

**PRELIMINARY COMMENTS ON THE DRAFT BUREAU'S TEXT OF THE WHO PANDEMIC AGREEMENT (A/INB/7/X)  
FOR THE CONSIDERATION BY THE INTERGOVERNMENTAL NEGOTIATING BODY IN NOVEMBER 2023**

**Overarching comments:**

The COVID-19 pandemic has shown that the prevalence of underlying conditions such as noncommunicable diseases (NCDs) increases the vulnerability of populations to pandemics in high-income and low-income countries. Some studies estimate that mortality in 60 to 90 % of COVID-19 cases is attributable to either one or more of these comorbidities.<sup>1</sup> At the same time emerging data suggests that people living with NCDs also experience worse health outcomes from these existing conditions during pandemics as a result of service disruptions, delays, and cancellations of essential health services.<sup>2,3</sup> This has already been explicitly recognised by the world's leaders in the United General Assembly resolution 73/130.

We welcome continued active consultation with organisations from different segments of society and from around the world through the INB negotiations. We encourage the INB to create further pathways for civil society engagement in the negotiating and drafting of the WHO Pandemic Agreement, including access to relevant documents (including drafts) and right to intervene within both plenary and working group sessions of negotiations.

In response to the draft bureau text of the WHO Pandemic Agreement (16 October 2023), we request Member States to:

- Reinststate “persons with health conditions” within the definition of “persons in vulnerable situations” in Art. 1(i) as originally seen in the zero draft.
- Safeguard specific language on the continuation of essential health services across the continuum of care, particularly for people living with NCDs, during pandemic preparedness, response and recovery within the WHO Pandemic Agreement, including by reinstating previous draft text commitments to mobilise resources to maintain essential health services during and after a pandemic under Art 20.
- Retain specific language on the protection of health and care workforce during pandemic preparedness, recovery and response within the WHO Pandemic Agreement.
- Retain provisions relating to dealing with or managing conflict of interest, which may arise for a range of bodies involved including the private sector, trusts, industry associations, particularly under Art 20.
- Strengthen language on the role of pandemic prevention, preparedness and response in the progressive realisation of universal health coverage, as it underpins the social and economic wellbeing of all communities and countries

**Specific recommendations:**

**Article 1. Use of terms**

- Art. 1(i) We express concern that the definition of “persons in vulnerable situations” no longer includes reference to “persons with health conditions” as per the zero draft. Member States have already noted with concern “that

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<sup>1</sup> <https://ijme.in/articles/non-communicable-disease-management-in-vulnerable-patients-during-covid-19/?galley=html>

<sup>2</sup> <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC7248450/>

<sup>3</sup> <https://www.who.int/publications/i/item/9789240010291>

people living with non-communicable diseases are more susceptible to the risk of developing severe COVID-19 symptoms and are among the most affected by the pandemic” in the United Nations General Assembly resolution 75/130. We therefore strongly recommend that “**persons with health conditions, including non-communicable diseases**” be reinstated within the definition of “persons in vulnerable situations” and/or within a separate definition of “**individuals and groups at high / higher risk**”.

- Art. 1(k) We strongly encourage the use of the definition of Universal Health Coverage as included in the 2019 and 2023 Political Declarations on the topic: “**UHC implies that all people have access, without discrimination to nationally determined sets of the needed promotive, preventive, curative, rehabilitative and palliative essential health services, and essential, safe, affordable, effective and quality medicines and vaccines, while ensuring that the use of these services does not expose the users to financial hardship, with a special emphasis on the poor, vulnerable, and marginalized segments of the population**”.

### Article 3. General principles and approaches

- Title: We recommend the term “**guiding**” principle is reinstated, rather than “general” principle to make clear that all principles included under this article must guide the implementation of all aspects of the WHO Pandemic Agreement.
- Art 3.1: We recommend specific mention for the need for due regard to ensure non-discrimination, respect for diversity, the promotion of gender equality and the protection of persons in vulnerable situations from the previous text is reinstated. We recommend strengthening the paragraph with the following wording: “Respect, **protect and fulfil** human rights – The implementation of the this Agreement shall **include the obligation to** respect, **protect and fulfil** human rights and fundamental freedoms of persons **in accordance with the Charter of the United Nations and international human rights obligations**, including the right to the enjoyment of the highest attainable standard of physical and mental health and each Party shall protect and promote such rights and freedoms, with due regard to the need for specific measures to ensure non-discrimination, the respect for diversity, the promotion of gender equality and the protection of persons in vulnerable situations ”.
- Art 3.3: We welcome the inclusion of “Equity” as a general principle. We welcome the acknowledgement that equity requires specific measures to protect persons in vulnerable situations. We encourage Member States to add reference to continued access to essential medical services under this paragraph i.e. “Equity includes the unhindered, fair, equitable and timely access to safe, effective, quality and affordable pandemic related products and services, information, pandemic-related technologies, and social support **as well as continued access to essential medical services.**” More explicit elaboration of the principle of equity is required throughout the chapters and articles that follow, specifically in terms of the absence of unfair, avoidable, or remediable differences within countries, including between groups of people.
- Art 3.4: We welcome the inclusion of “Responsibility” as a general principle. We, however, express concern that the suggested language of unequal development in the promotion of health and control of diseases is not retained. In addition, we recommend that the unequal development in the promotion of health and control of diseases, includes both non-communicable and communicable, i.e. “Governments have a responsibility for the health of their peoples which can be fulfilled only by the provision of adequate health and social measures. Given the unequal development in different countries in the promotion of health and control of diseases, **especially including communicable and non-communicable** diseases, is a common danger parties that hold more capacities and resources relevant to pandemics should bear a commensurate degree of differentiated responsibility regarding global pandemic prevention, preparedness, response and recovery.
- Art 3.6 and 3.7: We welcome the inclusion of Solidarity and Transparency as general principles, reflecting on many of the challenges faced by low- and middle-income countries in procuring medical countermeasures during the pandemic and encourage Member States to align the language in the Pandemic Agreement with the WHA Resolution on Transparency (WHA 72.8)
- Art 3.8: We strongly welcome the inclusion of “Accountability” as a general principle. We encourage stronger language on the link between PPPR and countries efforts towards the progressive realisation of Universal Health Coverage i.e. “States are accountable for strengthening and sustaining their health systems’ capacities and public

health functions *as part of the progressive realisation of Universal Health Coverage* and to provide adequate health and social measures.”

- We regret that the principle of “Community engagement”, “Non-discrimination and respect for diversity”, and “Rights of individuals at higher risk and in vulnerable situations” have been removed. We recommend they are reinstated.
- Art 3.9: We welcome the inclusion of “Inclusiveness”. We recommend adding language adapted from Article 4.7 of the FCTC which explicitly mentions civil society, and mentioning people living with health conditions.

#### **Article 5. One Health**

- We support the retention of this section given the urgency of responding to the AMR crisis.

#### **Article 6. Preparedness, readiness and resilience**

- Strongly support 6.1., 6.2 (b), (e), 6.3.
- Art 6.2 (a): We recommend the reintroduction of more detailed language on continuing the provision of health services during pandemics, i.e., “(a) continued provision of quality routine and essential health services during pandemics, including clinical and mental health care and immunization, with a focus on primary health care, referral health services and community-level interventions, and management of the backlog of and waiting lists for the diagnosis and treatment of, and interventions for, other diseases and health conditions, including care for patients with chronic conditions long-term effects from the pandemic disease”

#### **Article 7. Health and care workforce**

- Art 7.1 (a) We strongly support the call to strengthen, pre-, in-, and post-service competency-based education and training.
- Art 7.1 (c) We strongly support this text, in particular the inclusion of protection from violence and intimidation and the priority access to pandemic-related products during pandemics.
- Art 7.2 We warmly welcome the language on commitments to financial and technical support, assistance and cooperation.

#### **Article 8. Preparedness monitoring and functional reviews**

- Art 8.1 We recommend adding specific text on need for regular and systematic review of health system capacities and national health burden, and retaining reference to WHO tools: “Each Party, ~~consistent with its national laws and context~~, shall undertake regular and systematic capacity assessments, **including health system capacities and national disease burden**, in order to identify capacity gaps and develop and implement comprehensive, inclusive, multisectoral, resourced national plans and strategies for pandemic prevention, preparedness and response, and health system recovery, **based on relevant tools developed by WHO in partnership with relevant organizations.**”
- Art 8. 3 We recommend retaining the commitment to set targets and standardized indicators in monitoring and evaluation systems. “The Parties shall, building on existing tools, develop and implement an inclusive, transparent, effective and efficient pandemic prevention, preparedness and response monitoring and evaluation system, **which includes targets and national, regional and global standardized indicators, with necessary and predictable resources for developing countries for this purpose.**”
- Art 8.4 We welcome the commitment to establish a global review mechanism to assess pandemic prevention, preparedness and response. We regret, however, mention to whole-of-government and whole-of-society is not retained. We also suggest additional language to tie this process into UHC review processes: “The Parties shall establish, no later than 31 December 2026, a global peer review mechanism to assess pandemic prevention, preparedness and response capacities and gaps, as well as level of readiness with the aim to promote and support learning among Parties, best practices, actions and accountability, at the national, regional and global levels, **through whole-of-government and whole-of-society approaches** to strengthen national health emergency preparedness and readiness capacities, **alongside progressive realisation of Universal Health Coverage.**”

#### **Article 9. Research and development**

- Art 9.4. We recommend retaining language on transparency of information regarding health products that aligns with the aims of the WHA resolution 72.8 'Improving the transparency of markets for medicines, vaccines, and other health products', i.e., "Each Party shall, ~~in accordance with its national laws and considering the extent of public funding provided~~, publish the terms of government-funded research and development agreements for pandemic-related products, including **transparent** information on..."
- Art 3 (a) iii. We recommend retaining reference to non-infectious diseases, given the need for greater collaboration internationally on clinical trials, i.e., "investing in the infrastructure and training of clinical research networks and coordination of trials through existing, new, or expanded clinical trial networks, including in developing countries, to be prepared to provide timely and appropriate responses to pandemics **and address priority infectious and non-infectious diseases;**"

#### **Article 12. Access and benefit sharing**

- We recommend that language within this article is broadened to include non-directly pandemic related products. Previous efforts to establish these kinds of mechanisms have been unsuccessful, but integrating this mechanism into health systems by utilising facilities to produce other vaccines and biologicals should help to contribute to the financial sustainability of these facilities, the retention of trained staff and support improved access to essential health products in low- and middle-income countries. Within Art 12.1 "The Parties hereby establish a multilateral system for access and benefit sharing, on an equal footing, the WHO Pathogen Access and Benefit-Sharing System (WHO PABS System), to ensure rapid and timely risk assessment and facilitate rapid and timely development of, and equitable access to ~~pandemic-related~~ **essential products** for pandemic prevention, preparedness and response."

#### **Article 16. International collaboration and cooperation**

- Art 16.1 Recommend specific mention of cooperation for PPPR to be used towards progressive realisation of UHC and resilient health systems: "in the formulation of cost-effective measures, procedures and guidelines for pandemic prevention, preparedness, response **and recovery of health systems, which are supportive of the progressive realisation of Universal Health Coverage**, and to this end shall..."

#### **Article 17. Whole-of-government and whole-of-society approaches at the national level**

- We welcome and support the inclusion of this Article.
- Art 17.3: We welcome this paragraph but recommend separating the engagement of civil society from the engagement of the private sector in order to add text on safeguarding against conflict of interest for the latter.
- Art. 16.4: As prioritisation of populations for access to pandemic-related products and health services relies on adequate data, we recommend expanding this provision as follows: "(i) identify and prioritize populations access to pandemic-related products and health services, **including through the collection and use of existing medical conditions-, gender-, age-, and disability-disaggregated data.**"

#### **Article 18. Communication and public awareness**

- We strongly welcome and support the inclusion of this Article. We encourage Member States to include additional language, recognising the importance of improving public health literacy. Art 18.1 "The parties shall strengthen science, public health and pandemic literacy in the population, as well as access to information on **health promotion and disease prevention** and on pandemics and their effects and drivers, combat false, misleading, misinformation or disinformation, including through effective international collaboration and cooperation as referred to in Article 16."

#### **Article 20: Financing**

- We are concerned that previous article 19.4 on mobilizing resources to maintain essential health services during and after a pandemic was removed. We strongly recommend that this is reinstated with the addition of detailed language about the range of health services, i.e., "The Parties will [mobilize] / [facilitate] additional financial resources, including from international financing facilities, to affected countries, based on public health risk and

need, to maintain and restore routine public health functions and essential health services. We recommend this provision be further strengthened as follows “to maintain and restore **provision of and access to** routine public health functions and other essential health services, **across the continuum of care, including health promotion, prevention, screening, diagnosis, treatment, rehabilitation and palliative care** during and in the aftermath of a pandemic response.”

- Art. 20. 1(b): We recommend the addition of language that highlights the importance of implementing financial protection as part of the achievement of UHC and pandemic recovery for patients and families.“(b) plan and provide adequate financial support in line with its national fiscal capacities for: (i) strengthening pandemic prevention, preparedness, response and recovery of health systems; (ii) implementing its national plans, programmes and priorities; and (iii) strengthening health systems and progressive realization of universal health coverage **minimising out of pocket spending for patients and families;**”
- Art 20.2 We welcome the inclusion language on avoiding conflicts of interest within the use of financial resources.

#### **Article 21. Conference of the Parties**

- Guided by the precedent of the WHO’s FCTC and multilateral environment agreements, we call for the WHO Pandemic Agreement and subsequent rules of procedure established by the Parties enable broad civil society participation, including the right to intervene within Parties’ plenary meetings.
- Welcome the further clarity on the Implementation and Compliance Committee and its relationship with the Conference of the Parties.
- We encourage mechanisms for monitoring and compliance are public and allow for input from civil society either in written or testimony form. We also encourage designated seats are reserved for civil society delegates on compliance mechanisms.

**For more information on the impact of COVID-19 on people living with NCDs and solutions for resilience and recover please refer to [“A Global NCD Agenda for Resilience and Recovery from COVID-19”](#).**