severely undermines the agreement's enforceability and ability to secure necessary funds for critical components of the agreement once it has been signed. **"One of the central failings of the IHR has been that its requirements for states to collaborate, including with respect to mobilizing financing, lacks specificity," and that "without benchmarks, formulas, or other such details . . . the requirements have little force."**[4] While some form of "annual monetary contribution from Parties," as outlined in the October 30th under Article 19, is welcome – this does not go far enough because it lacks specific binding obligations. Notwithstanding, the proposed creation of two *new* funds for PPPR, also under Article 19, is severely problematic and should be stricken from the agreement.

The proposed creation of these two new global health financing mechanisms for PPPR is misguided because this will unnecessarily duplicate efforts, create wasteful and counterproductive competition for donor resources, and increase administrative expenses that are used to achieve similar goals. **In a contracted global economic environment, the focus should be on ensuring that existing financing mechanisms are adequately capitalized, and that money is efficiently distributed to countries and regions rather than used to create new administrative machineries.**

The Pandemic Fund, launched in November 2022, and the Global Fund to Fight AIDS, Tuberculosis, and Malaria, in operation since 2002, have already been deploying financial resources to support low- and middle-income countries (LMICs) in building PPPR capacities**. Adequate resource mobilization for these entities for this purpose should be collectively ensured, its operations with respect to PPPR streamlined, and their participation in the Pandemic Agreement formalized.** Because of the purpose for which it was created, with the support of the United States and other committed donors, **the Pandemic Fund should be made the primary financial mechanism for PPPR within the agreement**. In this role, **its Board should ensure that funds remain coherently distributed for *all* critical aspects of prevention, preparedness, and response**. In this context, we put forth a proposal that outlines how regional and multinational projects to plug major capacity gaps should be prioritized over siloed national projects.[3] In addition, Pandemic Fund will also need to have a minor dedicated role to support the activities of the Conference of Parties and its Secretariat. The solution that is being discussed in Geneva – to create an overarching financing coordinating mechanisms for global health financing – is also a welcome alternative. Noting that this solution is not mutually exclusive with one that places the Pandemic Fund in a leading role for PPPR.

4. **Civil Society and other Non-Government Actor Engagement.** Together with communities and other non-state actors, civil society organizations are an integral part of the global health ecosystem, serving as a vital bridge in the partnership between public and private sector.[14] They enhance the capitalization of global health financing, accelerate technological development, provide valuable technical expertise, and fulfill roles as mediators, implementers, watchdogs, and champions.[7] During the COVID-19 health emergency, these organizations played crucial roles by aiding governments in the implementation of whole-of-society response strategies and by working directly with communities in critical functions;[7,15,16] accelerating research, development, and distribution of COVID-19 vaccines; [17] [18] promoting transparency and accountability, and even directly financing countries through efforts like the Global Fund's C19RM program, which infused billions into countries to bridge critical gaps for PPPR.[19]

   Despite these and other unparalleled contributions, their voices remain sidelined in the decision-making processes of the WHO agreement and implementation of its proposed provisions. Civil society is scarcely mentioned in the October 30th draft of the agreement, and this represents a missed opportunity to formalize and integrate these vital assets. As a key issue to the United States, **we urge that its negotiators continue to, where adequate, push for the meaningful and formalized inclusion of civil society and other non-state actors into the letter of the agreement**.

   From HIV/AIDS to the COVID-19 pandemic, history has shown the vital role that civil society, communities, and other non-government actors play in tackling global health crises. In this context, we suggest that advocating for the establishment of specific standards that ensure meaningful civil society and community engagement in the implementation processes of the agreement could prove useful to all parties. **We also request that civil society voices be included in review mechanisms and national reporting processes as watchdogs, and recommend that local communities be actively engaged as part of in-country surveillance networks.** Furthermore, we believe that reputable international entities should be granted a special status, allowing them to engage more meaningfully with countries, especially during processes such as the drafting of this agreement and subsequent amendments.

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About the AIDS Healthcare Foundation and its work in Global Health

The AIDS Healthcare Foundation is a global nonprofit organization that provides cutting-edge medicine and advocacy worldwide to over 1.7 million people in 45 countries. We are currently the world's largest provider of HIV/AIDS medical care in the world, working to ensure prevention, testing, and treatment of HIV and AIDS for all people, regardless of ability to pay. Since 1987, AHF has cared for thousands of people living with HIV and AIDS worldwide, implementing new programs in communities, and expanding delivery of healthcare and influence over policy with the aim of saving more lives.

To address global health issues, AHF created the AHF Global Public Health Institute, which has been involved in promoting a legally binding global health agreement since prior to the inception of the COVID-19 pandemic. At the institute, we leverage our applied research to enhance international health law, policy, and governance outcomes through advocacy. Our efforts are aimed at addressing and bridging the existing gaps in the global health security architecture, with the goal of helping the world prevent, prepare for, and respond to future pandemics.

In response to COVID-19, the Institute commissioned a study which led to the publication "A Global Public Health Convention for the 21st Century," in the prestigious Lancet Public Health. This study, served as the impetus for the launch of collaborative efforts that included the Panel for a Global Public Health Convention, an independent coalition of global leaders committed to strengthening the world's ability to prevent pandemics, the University of Miami Public Health Policy Lab, and the Global Pandemic Policy Group.

During the most critical phase of the COVID-19 pandemic, AHF acted through the Institute by initiating the SARS-CoV-2 Genomic Sequencing Fund. AHF extended this grant opportunity to Faculty at Institutions of Higher Learning, Research, and Academic Institutions, with the aim to enhance research efforts and offer a distinct avenue for generating high-quality evidence concerning the rapidly proliferating variants worldwide. From 2021 to 2023, the Sequencing Fund has sponsored 15 projects in 14 different countries, playing a pivotal role in bolstering genomic sequencing capabilities across the globe, particularly in low-and middle-income countries.

Should you require more detailed briefings on any of the topics discussed above, please don't hesitate to contact our team at guilherme.faviero@ahf.org

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