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**TAXONOMY OF SUBSTANTIVE PROPOSALS FOR A  
NEW INSTRUMENT ON PANDEMIC PREVENTION,  
PREPAREDNESS AND RESPONSE**

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# TABLE OF CONTENTS

<b>EXECUTIVE SUMMARY</b>	<b>4</b>
<b>INTRODUCTION</b>	<b>5</b>
<b>SUBSTANTIVE PROPOSALS FROM WHO MEMBER STATES AND OTHER ENTITIES</b>	<b>6</b>
<b>A. METHODOLOGY OF THIS STUDY</b>	<b>6</b>
<b>B. LANDSCAPE OF EXISTING PROPOSALS</b>	<b>7</b>
1. Issues related to treaty design	8
2. Issues related to governance	10
3. Issues related to strengthening WHO authority	11
4. Issues related to preparedness, prevention and response	13
5. Issues related to the One-Health approach and zoonosis risk	16
6. Issues related to compliance, transparency and accountability	17
7. Issues related to equity, access and allocation	19
<b>CONCLUDING REMARKS</b>	<b>23</b>
<b>ANNEX I: STATEMENTS MENTIONING SUBSTANTIVE PROPOSALS</b>	<b>24</b>

# EXECUTIVE SUMMARY

The proposals for a new WHO “pandemic treaty” have been put forward since late 2020. In May 2021, however, the decision by the 74<sup>th</sup> World Health Assembly to consider the benefits of negotiating a new instrument on pandemic preparedness and response brought the discussions into WHO’s governance. Rather than broaching the possible subject matters that could benefit from inclusion in a new international instrument, the discussions at the Working Group established by the Assembly, and those that took place during the Assembly’s second special session, have mostly focused on the pros and cons of various legal instruments. Meanwhile, the Intergovernmental Negotiating Body established by the Assembly on 1 December 2021 will soon address the challenging task of drafting and negotiating a new instrument. In order to provide support to member states and other actors concerned, this paper contributes a taxonomy of the main substantive proposals raised by member states and the European Union before and during the second special session of the World Health Assembly.

The proposals, often formulated in the context of broader comments on the future of pandemic preparedness and response and the role of WHO in it, have been organized along the categories and sub-categories reflected in the table below. We have organized proposals into seven main categories for ease of reference and in attempt to ensure a measure of conceptual coherence. For each sub-category in the table, we identify the actors who mentioned them in their statements and proposals (see also: Annex I – Statements mentioning substantive proposals).

<b>Treaty design</b>	Complementarity with IHR (2005)	Framework convention	Guiding principles	Beyond legal dichotomy	Automatic trigger	Flexible implementation
<b>Governance</b>	Structure and governing bodies	Open participation	Secretariat	Other bodies		
<b>WHO strengthening</b>	WHO mandate & tools	WHO sustainable financing				
<b>Preparedness, prevention &amp; response</b>	Strong preventive measures & health systems capacity	Precautionary measures	PHEICPP alert	Cooperation Intra-States & Inter-States	Inter-Agency work	
<b>One-Health approach &amp; zoonotic diseases</b>	One-Health approach	Zoonosis risks & deep prevention	Inter-Agency work			
<b>Compliance, transparency &amp; accountability</b>	Transparency & disclosure	Accountability mechanism	Implementation & enforcement			
<b>Equity, access &amp; allocation</b>	Equity principle	Access & benefit-sharing	Financing & procurement mechanisms			

Table 1



# INTRODUCTION

At its Seventy-fourth session in May 2021, the World Health Assembly (WHA) requested<sup>1</sup> the Member States Working Group on Strengthening WHO Preparedness and Response to Health Emergencies<sup>2</sup> to examine the “benefits of developing a WHO convention, agreement or other international instrument on pandemic preparedness and response”, and submit its report to the second special session of the World Health Assembly.

At its second special session (29 November – 1 December 2021), the WHA established 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 its adoption under Article 19, or under other provisions of the WHO Constitution as may be deemed appropriate by the INB”.<sup>3</sup>

While the exact nature of the new instrument will have to be decided by the INB, this study aims to provide a comparative analysis of the various proposals put forward by WHO Member States individually or collectively, regional groups and the European Union (EU). The EU has been singled out for this study beyond Member States since it has published the most detailed set of proposals and because, in view of its status as a regional economic integration organization, it enjoys enhanced rights of participation in WHO’s governance and will participate in the work of the INB as appropriate. This choice is without prejudice to the fact that many other actors have taken positions and made proposals on the need for a new international instrument and its content. This includes in particular academic institutions and civil society organizations as well as the bodies recently established to review the international response to COVID-19 such as the Independent Panel on Pandemic Preparedness and Response.

Based on publicly available documents as well as public statements delivered by participating officials, we present an overview of the landscape of policy and legal priorities advanced by Member States and the EU in the context of the discussions in the run-up to and during the WHA special session itself.

As the process enters a more substantive phase with the establishment of the INB, this exercise will serve to map the recurrent issues and key priorities put forward as well as the aspects for which there seems to be wider support or alignment. Summarizing such aspects could provide the negotiators constructive background to chart the various positions and build consensus in the preparation and drafting of a new instrument.

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<sup>11</sup> World Health Organization. Decision WHA74(16). Available at: [https://apps.who.int/gb/ebwha/pdf\\_files/WHA74/A74\(16\)-en.pdf](https://apps.who.int/gb/ebwha/pdf_files/WHA74/A74(16)-en.pdf)

<sup>2</sup> Established by resolution WHA74.7. Available at: [https://apps.who.int/gb/ebwha/pdf\\_files/WHA74/A74\\_R7-en.pdf](https://apps.who.int/gb/ebwha/pdf_files/WHA74/A74_R7-en.pdf)

<sup>3</sup> World Health Assembly. Second Special Session. Decision SSA2(5) of 1 December 2021. “The World Together: Establishment of an intergovernmental negotiating body to strengthen pandemic prevention, preparedness and response”. Available at: [https://apps.who.int/gb/ebwha/pdf\\_files/WHASSA2/SSA2\(5\)-en.pdf](https://apps.who.int/gb/ebwha/pdf_files/WHASSA2/SSA2(5)-en.pdf)

# SUBSTANTIVE PROPOSALS FROM WHO MEMBER STATES AND OTHER ENTITIES

## A. METHODOLOGY OF THIS STUDY



Figure 1

This study focuses on seven key thematic issues (shown in figure 1) raised by the actors referred to above when discussing the possibility of negotiating a new international legal instrument on pandemic prevention, preparedness and response. We have based the taxonomy on publicly available documentation, including statements delivered by video or any other format. We will refer in particular to the following:

- i.) The statements delivered by Member States and regional groups at the WHA special session. Taking into account the possible divergences between the statements delivered orally and the submitted written documents, we based our presentation on the written statements available on the WHO website.<sup>4</sup>
- ii.) The Group of Friends of a Pandemic Treaty (GoF) Non-Paper 'Principal benefits of a new legally binding international instrument on pandemic preparedness and response';
- iii.) The Health Ministers (MOH) of Tunisia, Somalia and Oman article 'An international treaty for pandemic preparedness and response is an urgent necessity' published in the British Medical Journal (BMJ);<sup>5</sup>

<sup>4</sup> Available at : <https://apps.who.int/gb/statements/WHASSA2/>

<sup>5</sup> Available at: <https://blogs.bmj.com/bmj/2021/05/23/an-international-treaty-for-pandemic-preparedness-and-response-is-an-urgent-necessity/>

- iv.) The European Commission Services Reflection Paper “Agreement on pandemic preparedness and response: an initial blueprint”;
- v.) In addition, we refer to the elements raised by New Zealand in its Non-Paper ‘Legal principles and approaches for international pandemic prevention, preparedness and response’ while noting that it does not promote as such a new treaty but presents 6 principles that could be used as a basis for more detailed substantive provisions;
- vi.) Similarly, although it is only focused on targeted amendments to the International Health Regulations (2005), we include in footnotes references to the documents circulated by the United States of America when discussing the related thematic areas.

Finally, not all proposals and statements refer explicitly to a treaty or other instrument, but are sometimes formulated in general or unclear terms in this respect. We have included those proposals and statements that seemed to implicitly refer to an international instrument in light of their content, context and emphasis, but we cannot always be sure about the intent of their authors.

## B. LANDSCAPE OF EXISTING PROPOSALS

We have organized proposals into seven categories for ease of reference and in an attempt to ensure a measure of conceptual coherence. Those categories were further broken down in sub-categories of related proposals as shown graphically in the table below. Such categorization is in the spirit of a taxonomy but does not intend to be prescriptive and we acknowledge that other categorizations and groupings are possible.

Treaty design	Complementarity with IHR (2005)	Framework convention	Guiding principles	Beyond legal dichotomy	Automatic trigger	Flexible implementation
Governance	Structure and governing bodies	Open participation	Secretariat	Other bodies		
WHO strengthening	WHO mandate & tools	WHO sustainable financing				
Preparedness, prevention & response	Strong preventive measures & health systems capacity	Precautionary measures	PHEICPP alert	Cooperation Intra-States & Inter-States	Inter-Agency work	
One-Health approach & zoonotic diseases	One-Health approach	Zoonosis risks & deep prevention	Inter-Agency work			
Compliance, transparency & accountability	Transparency & disclosure	Accountability mechanism	Implementation & enforcement			
Equity, access & allocation	Equity principle	Access & benefit-sharing	Financing & procurement mechanisms			

Table 1

## 1. ISSUES RELATED TO TREATY DESIGN

- a. **Complementarity with IHR (2005):** According to the documents by the *MoH of Tunisia, Oman and Somalia*, the *GoF* and the *EU* a new treaty should serve as a bridge between existing international mechanisms; such a new agreement could complement IHR (2005)<sup>6</sup> and promote their implementation and compliance.<sup>7</sup> The complementarity between the IHR and the new instrument continued to be a priority in the statements delivered by WHO Member States (individually and collectively) and was reflected by the WHA in decision SSA2(5).<sup>8</sup>

At the WHA special session, this issue was raised by the African Member States in their regional statement (*AFRO members*),<sup>9</sup> the Eastern Mediterranean Region member states and territories (*EMRO members*),<sup>10</sup> as well as *Argentina*,<sup>11</sup> *Bulgaria*,<sup>12</sup> *El Salvador*,<sup>13</sup> *Lebanon*,<sup>14</sup> *Malaysia*,<sup>15</sup> *Mali*,<sup>16</sup> *Morocco*,<sup>17</sup> *Portugal*,<sup>18</sup> *Slovakia*,<sup>19</sup> *Spain*,<sup>20</sup> *Suriname*,<sup>21</sup> *the United States of America*,<sup>22</sup> *Uruguay*,<sup>23</sup> and *Zambia*.<sup>24</sup> In particular, *Mexico* underlined that the formulation of a new covenant should focus

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<sup>6</sup> Proposal suggested in GoF Non-Paper, p. 1 and the BMJ article by MoH of Tunisia, Oman and Somalia et al. Please note that the EU underlines that an overall revision of the IHR is “likely to require a protracted negotiation effort” and seems to warn against prioritizing such revision. See: EU Reflection Paper, p. 2

<sup>7</sup> Proposal suggested in GoF Non-Paper, p. 1 and the EU Reflection Paper p. 2. Please note that for the EU, the provisions of the new treaty could “lead to amendments and/or agreed interpretations of the IHR, as appropriate”. See: EU Reflection Paper p. 2. Regarding the IHR, please note that the United States of America proposes amending Article 59 to, inter alia, reduce the period of entry into force, for rejection or reservations to amendments to the Regulations, p. 3

<sup>8</sup> Notably, paragraph 1(4) of Decision SSA2(5) of 1 December 2021.

<sup>9</sup> WHO African Region member States. Regional Statement. (Hereafter, AFRO members). 29 November 2021. p. 1 and 3. Available at: <https://apps.who.int/gb/statements/WHASSA2/PDF/RegionalStatement1-2.pdf>

<sup>10</sup> WHO Eastern Mediterranean Region member states and territories. Regional Statement. (Hereafter, EMRO members). 29 November 2021. p. 1 Available at: <https://apps.who.int/gb/statements/WHASSA2/PDF/EMRO-2.pdf>

<sup>11</sup> Argentina. Written statement. 29 November 2021. p. 2. Available at: <https://apps.who.int/gb/statements/WHASSA2/PDF/Argentina-2.pdf>

<sup>12</sup> Bulgaria. Written statement. p. 1. Available at: <https://apps.who.int/gb/statements/WHASSA2/PDF/Bulgaria-2.pdf>

<sup>13</sup> El Salvador. Written statement. 30 November 2021. p. 1. Available at: <https://apps.who.int/gb/statements/WHASSA2/PDF/ElSalvador-2.pdf>

<sup>14</sup> Lebanon. Written statement. p. 1. Available at: <https://apps.who.int/gb/statements/WHASSA2/PDF/Lebanon-2.pdf>

<sup>15</sup> Malaysia. Written statement. 30 November 2021. p. 1. Available at: <https://apps.who.int/gb/statements/WHASSA2/PDF/Malaysia-2.pdf>

<sup>16</sup> Mali. Written statement. p. 1. Available at: <https://apps.who.int/gb/statements/WHASSA2/PDF/Mali-2.pdf>

<sup>17</sup> Morocco. Written statement. 29 November 2021. p. 1. Available at: <https://apps.who.int/gb/statements/WHASSA2/PDF/Morocco-2.pdf>

<sup>18</sup> Portugal. Written statement. 29 November 2021. p. 1 -2. Available at : <https://apps.who.int/gb/statements/WHASSA2/PDF/Portugal-2.pdf>

<sup>19</sup> Slovakia. Written statement. 29 November 2021. p. 1 -2. Available at : <https://apps.who.int/gb/statements/WHASSA2/PDF/Slovakia-2.pdf>

<sup>20</sup> Spain. Written statement. 29 November 2021. p. 2. Available at : <https://apps.who.int/gb/statements/WHASSA2/PDF/Spain.pdf>

<sup>21</sup> Suriname. Written statement. 30 November 2021. p. 1. Available at : <https://apps.who.int/gb/statements/WHASSA2/PDF/Suriname-2.pdf>

<sup>22</sup> United States of America. Written statement. 29 November 2021: “We’re also committed to working with Member States to take forward the recent recommendations of the Working Group on Preparedness and Response. That includes developing a new WHO convention, agreement, or other international instrument, and making targeted amendments to improve the effectiveness and agility of the International Health Regulations.”

<sup>23</sup> Uruguay. Written statement. 30 November 2021. p. 1-2. Available at : <https://apps.who.int/gb/statements/WHASSA2/PDF/Uruguay-2.pdf>

<sup>24</sup> Zambia. Written statement. 30 November 2021. p. 1-2. Available at : <https://apps.who.int/gb/statements/WHASSA2/PDF/Zambia-2.pdf>



on how to implement the existing agreements without undermining the sovereignty of States or creating new asymmetries between them.<sup>25</sup>

- b. **Framework convention** The *MoH of Tunisia, Oman and Somalia*, as well as the *EU*, advanced the idea of developing an agreement in the form of a framework convention that would contain general obligations and set up a governance structure in charge of furthering those obligations through subsequent instruments such as specialized protocols.<sup>26</sup>

During the discussions at the WHA special session, the question of the form of a future treaty was not discussed but reference to possible protocols was raised by *Kenya*.<sup>27</sup>

- c. **Guiding principles of substantive obligations:** The documents prepared by *New Zealand*, the *EU*, the *GoF*, as well as the *MoH of Tunisia, Oman and Somalia* underline the need to observe key values and general principles to guide the new instrument such as international solidarity, One-Health approach, accountability, transparency, equity, inclusiveness, ‘whole-of-government and whole-of-society approach’, and medical countermeasures as global public goods.<sup>28</sup> More concretely, the *EU* suggests that such guiding principles could be included in the preamble or the introductory section of the new treaty.<sup>29</sup>

At the WHA special session, the importance of observing key values and general principles during the negotiations and drafting of the new instrument was also raised by *AFRO members*,<sup>30</sup> Group of Southern African countries (*Southern African countries*),<sup>31</sup> South-East Asia region members (*SEARO members*),<sup>32</sup> *Argentina*,<sup>33</sup> *Botswana*,<sup>34</sup> *Cuba*,<sup>35</sup> *Haiti*,<sup>36</sup> *India*,<sup>37</sup> *Kenya*,<sup>38</sup> *Morocco*,<sup>39</sup> and *Portugal*.<sup>40</sup> In addition, the need to adopt a “whole-of-government and whole-of-society” approach was particularly

<sup>25</sup> Mexico. Written statement. p. 6. Available at: <https://apps.who.int/gb/statements/WHASSA2/PDF/Mexico-2.pdf>. Mexico also noted that “adding a binding agreement to the global governance framework introduces the risk of getting bogged down in a protracted discussion and making the same mistakes in the next emergency”.

<sup>26</sup> Proposal suggested in EU Reflection Paper, p. 2 et ss.

<sup>27</sup> Kenya. Written statement. 29 November 2021. p. 3. Available at:

<https://apps.who.int/gb/statements/WHASSA2/PDF/Kenya-2.pdf>

<sup>28</sup> The Proposals suggested by New Zealand. Non-paper: “Legal principles and approaches for international pandemic prevention, preparedness and response” (undated), p. 1 et ss.

These ideas are also reflected in the BMJ article by MoH of Tunisia, Oman and Somalia et al., the GoF Non-Paper, p. 1 -2, and the in the EU Reflection Paper, p. 4.

<sup>29</sup> Proposal suggested in EU Reflection Paper, p. 4 - 5

<sup>30</sup> AFRO members, p. 3

<sup>31</sup> Group of Southern African countries (Angola, Botswana, Eswatini, Lesotho, Malawi, Mozambique, Namibia, South Africa, Zambia, Zimbabwe.) Written statement. 29 November 2021. p. 1. Available at:

<https://docs.google.com/document/d/11G8iDEjmy44tZPGaOknyOms7pO03Zfmu6sfE9IMsGs/edit>

<sup>32</sup> South-East Asia region members (SEARO members). Written statement. 30 November 2021. p. 1-2. Available at:

<https://apps.who.int/gb/statements/WHASSA2/PDF/South-EastAsia-2.pdf>

<sup>33</sup> Argentina, p. 2

<sup>34</sup> Botswana. Written statement. 29 November 2021. p. 2. Available at:

<https://apps.who.int/gb/statements/WHASSA2/PDF/Botswana-2.pdf>

<sup>35</sup> Cuba. Written statement. 29 November 2021. p. 2. Available at: <https://apps.who.int/gb/statements/WHASSA2/PDF/Cuba-2.pdf>

<sup>36</sup> Haiti. Written statement. 30 November 2021. p. 1-2. Available at:

<https://apps.who.int/gb/statements/WHASSA2/PDF/Haiti-2.pdf>

<sup>37</sup> India. Written statement. 30 November 2021. p. 1. Available at:

<https://apps.who.int/gb/statements/WHASSA2/PDF/India-2.pdf>

<sup>38</sup> Kenya, p. 3

<sup>39</sup> Morocco, p. 2

<sup>40</sup> Portugal, p. 1 -2

emphasized by *AFRO members*,<sup>41</sup> *Argentina*,<sup>42</sup> *Chile*,<sup>43</sup> *Malaysia*,<sup>44</sup> *Maldives*,<sup>45</sup> *Portugal*,<sup>46</sup> *Spain*,<sup>47</sup> *Suriname*.<sup>48</sup>

- d. **Beyond legal dichotomy:** The proposal from the *EU* calls for rethinking the strict dichotomy between ‘hard’ and ‘soft’ law, and to consider, instead, the inclusion of a varied normativity comprising ‘soft law’ standards, guidelines, indicators, and political commitments or declarations.<sup>49</sup> The *EU* also proposes developing protocols and recommendations for voluntary sharing of scientific information as well as non-pharmaceutical non-medical interventions.<sup>50</sup>

During the WHA special session, *Mexico* underlined that the gaps and weaknesses of the current health architecture “are more related to political will than to the creation of new mechanisms whether they are binding or not”.<sup>51</sup>

- e. **Automatic trigger:** The *EU* also considered the applicability of some treaty provisions - mainly, in the areas of detection, reporting and response - that would be triggered as soon as a ‘public health emergency of international concern with pandemic potential’ (PHEICPP) is declared.<sup>52</sup>
- f. **Flexible implementation:** For the *EU*, the provisional application of the treaty and its protocols should be considered, as well as the provision of transitional periods to facilitate its implementation, notably in consideration of the capacities of low and lower-middle-income countries.<sup>53</sup>

## 2. ISSUES RELATED TO GOVERNANCE

- a. **Governing bodies:** The *GoF* and the *EU* suggested establishing a clear and independent architecture including the creation of a dedicated governing body in the form of a periodic Conference of the Parties (CoP).<sup>54</sup> The *GoF* proposes that the CoP would be “under the auspices of WHO”<sup>55</sup> and it would regularly review implementation progress and foster compliance.<sup>56</sup> For the *EU*, the CoP could also serve as the Meeting of the Parties (MoP) to the treaty’s protocols.<sup>57</sup>

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<sup>41</sup> AFRO members, p. 1.

<sup>42</sup> Argentina, p. 1-2

<sup>43</sup> Chile. Written statement. 29 November 2021. p. 1. Available at: <https://apps.who.int/gb/statements/WHASSA2/PDF/Chile-2.pdf>

<sup>44</sup> Malaysia, p. 2-3

<sup>45</sup> Maldives. Written statement. 29 November 2021. p. 2. Available at: <https://apps.who.int/gb/statements/WHASSA2/PDF/Maldives-2.pdf>

<sup>46</sup> Portugal, p. 2

<sup>47</sup> Spain, p. 3

<sup>48</sup> Suriname, p. 1

<sup>49</sup> Proposal suggested in EU Reflection Paper, p. 3, 10 and 11

<sup>50</sup> Ibidem, p. 7.

<sup>51</sup> Mexico, p. 6

<sup>52</sup> Proposal suggested in EU Reflection Paper, p. 4

<sup>53</sup> Proposal suggested in EU Reflection Paper, p. 3 and 12

<sup>54</sup> Proposal suggested in GoF Non-Paper, p. 1 and the EU, p. 8

<sup>55</sup> Proposal suggested in GoF Non-Paper, p. 1

<sup>56</sup> Proposal suggested in GoF Non-Paper, p. 1

<sup>57</sup> Proposal suggested in EU Reflection Paper, p. 8

At the WHA special session, statements by delegations did not refer clearly to the governance of the treaty. Morocco pointed the need to include provisions for an easy and appropriate decision-making and governance mechanism for better reactivity in the face of proven threats as well as timely support from other bodies when needed.<sup>58</sup>

- b. **Inclusive participation:** The *EU* proposed to adopt a flexible model to allow for the participation of all States as well as regional economic integration organizations in both the ‘base agreement’ and potential ‘specialized protocols’.<sup>59</sup> In addition, the *EU* advocated for the participation as observers of all States that are members of the United Nations, and for encouraging the participation of non-governmental stakeholders.<sup>60</sup>
- c. **Secretariat:** Although the proposals by the *EU* emphasize the need for a new independent body, it also considered the possibility of secretariat support provided by WHO to attain the objectives of the treaty and its protocols, and that appropriate assessed financial means should be made available to cover Secretariat costs.<sup>61</sup>
- d. **Other bodies:** Whereas the *GoF* considered the creation of thematic committees, councils and boards in a *standby mode* that could be convened as needed,<sup>62</sup> the *EU* considered the creation of new bodies “only where a clear need exists and no duplication is created”.<sup>63</sup>

### 3. ISSUES RELATED TO STRENGTHENING WHO AUTHORITY

- a. **WHO mandate and tools:** The proposals presented by the *GoF* and the *EU* envision the new treaty positioned under the WHO.<sup>64</sup> Furthermore, the *GoF* see the Organization as the center of the global health architecture for achieving its coherence and overcoming its current fragmentation.<sup>65</sup> The *EU* referred to enlarging the mandate of WHO to independently investigate and assess events through, *inter alia*, field visits to States Parties.<sup>66</sup> In addition, the *EU* proposed to reinforce the Organization’s mandate for coordination of emergency response as well as its mandate to support both national and regional core health system capacities, and to provide better tools for the fulfilment of its role at the national and local level.<sup>67</sup>

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<sup>58</sup> Morocco, p. 1-2

<sup>59</sup> Proposal suggested in EU Reflection Paper, p. 3

<sup>60</sup> Proposal suggested in EU Reflection Paper, p. 3 and p. 8

<sup>61</sup> Proposal suggested in EU Reflection Paper, p. 9

<sup>62</sup> Proposal suggested in GoF Non-Paper, p. 2

On this aspect, we note that the MoH of Tunisia, Oman and Somalia refer to a “global health workforce that could surge in support of countries”. BMJ article by MoH of Tunisia, Oman and Somalia et al.

<sup>63</sup> Proposal suggested in EU Reflection Paper, p. 9

Similarly, the EU argues for rationalizing and enhancing the role of existing expert and advisory bodies through their incorporation into the structure of the new treaty or by establishing institutional links with them. EU Reflection Paper, p. 9

<sup>64</sup> For the EU, the new treaty “could be adopted preferably pursuant to Article 19 of the WHO Constitution”. EU Reflection Paper, p. 4

For the MoH of Tunisia, Oman and Somalia, such a treaty would be “ideally rooted in the WHO constitution”. BMJ article by MoH of Tunisia, Oman and Somalia et al.

<sup>65</sup> Proposal suggested in GoF Non-Paper, p. 2

<sup>66</sup> Proposals from the EU Reflection Paper, p. 6 and 7

<sup>67</sup> Proposals from the EU Reflection Paper, p. 8 and p. 11

At the WHA special session, the proposals to strengthen the role of WHO as the leading authority of the global health architecture were raised by *AFRO members*,<sup>68</sup> Western Pacific region members (*WPRO members*),<sup>69</sup> *Southern African countries*,<sup>70</sup> *Azerbaijan*,<sup>71</sup> *Bulgaria*,<sup>72</sup> *Chile*,<sup>73</sup> *Cuba*,<sup>74</sup> *Fiji*,<sup>75</sup> *Haiti*,<sup>76</sup> *India*,<sup>77</sup> *Italy*,<sup>78</sup> *Kenya*,<sup>79</sup> *Lebanon*,<sup>80</sup> *Madagascar*,<sup>81</sup> *Maldives*,<sup>82</sup> *Morocco*,<sup>83</sup> *Niger*,<sup>84</sup> *Portugal*,<sup>85</sup> *Romania*,<sup>86</sup> *Slovakia*,<sup>87</sup> *Suriname*,<sup>88</sup> *Syrian Arab Republic*,<sup>89</sup> *the United States of America*,<sup>90</sup> *Uruguay*,<sup>91</sup> *Venezuela*,<sup>92</sup> and the *EU*.<sup>93</sup>

- b. **WHO sustainable financing:** At the WHA special session, several actors emphasized the urgency of ensuring sustainable financing for the Organization to fulfill its leading and coordinating role in global health governance. Among those actors are: AFRO members,<sup>94</sup> Bulgaria,<sup>95</sup> Lebanon,<sup>96</sup> Syrian Arab Republic,<sup>97</sup> and the EU.<sup>98</sup>

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<sup>68</sup> AFRO members, p. 3

<sup>69</sup> Western Pacific region members (WPRO members). Written statement. 29 November 2021. p. 2. Available at:

<https://apps.who.int/gb/statements/WHASSA2/PDF/WPRO-2.pdf>

<sup>70</sup> Southern African countries, p. 1

<sup>71</sup> Azerbaijan, p. 1

<sup>72</sup> Bulgaria, p. 1

<sup>73</sup> Chile, p. 1

<sup>74</sup> Cuba, p. 2

<sup>75</sup> Fiji. Written statement. 30 November 2021. p. 1. Available at: <https://apps.who.int/gb/statements/WHASSA2/PDF/Fiji-2.pdf>

<sup>76</sup> Haiti, p. 1

<sup>77</sup> India, p. 1

<sup>78</sup> Italy. Written statement. 29 November 2021. p. 1. Available at: <https://apps.who.int/gb/statements/WHASSA2/PDF/Italy-2.pdf>

<sup>79</sup> Kenya, p. 4

<sup>80</sup> Lebanon, p. 1

<sup>81</sup> Madagascar. Written statement. 30 November 2021. p. 1. Available at:

<https://apps.who.int/gb/statements/WHASSA2/PDF/Madagascar-2.pdf>

<sup>82</sup> Maldives, p. 4-5

<sup>83</sup> Morocco, p. 1-2

<sup>84</sup> Niger. Written statement. 30 November 2021. p. 3. Available at :

<https://apps.who.int/gb/statements/WHASSA2/PDF/Niger-2.pdf>

<sup>85</sup> Portugal, p. 1-2

<sup>86</sup> Romania. Written statement. 30 November 2021. p. 3. Available at :

<https://apps.who.int/gb/statements/WHASSA2/PDF/Romania-2.pdf>

<sup>87</sup> Slovakia, p. 1

<sup>88</sup> Suriname, p. 1

<sup>89</sup> Syrian Arab Republic. Written statement. 30 November 2021. p. 3. Available at :

<https://apps.who.int/gb/statements/WHASSA2/PDF/SyrianArabRepublic-2.pdf>

<sup>90</sup> United States of America, p. 2: "this Special Session is a chance to demonstrate our commitment to strengthen the WHO and advance global public health".

<sup>91</sup> Uruguay, p. 1

<sup>92</sup> Venezuela. Written statement. 29 November 2021. p. 1-2. Available at :

<https://apps.who.int/gb/statements/WHASSA2/PDF/Venezuela-2.pdf>

<sup>93</sup> European Union (EU). Written statement. 29 November 2021. p. 2. Available at:

<https://apps.who.int/gb/statements/WHASSA2/PDF/EU-2.pdf>

<sup>94</sup> AFRO members, p. 1

<sup>95</sup> Bulgaria, p. 1

<sup>96</sup> Lebanon, p. 1

<sup>97</sup> Syrian Arab Republic. p. 2-3.

<sup>98</sup> EU, p. 2

#### 4. ISSUES RELATED TO PREPAREDNESS, PREVENTION AND RESPONSE

- a. **Strong preventive measures and health systems capacity:** The documents drafted by *New Zealand*, the *MoH of Tunisia*, *Oman* and *Somalia*, the *GoF*, and the *EU* promote the inclusion of provisions aimed at reinforcing national, regional and global pandemic prevention, preparedness and responses<sup>99</sup> to halt cycles of ‘panic and neglect’.<sup>100</sup> In this line, the proposals underscore the need for:
- i. Robust, resilient and inclusive health systems to strengthen national, regional, and global capacities to face future pandemics by adopting an all-of-government and all-of-society approach,<sup>101</sup>
  - ii. Adequate and coherent measures<sup>102</sup> to prevent transboundary harm, contain pandemic outbreaks and avoid the spread of infectious diseases;<sup>103</sup> and
  - iii. Provisions aimed at enhancing laboratory biosecurity and biosafety<sup>104</sup> as well as preventing pathogens resistant to antimicrobial agents.<sup>105</sup>

At the WHA special session, the requirement for strengthening health systems capacity was raised by *AFRO members*,<sup>106</sup> *SEARO members*,<sup>107</sup> *WPRO members*,<sup>108</sup> *Argentina*,<sup>109</sup> *Azerbaijan*,<sup>110</sup> *Belgium*,<sup>111</sup> *Chile*,<sup>112</sup> *Cuba*,<sup>113</sup> *El Salvador*,<sup>114</sup> *Fiji*,<sup>115</sup> *Guatemala*,<sup>116</sup> *Haiti*,<sup>117</sup> *India*,<sup>118</sup> *Italy*,<sup>119</sup> *Kenya*,<sup>120</sup> *Lebanon*,<sup>121</sup> *Madagascar*,<sup>122</sup> *Malaysia*,<sup>123</sup> *Maldives*,<sup>124</sup> *Mali*,<sup>125</sup> *Mexico*,<sup>126</sup> *Morocco*,<sup>127</sup> *Niger*,<sup>128</sup>

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<sup>99</sup> Proposal suggested in *New Zealand Non-paper*, p.2; *GoF Non-Paper*, p. 1; BMJ article by *MoH of Tunisia, Oman and Somalia et al.*; and the *EU Reflection Paper*, p. 1

<sup>100</sup> Proposal suggested in *GoF Non-Paper*, p. 1

<sup>101</sup> Proposal suggested in *GoF Non-Paper*, p. 2 and the BMJ article by *MoH of Tunisia, Oman and Somalia et al.*

<sup>102</sup> The Proposals suggested by *New Zealand* refer to “a rational relationship between method/measures chosen to respond to health risks and the objectives that the measure is intended to achieve.” *New Zealand Non-paper*, p. 3

<sup>103</sup> Proposal suggested in *New Zealand Non-paper*, p. 2

<sup>104</sup> Proposals suggested in the *EU Reflection Paper*, p. 5

<sup>105</sup> Proposals suggested in the *EU Reflection Paper*, p. 6

<sup>106</sup> *AFRO members*, p. 2

<sup>107</sup> *SEARO members*, p. 2

<sup>108</sup> *WPRO members*, p. 1

<sup>109</sup> *Argentina*, p. 1

<sup>110</sup> *Azerbaijan*. Written statement. 30 November 2021. p. 1. Available at:

<https://apps.who.int/gb/statements/WHASSA2/PDF/Azerbaijan-2.pdf>

<sup>111</sup> *Belgium*. Written statement. 29 November 2021. p. 1. Available at:

<https://apps.who.int/gb/statements/WHASSA2/PDF/Belgium-2.pdf>

<sup>112</sup> *Chile*, p. 1

<sup>113</sup> *Cuba*, p. 2

<sup>114</sup> *El Salvador*, p. 1

<sup>115</sup> *Fiji*, p. 1 -2

<sup>116</sup> *Guatemala*. Written statement. 30 November 2021. p. 1. Available at:

<https://apps.who.int/gb/statements/WHASSA2/PDF/Guatemala-2.pdf>

<sup>117</sup> *Haiti*, p. 2

<sup>118</sup> *India*, p. 1

<sup>119</sup> *Italy*, p. 1

<sup>120</sup> *Kenya*, p. 2

<sup>121</sup> *Lebanon*, p. 1

<sup>122</sup> *Madagascar*, p. 2

<sup>123</sup> *Malaysia*, p. 1

<sup>124</sup> *Maldives*, p. 2 -3

<sup>125</sup> *Mali*, p. 1-2

<sup>126</sup> *Mexico*, p. 2

<sup>127</sup> *Morocco*, p. 2

<sup>128</sup> *Niger*, p. 4-5



Portugal,<sup>129</sup> Romania,<sup>130</sup> Suriname,<sup>131</sup> Syrian Arab Republic,<sup>132</sup> and Uruguay.<sup>133</sup> Notably, Slovakia emphasized the need for science and evidence-based approaches<sup>134</sup>. Similarly, the *Southern African Countries* underlined the importance of “risk- based and scientific approach” and “informed evidence-based decisions”.<sup>135</sup>

- b. **Precautionary measures:** A particular question is how to assess the public health measures to adopt in case of scientific uncertainty and competing factors. For *New Zealand*, based on the precautionary principle, it would be “legitimate to take precautionary measures when the science and outcomes are uncertain in order to minimize or prevent the spread of infection and keep more options open for the future”.<sup>136</sup> Such rationale would be similarly applicable to the policy-making and decision-making processes of individual States and international organizations and would be particularly relevant in cases of novel pathogens.<sup>137</sup>
- c. **Levels of alert:** Although several voices have stressed the need for including other levels of health alert (particularly, an intermediate level) in a new treaty, only<sup>138</sup> the document drafted by the *EU* presents the concept of public health emergency of pandemic potential (PHEICPP) and suggests to establish a clear predictable procedure for its declaration,<sup>139</sup> which departs from the format of the PHEIC declaration under the IHR. In particular, the authority to declare a PHEICPP would be vested in a group of independent international experts (instead of WHO-DG, although it would be possible to have the WHO-DG chair the group and include the executive heads of relevant UN bodies).<sup>140</sup> Related to this point, the *EU* also highlighted the importance of defining key concepts such as ‘pandemic’ and ‘pandemic threats’.<sup>141</sup>
- d. **Cooperation Intra-States and Inter-States:** Besides underlining efforts at the regional and global levels, *New Zealand* highlighted the importance of internal actions within each country, and the cooperation between countries, including to avoid the obstruction of access to essential equipment and goods, and to support the financial capacities of developing countries.<sup>142</sup> Similarly, *GoF* highlighted the need for a cross-sectoral approach between the various national ministries,<sup>143</sup> and

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<sup>129</sup> Portugal, p. 1-2

<sup>130</sup> Romania, p. 1

<sup>131</sup> Suriname, p. 1

<sup>132</sup> Syrian Arab Republic, p. 2- 3

<sup>133</sup> Uruguay, p. 1

<sup>134</sup> Slovakia, p. 1

<sup>135</sup> Southern African Countries, p. 3-4

<sup>136</sup> Proposal suggested in New Zealand Non-paper, p. 3

<sup>137</sup> Proposal suggested in New Zealand Non-paper, p. 4. However, the United States underlines the importance of “science-based coordination to ensure evidence-based decision-making processes across government ministries.” See: the proposals from the United States of America for amending Article 12 of the IHR and in the preamble of its draft resolution.

<sup>138</sup> For instance, the United States of America proposes to, inter alia, amend Article 12 of the IHR to include such an intermediate level of alert or one for “public health emergency of regional concern” (PHERC), p. 2

<sup>139</sup> Proposal suggested in EU Reflection Paper, p. 4

<sup>140</sup> Proposal suggested in the EU Reflection Paper, p. 4 and footnote 10

<sup>141</sup> For the EU, “The definition of ‘pandemic threats’ would be important to establish the scope of the agreement. A possible definition of threat could rely on guidelines defining events and situations, which can cause or threaten to cause a public health emergency of international concern with serious and lasting impact on the public health of the PA Parties.” EU Reflection Paper, p. 4

<sup>142</sup> Proposal suggested in New Zealand Non-paper, p. 2 and the GoF Non-Paper, p. 2

<sup>143</sup> Proposal suggested in the GoF Non-Paper, p. 1

remarked the importance of harmonious, coherent cross-sectoral approach as the policies adopted by, inter alia, ministries of transport, trade and finance can affect the policies adopted by health ministries.<sup>144</sup> Furthermore, the *GoF* pointed to the need to include in the new treaty provisions that reflect mechanisms, principles, initiatives and measures adopted by Member States to strengthen pandemic preparedness and response.<sup>145</sup>

At the WHA special session, the importance of coherent actions within and cooperation between countries was highlighted by *SEARO members*,<sup>146</sup> *Azerbaijan*,<sup>147</sup> *Belgium*,<sup>148</sup> *Cuba*,<sup>149</sup> *Guatemala*,<sup>150</sup> *India*,<sup>151</sup> *Italy*,<sup>152</sup> *Kenya*,<sup>153</sup> *Madagascar*,<sup>154</sup> *Maldives*,<sup>155</sup> *Mexico*,<sup>156</sup> *Niger*,<sup>157</sup> *Slovakia*,<sup>158</sup> *Uruguay*,<sup>159</sup> and *Venezuela*.<sup>160</sup>

- e. **Inter-Agency work:** The *GoF* and the *EU* stressed the need for provisions aimed at cross-sectoral coherence of the multilateral system at the global and regional levels<sup>161</sup> for the effective coordination and collaboration of the concerned international organizations (e.g. FAO, OIE, UNEP, ILO, IOM, IMO, ICAO, WTO and WIPO).<sup>162</sup>

Similarly, at the WHA special session the need for provisions aimed at cross-sectoral approached beyond health was emphasized by *Argentina*,<sup>163</sup> *Azerbaijan*,<sup>164</sup> *Chile*,<sup>165</sup> *Guatemala*,<sup>166</sup> *Mexico*,<sup>167</sup> *Niger*,<sup>168</sup> and *Spain*.<sup>169</sup>

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<sup>144</sup> Proposal suggested in the *GoF* Non-Paper, p. 1

<sup>145</sup> Proposal suggested in the *GoF* Non-Paper, p. 2. Please note that the BMJ article by MoH of Tunisia, Oman and Somalia et al. highlights as the example of the public health measure adopted by the Kingdom of Saudi Arabia to restrict Hajj pilgrimage and cancel the Umrah pilgrimage during the Covid-19 pandemic.

<sup>146</sup> *SEARO* members, p. 2

<sup>147</sup> *Azerbaijan*, p. 1

<sup>148</sup> *Belgium*, p. 1

<sup>149</sup> *Cuba*, p. 2

<sup>150</sup> *Guatemala*, p. 1

<sup>151</sup> *India*, p. 1

<sup>152</sup> *Italy*, p. 1

<sup>153</sup> *Kenya*, p. 4

<sup>154</sup> *Madagascar*, p. 2

<sup>155</sup> *Maldives*, p. 2 -4

<sup>156</sup> *Mexico*, p. 3

<sup>157</sup> *Niger*, p. 4

<sup>158</sup> *Slovakia*, p. 1

<sup>159</sup> *Uruguay*, p. 1

<sup>160</sup> *Venezuela*, p 2-3

<sup>161</sup> Proposal suggested in the *GoF* Non-Paper, p. 1

<sup>162</sup> Proposal suggested in the *GoF* Non-Paper, p. 1 and also from the *EU* Reflection Paper, p. 8-9

Please note that the *EU* also includes the *UNESCO* (for the education role in pandemic prevention); and separately the *UN Framework Convention on Climate Change/Intergovernmental Panel on Climate Change* (for climate-induced diseases); the *CITES* and the *CBD* (for reducing the risk of zoonosis). *EU* Reflection Paper, p.9

<sup>163</sup> *Argentina*, p. 1-2

<sup>164</sup> *Azerbaijan*, p. 1

<sup>165</sup> *Chile*, p. 1

<sup>166</sup> *Guatemala*, p. 1

<sup>167</sup> *Mexico*, p. 3

<sup>168</sup> *Niger*, p. 3-4

<sup>169</sup> *Spain*, p. 3

## 5. ISSUES RELATED TO THE ONE-HEALTH APPROACH AND ZOOONOSIS RISK

- a. **One-Health approach:** A common demand from *New Zealand*, the *GoF* and the *EU* has been the adoption of a cross-sectoral perspective accounting for the animal-human-environment interface<sup>170</sup> requiring an integrated approach at the national and international levels<sup>171</sup> to increase knowledge of public health threats<sup>172</sup> and effective One-Health National Action Plans.<sup>173</sup>

During the WHA special session, the importance of including in the new instrument provisions related to the One-health approach and animal-human-environment interface was raised by *WPRO members*,<sup>174</sup> *Belgium*,<sup>175</sup> *India*,<sup>176</sup> *Lebanon*,<sup>177</sup> *Mexico*,<sup>178</sup> *Morocco*,<sup>179</sup> *Spain*,<sup>180</sup> and the *EU*.<sup>181</sup>

- b. **Zoonosis risks and deep prevention:** Another common issue raised by *New Zealand*, the *GoF* and the *EU* was the risks posed by the animals, humans and environment interface. *New Zealand* has emphasized the importance of adopting upstream preventive measures<sup>182</sup> to enhance the surveillance capacity to promptly identify and notify risks. On this aspect, *New Zealand*, the *GoF* and the *EU* have emphasized the need to facilitate the flow of information and data.<sup>183</sup> In particular, whereas the *GoF* suggested furthering of partnerships across sectors and the promotion of specific countermeasures,<sup>184</sup> the *EU* stressed the importance of regulating wild and live domestic animal markets as well as illicit wildlife traffic and wet markets.<sup>185</sup>

At the WHA special session, the importance of including provisions on robust preventive measures, prompt detection and notification of risks was highlighted by *Belgium*,<sup>186</sup> *Botswana*,<sup>187</sup> *Fiji*,<sup>188</sup> *India*,<sup>189</sup> *Kenya*,<sup>190</sup> *Spain*,<sup>191</sup> and *Suriname*.<sup>192</sup>

- c. **Inter-Agency work:** The documents drafted by *New Zealand*, the *GoF* and the *EU* stressed the need of coordination and collaboration between international organizations dealing with human health, animal health and environment; enhancing the timely flow of information, and ensure that States

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<sup>170</sup> Proposals suggested in *New Zealand Non-paper*, p. 1; the *GoF Non-Paper*, p. 2; the *EU Reflection Paper*, p. 4

<sup>171</sup> Proposals suggested in *New Zealand Non-paper*, p. 1

<sup>172</sup> Proposal suggested in the *EU Reflection Paper*, p. 5

<sup>173</sup> Proposal suggested in the *EU Reflection Paper*, p. 6

<sup>174</sup> *WPRO members*, p. 2

<sup>175</sup> *Belgium*, p. 1

<sup>176</sup> *India*, p. 1

<sup>177</sup> *Lebanon*, p. 1

<sup>178</sup> *Mexico*, p. 2

<sup>179</sup> *Morocco*, p. 2

<sup>180</sup> *Spain*, p. 3

<sup>181</sup> *EU*, p. 3

<sup>182</sup> Proposals suggested in *New Zealand Non-paper*, p. 1

<sup>183</sup> Proposal suggested in *New Zealand Non-paper*, p. 1; *GoF Non-Paper* p. 2; *BMJ* article by MoH of Tunisia, Oman and Somalia et al.; and *EU Reflection Paper*, p. 5

<sup>184</sup> Proposal suggested in the *GoF Non-Paper*, p. 2

<sup>185</sup> Proposal suggested in the *EU Reflection Paper*, p. 5

<sup>186</sup> *Belgium*, p. 1

<sup>187</sup> *Botswana*, p. 3-4

<sup>188</sup> *Fiji*, p. 2

<sup>189</sup> *India*, p. 1

<sup>190</sup> *Kenya*, p. 2

<sup>191</sup> *Spain*, p. 3

<sup>192</sup> *Suriname*, p. 1

coordinate their positions within relevant UN system agencies and international institutions (e.g. WHO, FAO, OIE, UNEP) so their actions are coherent and consistent.<sup>193</sup>

Similarly, at the WHA special session, the importance of cross-sectoral approaches to the work of authorities in health-related areas was highlighted by *WPRO members*,<sup>194</sup> *Guatemala*,<sup>195</sup> and *Mexico* although they did not mention the work of the concerned international organizations.<sup>196</sup>

## 6. ISSUES RELATED TO COMPLIANCE, TRANSPARENCY AND ACCOUNTABILITY

- a. **Transparency and disclosure:** All the documents reviewed in this taxonomy refer to an overarching need for timely and free flow of information on health risks and emerging pathogens.<sup>197</sup> In particular, *New Zealand* and the *EU* suggested that a new treaty could provide a comprehensive framework on surveillance and monitoring data, genetic and pathogens data, including provisions aimed at the prompt sharing of information on health risk, outbreaks, and emerging pathogens.<sup>198</sup> Moreover, the *EU* proposed universally accessible sample collection capacities (repositories) and “equitable pathogen sample sharing”.<sup>199</sup>

At the WHA special session, *Kenya* proposed as a priority element the “[e]stablishment of mechanisms for timely sharing of information”<sup>200</sup>. Similar concerns were raised by the *Syrian Arab Republic*.<sup>201</sup> Notably, *Zambia* proposed providing for “technology innovation such as digital contact tracing, predictive modelling, vaccination tracking and public health surveillance tools”.<sup>202</sup> In addition, regarding the commitment to notify and disclose information, *Botswana* expressed concerns vis-à-vis travel restrictions and discriminatory policies.<sup>203</sup> The *Southern African countries* also referred to discriminatory “unjustified travel bans” and underlined that “[d]etecting and reporting of cases first, does not necessarily equate to origin”. They “called for the COVID-19 response to be grounded in scientific [sic], following transparent reporting”<sup>204</sup> and that “the ability [...] to identify the variant early due to live or active surveillance in place should not be met with punitive measures such as travel bans; rather rewarded with support and solidarity”<sup>205</sup>. Such aspects were similarly raised by *South*

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<sup>193</sup> Proposals suggested in New Zealand Non-paper, p. 1; GoF, p.1-2; and the EU Reflection Paper p. 5

<sup>194</sup> WPRO members, p. 2

<sup>195</sup> Guatemala. Written statement. 30 November 2021. p. 1. Available at:

<https://apps.who.int/gb/statements/WHASSA2/PDF/Guatemala-2.pdf>

<sup>196</sup> Mexico, p. 3

<sup>197</sup> New Zealand Non-paper, GoF Non-Paper, the EU Reflection Paper, the BMJ article by MoH of Tunisia, Oman and Somalia et al. as well as the IHR amendments proposals from the United States of America.

<sup>198</sup> Proposals suggested in New Zealand Non-paper, p. 3 and the EU Reflection Paper, p. 6

<sup>199</sup> Proposals suggested in the EU Reflection Paper, p. 5

<sup>200</sup> Kenya, p. 4

<sup>201</sup> Syrian Arab Republic, p. 2-3

<sup>202</sup> Zambia, p. 2

<sup>203</sup> Botswana, p. 3-4

<sup>204</sup> Southern African countries, p. 2

<sup>205</sup> Southern African countries, p. 3

*Africa*,<sup>206</sup> for whom the “new legally binding international instrument on pandemic prevention, preparedness and response will address such critical matters.”<sup>207</sup>

- b. **Accountability mechanism:** while the issue of accountability was referred to tangentially by other actors, the *GoF* and the *EU* proposed some structures that could serve to provide accountability of the parties involved.<sup>208</sup> Whereas the *GoF* suggested creating a periodic CoP “to review progress against improvements”,<sup>209</sup> the *EU* proposed a periodic peer review<sup>210</sup> - inspired by examples in other areas such as the Human Rights Council’s Universal Periodic Review - strengthen the role of WHO Contact Points, National and Regional Focal Points;<sup>211</sup> and create a specialized “oversight authority”.<sup>212</sup>

At the WHA special session, without referring to a “mechanism” as such, the need to provide for accountability was mentioned by the *Maldives* when saying that “it is indeed critical [...] that a new and more robust and effective international agreement ... not only strengthens current systems, but also brings in global commitment, accountability, and predictable readily available resources”.<sup>213</sup>

- c. **Implementation and enforcement:** Although other texts refer to the problem of lack of compliance and inadequate implementation of legal provisions,<sup>214</sup> only the *EU* suggested the possibility to sanction an infringement of “an identified set of key obligations by a PA Party [...] with the denial of benefits by the other PA Parties”.<sup>215</sup> The *EU* does not elaborate any further on what such “set of key obligations” and what be the “denial of benefits” would mean.<sup>216</sup>

At the WHA special session, the requirement of compliance and adequate implementation was tangentially referred to by several actors.<sup>217</sup> For instance, *Morocco* urged for the inclusion in the text of the new instrument of provisions on objective and reliable evaluation mechanisms,<sup>218</sup> and *Zambia*

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<sup>206</sup> South Africa. Written statement. 29 November 2021. p. 2. Available at:

<https://apps.who.int/gb/statements/WHASSA2/PDF/SouthAfrica-2.pdf>

Please note that South Africa said that it “regret the efforts to ascribe the variant to certain countries as these countries are in turn committed to upholding the principles of transparency, and sharing of health information and data within the framework of multilateralism.”

<sup>207</sup> South Africa, p. 2

<sup>208</sup> On the issue of accountability, we also note the proposals for amending articles 11 and 12 of the IHR suggested by the United States of America, p. 1 and 2

<sup>209</sup> Proposal suggested in the *GoF* Non-Paper, p. 1

<sup>210</sup> Proposals suggested in the *EU* Reflection Paper, p. 10

<sup>211</sup> Proposals suggested in the *EU* Reflection Paper, p. 10

<sup>212</sup> Proposals suggested in the *EU* Reflection Paper, p. 11

<sup>213</sup> *Maldives*, p. 5

<sup>214</sup> For instance, the MoH of Tunisia, Oman and Somalia point that the “weak implementation of existing international laws, have dangerously hindered the containment of the ongoing pandemic”. BMJ article by MoH of Tunisia, Oman and Somalia et al.

<sup>215</sup> Proposals suggested in the *EU* Reflection Paper, p. 11

<sup>216</sup> Please note the reports by journals according to which Germany’s Health Minister Jens Spahn proposed the imposition of sanctions. See: <https://healthpolicy-watch.news/pandemic-treaty-us-proposes-amending-international-health-regulations-and-civil-society-excluded-from-negotiations/>.

See also: <https://www.politico.eu/article/who-berlin-float-sanctions-if-countries-suppress-information-on-pandemics/>. See also: Conversation with Minister Spahn, led by Professor Suerie Moon, and Professor Ilona Kickbusch on 15 July 2021. Graduate Institute. <https://www.graduateinstitute.ch/Event-KAS>

<sup>217</sup> For instance, Slovakia underlined that a “comprehensive and legally binding instrument [...] would also enhance the potential for greater sustained attention and compliance.” p. 1

<sup>218</sup> *Morocco*, p. 2



urged for “an implementation mechanism” defining and differentiating the applicability of the new instruments vis-à-vis the IHR.<sup>219</sup>

## 7. ISSUES RELATED TO EQUITY, ACCESS AND ALLOCATION

- a. **Equity principle:** for *New Zealand* and the *GoF*, the importance of this principle should be stressed at all levels and for all aspects of the efforts towards successful pandemic prevention, preparedness and response.<sup>220</sup>

During the WHA special session, the relevance of this principle at all levels and for all aspects of the efforts towards successful pandemic prevention, preparedness and response was stressed by *AFRO members* (“as a guiding principle and outcome, or the acceleration of progress towards universal health coverage” -UHC-),<sup>221</sup> *EMRO members*,<sup>222</sup> *WPRO members*,<sup>223</sup> *Southern African countries*,<sup>224</sup> *SEARO members*,<sup>225</sup> *Argentina*,<sup>226</sup> *Azerbaijan*,<sup>227</sup> *Belgium* (also emphasizing the need for UHC),<sup>228</sup> *Botswana*,<sup>229</sup> *Chile*,<sup>230</sup> *Cuba*,<sup>231</sup> *El Salvador*,<sup>232</sup> *Haiti*,<sup>233</sup> *India*,<sup>234</sup> *Kenya*,<sup>235</sup> *Lebanon*,<sup>236</sup> *Madagascar*,<sup>237</sup> *Malaysia* (also referring to UHC),<sup>238</sup> *Maldives*,<sup>239</sup> *Mali*,<sup>240</sup> *Mexico*,<sup>241</sup> *Slovakia*,<sup>242</sup> *Suriname* (also referring to UHC),<sup>243</sup> *the United States of America*,<sup>244</sup> *Venezuela*,<sup>245</sup> and the *EU*.<sup>246</sup>

- b. **Access to countermeasures, pathogen and benefit-sharing:** *New Zealand*, *MoH of Tunisia*, *Oman* and *Somalia*, the *GoF* and the *EU* highlighted the importance of equity in the areas of research and

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<sup>219</sup> Zambia, p. 2

<sup>220</sup> Proposals suggested in *New Zealand Non-paper*, p. 1-2 and the *GoF Non-Paper*, p. 1

<sup>221</sup> *AFRO members*, p. 2

<sup>222</sup> *EMRO members*, p. 2

<sup>223</sup> *WPRO members*, p. 2

<sup>224</sup> *Southern African countries*, p. 1

<sup>225</sup> *SEARO members*, p. 1

<sup>226</sup> *Argentina*, p. 2

<sup>227</sup> *Azerbaijan*, p. 1

<sup>228</sup> *Belgium*, p. 1

<sup>229</sup> *Botswana*, p. 2

<sup>230</sup> *Chile*, p. 1

<sup>231</sup> *Cuba*, p. 2

<sup>232</sup> *El Salvador*, p. 1

<sup>233</sup> *Haiti*, p. 2

<sup>234</sup> *India*, p. 1

<sup>235</sup> *Kenya*, p. 3

<sup>236</sup> *Lebanon*, p. 1

<sup>237</sup> *Madagascar*, p. 2

<sup>238</sup> *Malaysia*, p. 2

<sup>239</sup> *Maldives*, p. 3-4

<sup>240</sup> *Mali*, p. 1

<sup>241</sup> *Mexico*, p. 2

<sup>242</sup> *Slovakia*, p. 1

<sup>243</sup> *Suriname*, p. 1

<sup>244</sup> *The United States of America*, p. 1

<sup>245</sup> *Venezuela*, p. 4

<sup>246</sup> *EU*, p. 3

development, surveillance and early warning, the adoption of public health measures as well as the development of globally accessible medical countermeasures.<sup>247</sup>

The *EU* made extensive proposals<sup>248</sup> which, in essence, aimed at the following:

- i. Facilitate the availability, access to, and affordability of, medical countermeasures and incentives for regional manufacturing capacities;
- ii. Facilitate the identification of geographical needs and gaps;
- iii. Facilitate mutual recognition and/or equivalence protocols for emergency use and transport of essential medical products;
- iv. “Coordination of, and support to, research, development and innovation, including at regional level, including genomic sequencing capacities”;<sup>249</sup>
- v. “Development of protocols and recommendations for voluntary sharing of scientific findings, surveillance and diagnostic data, research results and samples”;<sup>250</sup>
- vi. “Development of protocols and recommendations for non-pharmaceutical, non-medical interventions”;<sup>251</sup>
- vii. Promote the reduction of trade barriers on critical products;

Regarding the issue of trade barriers, *New Zealand* highlighted that the Committee on Economic, Social and Cultural Rights outlined the obligations that “states parties to the UN Covenant have to other states in combatting COVID-19 including avoiding the obstruction of access to essential equipment, ensuring free flow of necessary goods, and alleviating financial burdens on developing countries.”<sup>252</sup>

At the WHA special session, proposals for developing globally accessible medical countermeasures, facilitate their local production and technology transfer were raised by *AFRO members*,<sup>253</sup> *EMRO members*,<sup>254</sup> *SEARO members*,<sup>255</sup> *Argentina*,<sup>256</sup> *Belgium* (also emphasizing the need for UHC),<sup>257</sup> *Botswana*,<sup>258</sup> *Chile*,<sup>259</sup> *Cuba*,<sup>260</sup> *El Salvador*,<sup>261</sup> *Haiti* (also emphasizing UHC),<sup>262</sup> *India*,<sup>263</sup> *Kenya* (notably, referring to “countermeasures as global public goods”),<sup>264</sup> *Lebanon*,<sup>265</sup> *Madagascar*,<sup>266</sup>

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<sup>247</sup> Proposals suggested in *New Zealand Non-paper*, p. 2; the BMJ article by MoH of Tunisia, Oman and Somalia et al.; the *GoF Non-Paper*, p. 2; and the *EU Reflection Paper*, p. 7

<sup>248</sup> Proposals suggested in the *EU Reflection Paper*, p. 7 and 8

<sup>249</sup> Proposals suggested in the *EU Reflection Paper*, p. 7

<sup>250</sup> Proposals suggested in the *EU Reflection Paper*, p. 7

<sup>251</sup> Proposals suggested in the *EU Reflection Paper*, p. 7

<sup>252</sup> *New Zealand Non-Paper* p. 2

<sup>253</sup> *AFRO members*, p. 2

<sup>254</sup> *EMRO members*, p. 2

<sup>255</sup> *SEARO members*, p. 2

<sup>256</sup> *Argentina*, p. 1

<sup>257</sup> *Belgium*, p. 1

<sup>258</sup> *Botswana*, p. 2

<sup>259</sup> *Chile*, p. 1

<sup>260</sup> *Cuba*, p. 2

<sup>261</sup> *El Salvador*, p. 1

<sup>262</sup> *Haiti*. Written statement. 30 November 2021. p. 1. Available at: <https://apps.who.int/gb/statements/WHASSA2/PDF/Haiti-2.pdf>

<sup>263</sup> *India*, p. 1

<sup>264</sup> *Kenya*, p. 3

<sup>265</sup> *Lebanon*, p. 1

<sup>266</sup> *Madagascar*, p. 2

Malaysia,<sup>267</sup> Mali,<sup>268</sup> Mexico,<sup>269</sup> Morocco,<sup>270</sup> Niger,<sup>271</sup> Romania,<sup>272</sup> South Africa,<sup>273</sup> Spain,<sup>274</sup> Suriname,<sup>275</sup> Syrian Arab Republic,<sup>276</sup> Uganda,<sup>277</sup> Venezuela (also referring to countermeasures as global public goods),<sup>278</sup> and the EU.<sup>279</sup>

- c. **Financing and procurement mechanisms:** Regarding the question of financial mobilization, the GoF highlighted that a new treaty “could codify and streamline the mechanisms, initiatives and principles Member States are developing to strengthen pandemic preparedness and response, including in relation to financial mobilization, in particular to support capacities in low and middle income countries”.<sup>280</sup> Similarly, the *MoH of Tunisia, Oman and Somalia* highlighted the potential contribution of a treaty to mobilize both “political and financial commitments from the highest levels of government”.

For its part, the *EU* stressed the need to provide “financial support, technical assistance and capacity building for low and lower middle income countries”<sup>281</sup> as well as accounting for “specific assistance initiatives for upper- middle-income countries in need”.<sup>282</sup> The *EU* also proposed to modify the character of ACT-A “into a permanent multi-stakeholder platform for end-to-end emergency procurement and delivery for vaccines, diagnostics, therapeutics and other essential supplies”;<sup>283</sup> to streamline financing mechanisms (including WHO’s Contingency Funds for Emergencies, World Bank’s Pandemic Emergency Facility, and public/private initiatives such as CEPI and GAVI);<sup>284</sup> and to create a “cooperative framework across major donors ... and the private sector” as well as “an international pandemic financing facility to support both long-term and emergency interventions.”<sup>285</sup>

At the WHA special session, *Angola* referred to COVAX as “the main mechanism for accessing safe and effective vaccines, complemented with government purchases and bilateral donations”<sup>286</sup>. *Morocco* also expressed its support for COVAX and ACT-A;<sup>287</sup> while *Spain* remarked the efforts made through COVAX and the C-TAP<sup>288</sup>; and *Uganda* and *the United States of America* referred to collective efforts through COVAX.<sup>289</sup> In addition, *AFRO members* highlighted the “need for and equitable access

<sup>267</sup> Malaysia, p. 2-3

<sup>268</sup> Mali, p. 1

<sup>269</sup> Mexico, p. 3-4

<sup>270</sup> Morocco, p. 2

<sup>271</sup> Niger, p. 4

<sup>272</sup> Romania, p. 1

<sup>273</sup> South Africa, p. 2

<sup>274</sup> Spain, p. 1

<sup>275</sup> Suriname, p. 1

<sup>276</sup> Syrian Arab Republic, p. 2-3

<sup>277</sup> Uganda. Written statement. p. 1-2. Available at: <https://apps.who.int/gb/statements/WHASSA2/PDF/Uganda-2.pdf>

<sup>278</sup> Venezuela, p. 4

<sup>279</sup> EU, p. 3

<sup>280</sup> Proposals suggested in the GoF Non-Paper, p. 2

<sup>281</sup> Proposals suggested in the EU Reflection Paper, p. 11

<sup>282</sup> Proposals suggested in the EU Reflection Paper, p. 12

<sup>283</sup> Proposals suggested in the EU Reflection Paper, p. 7

<sup>284</sup> Proposals suggested in the EU Reflection Paper, p. 12

<sup>285</sup> Proposals suggested in the EU Reflection Paper, p. 12

<sup>286</sup> Angola. Written statement. 29 November 2021. Available at: <https://apps.who.int/gb/statements/WHASSA2/PDF/Angola-2.pdf>

<sup>287</sup> Morocco, p. 1

<sup>288</sup> Spain, p. 2

<sup>289</sup> Uganda, p. 1

to funding and the accessibility of such funds”<sup>290</sup> at both the global and regional level.<sup>291</sup> Similarly, regarding regional contexts, *SEARO members* underlined that “priority should also be given to establishment of strong regional capacities on research and development of essential medical products and innovations, for manufacturing, regulation and procurement of tools”,<sup>292</sup> and *Madagascar* raised the issue of the establishment of a regional framework for sustainable and equitable financing to strengthen fragile health systems.<sup>293</sup>

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<sup>290</sup> AFRO members, p. 2

<sup>291</sup> AFRO members, p. 3

<sup>292</sup> SEARO members, p. 2

<sup>293</sup> Madagascar, p. 2

## CONCLUDING REMARKS

Without purporting to have captured the whole universe of proposals and comments, the foregoing taxonomy shows that most of the proposals converged on a discrete set of issues considered of particular importance for the substantive content and the structural integrity of a new international instrument on pandemic prevention, preparedness and response. Of course, this does not necessarily mean that all of those issues will eventually be retained in the final text of the new instrument. At the same time, however, they tend to restate concerns repeatedly raised by WHO member states and many other actors including international organizations, civil society organizations and the recent spate of reviews on the international response to COVID-19. This coherence and convergence are in our view a confirmation of the broadly shared priorities for preparing the world for a future pandemic and ensuring a more effective and equitable response. We hope that this taxonomy may assist WHO member states and other actors in navigating through the various proposals and gauging the level of support garnered by them, in preparation for the forthcoming negotiations in the INB.



# ANNEX I: STATEMENTS MENTIONING SUBSTANTIVE PROPOSALS

## 1. ISSUES RELATED TO TREATY DESIGN

Complementarity with IHR (2005)	Framework convention	Guiding principles	Beyond legal dichotomy	Automatic trigger	Flexible implementation
<i>AFRO members, Argentina, Bulgaria, El Salvador, EMRO members, EU, GoF, Lebanon, Malaysia, Mali, MoH of Tunisia, Morocco, Oman and Somalia, Portugal, Slovakia, Spain, Suriname, United States of America, Uruguay, Zambia</i>	<i>EU, Kenya, MoH of Tunisia, Oman and Somalia</i>	<i>AFRO members, Argentina, Botswana, Chile, Cuba, EU, GoF, Haiti, India, Kenya, Maldives, MoH of Tunisia, Morocco, New Zealand, Oman and Somalia, Portugal, SEARO members, Southern African countries, Spain, Suriname</i>	<i>EU, Mexico</i>	<i>EU</i>	<i>EU</i>

## 2. ISSUES RELATED TO GOVERNANCE

Structure and governing bodies	Open participation	Secretariat	Other bodies
<i>EU, GoF, Morocco</i>	<i>EU</i>	<i>EU</i>	<i>EU, GoF</i>

## 3. ISSUES RELATED TO STRENGTHENING WHO AUTHORITY

WHO mandate & tools	WHO sustainable financing
<i>AFRO members, Azerbaijan, Bulgaria, Chile, Cuba, EU, Fiji, GoF, Haiti, India, Italy, Kenya, Lebanon, Madagascar, Maldives, Morocco, Niger, Portugal, Romania, Slovakia, Southern African countries, Suriname, Syrian Arab Republic, United States of America, Uruguay, Venezuela, WPRO members, AFRO members, Azerbaijan, Bulgaria, Chile, Cuba, EU, Fiji, GoF, Haiti, India, Italy, Kenya, Lebanon, Madagascar, Maldives, Morocco, Niger, Portugal, Romania, Slovakia, Southern African countries, Suriname, Syrian Arab Republic, United States of America, Uruguay, Venezuela, WPRO members</i>	<i>AFRO members, Bulgaria, EU, Lebanon, Syrian Arab Republic</i>

#### 4. ISSUES RELATED TO PREPAREDNESS, PREVENTION AND RESPONSE

Strong preventive measures & health systems capacity	Precautionary measures	PHEICPP alert	Cooperation Intra-States & Inter-States	Inter-Agency work
<i>AFRO members, Argentina, Azerbaijan, Belgium, Chile, Cuba, El Salvador, EU, Fiji, GoF, Guatemala, Haiti, India, Italy, Kenya, Lebanon, Madagascar, Malaysia, Maldives, Mali, Mexico, MoH of Tunisia, Morocco, New Zealand, Niger, Oman and Somalia, Portugal, Romania, SEARO members, Slovakia, Southern African Countries, Suriname, Syrian Arab Republic, Uruguay, WPRO members</i>	<i>New Zealand</i>	<i>EU</i>	<i>Azerbaijan, Belgium, Cuba, GoF, Guatemala, India, Italy, Kenya, Madagascar, Maldives, Mexico, New Zealand, Niger, SEARO members, Slovakia, Uruguay, Venezuela</i>	<i>Argentina, Azerbaijan, Chile, EU, GoF, Guatemala, Mexico, Niger, Spain</i>

#### 5. ISSUES RELATED TO THE ONE-HEALTH APPROACH AND ZOOONOSIS RISK

One-Health approach	Zoonosis risks & deep prevention	Inter-Agency work
<i>Belgium, EU, GoF, India, Lebanon, Mexico, Morocco, New Zealand, Spain, WPRO members</i>	<i>Belgium, Botswana, EU, Fiji, GoF, India, Kenya, New Zealand, Spain, Suriname</i>	<i>EU, GoF, Guatemala, Mexico, New Zealand, WPRO members</i>

#### 6. ISSUES RELATED TO COMPLIANCE, TRANSPARENCY AND ACCOUNTABILITY

Transparency & disclosure	Accountability mechanism	Implementation & enforcement
<i>Botswana, EU, Kenya, New Zealand, Southern African countries, Syrian Arab Republic, Zambia</i>	<i>EU, GoF, Maldives</i>	<i>EU, Morocco, Zambia</i>

## 7. ISSUES RELATED TO EQUITY, ACCESS AND ALLOCATION

Equity principle	Access & benefit-sharing	Financing & procurement mechanisms
<i>AFRO members, Argentina, Azerbaijan, Belgium, Botswana, Chile, Cuba, El Salvador, EMRO members, EU, GoF, Haiti, India, Kenya, Lebanon, Madagascar, Malaysia, Maldives, Mali, Mexico, New Zealand, SEARO members, Slovakia, Southern African countries, Suriname, United States of America, Venezuela, WPRO members</i>	<i>EU, AFRO members, Argentina, Belgium, Botswana, Chile, Cuba, El Salvador, EMRO members, GoF, Haiti, India, Kenya, Lebanon, Madagascar, Malaysia, Mali, Mexico, MoH of Tunisia, Morocco, New Zealand, Niger, Oman and Somalia, Romania, SEARO members, South Africa, Spain, Suriname, Syrian Arab Republic, Uganda, Venezuela</i>	<i>AFRO members, Angola, EU, GoF, Madagascar, MoH of Tunisia, Morocco, Oman and Somalia, SEARO members, Spain, Uganda, United States of America</i>





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