Analysis of the first draft of the INB Pandemic Accord

Context

This analysis was developed by members of the Coalition of Advocates for Global Health and Pandemic Preparedness, a group advocating for an integrated and holistic approach to preparedness that emphasises equity, inclusion, and synergies of multiple global health programs in advancing preparedness. The International Negotiating Body (INB) of the WHO is in the process of negotiating a "convention, agreement or other international instrument" on pandemic prevention, preparedness, and response, otherwise referred to as the "Pandemic Accord". A zero draft of the document was published in February 2023 and the first draft was published in May 2023.

Overall takeaways

We felt that the zero draft was promising, with many strong and ambitious elements included, particularly the strong language on pathogen access and benefit sharing and access to medicines in the event of a pandemic threat. However, the drafting group seems to have tried to include as much as possible, with little regard for the way different clauses were going to compound on each other.

Our expectation was that the next draft was going to be defined more by what was cut out than what was going to be added; that expectation has been met. The new draft is significantly weaker than the zero draft overall, and in particular weaker in key areas - around innovation sharing, common but differentiated responsibility (CBDR), and the role of WHO. Throughout the document, language was given caveats through the insertion of "as appropriate" or of wording making the implementation voluntary ("encourage" or "recognize the importance of" rather than "commit to"). Perhaps most surprising is a proposal to remove One Health as a guiding principle, despite the fact that most countries have publicly expressed support for it.

On a number of key articles, different options are offered to the negotiators – one with language that is quite close to that in the zero draft, and one or two others consisting of different levels of watering down the zero draft language. We see this in the articles on technology transfer, the Pathogen Access and Benefit Sharing (PABS) System, health workforce strengthening, and the proposed Supply Chain & Logistics Network.

There are, however, some clauses that have been strengthened. The clauses discussing global R&D networks, laboratory networks for genomic surveillance, knowledge translation, or harmonisation of regulation to accelerate WHO pre-approval and authorization have stronger commitments and more details than in the zero draft.

We have done a closer analysis of the draft, clause by clause:

WEAKENING

- newly presented options on CBDR: one as described, one watered down, and one to not include the principle at all
- option presented to not include One Health as a principle
- insertions of options for encourage vs. commitment to financial and technical support for global health workforce strengthening & training institution networks
- preparedness exercise schedule changed from every two years to every five years
- removal of provision to ensure that promoters of research for pandemic-related products assume an appropriate level of the risk
- insertion of “as appropriate” throughout R&D provisions
- removal of binding measures for transparency in R&D
- softer language on strengthening clinical trial capacity and policy frameworks
- option to remove recognition of central role of WHO
- two options for transfer of tech & know-how: 1) shall strengthen multilateral mechanisms, strategic and geographic distribution of manufacturers, encourage licensing, time-bound IP waivers, TRIPS flexibilities - this is mostly the same as zero draft except the database of pandemic products is removed and “as appropriate” is inserted everywhere 2) shall cooperate to assist Parties in capacity-building, recognize importance of transferring skills, urge manufacturers to grant voluntary licences, voluntary engagement with transfer hubs, may/shall as they deem appropriate make use of TRIPS flexibilities; **option 2 is a serious downgrade**
- PABS system options: 1) suggestion of a sort of PABS system but with no details and vague notions of what ‘benefits’ are 2) PABS article from zero draft, with three options for allocation - a) 20% of available supply to WHO to be allocated, of which 10% is donation and 10% is at affordable prices for WHO, b) permit donation, facilitate delivery swaps or modifications, promote or incentivize increased production capacity, and incentivize global access plans, c) provisions of X% of supply for sale to least developed countries and Y% of supply for sale to developing countries; **option 1 is a serious downgrade**, and of option 2, 2A seems the best but it should be according to need rather than a set percentage, i.e. if 70% of available supply is needed to service countries that have limited resources then that should be allocated and if a pandemic is impacting rich countries the most then a large WHO allocation wouldn’t be as necessary
- insertion of an article on liability management
- three options for CBDR article: 1) very watered down recognition of different capacities and “Parties shall work together to identify relevant partners to support development of capacities”, 2) definitions of necessary capacities that countries with more responsibility must support, specification of where capacities differ and accountability on those

provisions, recognition that implementation in developing countries will depend on the extent to which the Accord is implemented in developed countries, 3) no article

STRENGTHENING

- new article on pandemic prevention and health surveillance agreements, including strengthening WASH infrastructure, IPC standards, waste management, and animal disease prevention; developing a national antimicrobial resistance plan; strengthening lab safety; strengthening lab and diagnostic capabilities; and surveillance capacities - this seems good but should include something around differing accountability on this according to country capabilities (i.e. there is a difference between simply not doing it and not being able to)
- move from “Parties are encouraged to” to “Parties commit to establish” genomics, risk assessment, and laboratory networks for genomic surveillance
- two proposals for review mechanisms: 1) peer review using existing monitoring and evaluation tools, 2) a UHPR mechanism with regular intergovernmental meetings and review
- change from “Parties recognize” to “Parties shall cooperate” on building R&D capacities
- outline of terms that should be made public in government-funded R&D agreements
- insertion of option of “commit to” vs. “encouraged to” promote, cooperate, and strengthen knowledge translation
- inclusion of “invest in infrastructure and training of clinical research networks in developing countries”
- options for proposed Supply Chain & Logistics Network: 1) as proposed in zero draft, 2) no network but same provisions needed, 3) a partnership to determine equitable allocation, facilitate advance purchase agreements, assist countries in regulatory and logistics concerns, facilitate delivery and utilisation (this is where a possible medical countermeasures platform could fit)
- inclusion of provisions to align and harmonise regulatory requirements and provisions to accelerate authorizations and pre-approvals at WHO
- inclusion of a proposal for a fund to implement the Accord, including annual contributions by Parties according to means
- inclusion of proposal to establish programs to convert debt repayment into PPPR investments
- establishment of Conference of Parties, including an implementation and compliance committee, pandemic-related products expert committee, scientific experts panel, and benefits sharing expert committee