

Rationale for the EU text proposals based on the Zero Draft

Context

The mandate for the INB provides that the negotiations should be concluded by way of the adoption of a new Pandemic Agreement at the WHA in May 2024. This is a very short time frame to negotiate a new international treaty. By comparison, the negotiations that resulted in the recently adopted implementing agreement under UNCLOS on the protection of the marine environment in areas beyond national jurisdiction took more than 15 years. Consequently, we have to work to enable a rapid process towards adoption of a new treaty. Such a rapid process will require a basis to work on that is conducive to moving us forward towards adoption of an international agreement.

State of play in the negotiations towards the adoption of a new agreement by May 2024

The Zero Draft (ZD) has been very useful in compiling input from WHO MS and stakeholders so far in the process and it has been an important step to move the INB forward. However, as was clear from the mandate given at INB 3, it essentially remains a compilation and as such it does not resemble an international legally binding agreement – neither in structure nor in content. The reading of the first three articles of the ZD during INB 4 clearly illustrated this. If we are to succeed in adopting a new agreement in less than 14 months, we need to move on from the compilation phase and develop a draft that is conducive to the swift adoption of this agreement. From this perspective the importance of the First Draft, that will be developed in view of INB 6, cannot be overestimated.

How the EU intends to contribute to the development of the First Draft

It is important to stress that the EU text contributions do not represent an alternative ZD. Instead, they represent a contribution, based on the ZD, to the development of the First Draft. The EU and its MS have responded to the call from the bureau to provide as much concrete text proposals as possible on the basis of the ZD and in view of INB 5. Similarly, the EU is expecting other WHO MS to provide their textual inputs to the development of the First Draft during INB 5. All WHO MS need to do their utmost to contribute to making the First Draft fit for purpose. The texts we have developed constitute our contributions to this end.

The rationale behind the EU text proposals

The EU believes that our collective task of adopting a new agreement in record time will be greatly facilitated if the First Draft will resemble the typical shape of an international agreement – both in terms of structure and in terms of the actual provisions. The EU sees merit in following the logic structure of the pandemic prevention, preparedness and response (PPR) cycle in the set-up of the agreement. In addition, we have aimed at crafting provisions in the way obligations are typically framed in binding international agreements. We are eager, and more than willing, to discuss the substance of the provisions with all WHO MS, and we believe that these discussions will benefit from working on the basis of a treaty-like First Draft.

With regard to the substance of our text contributions, we have in particular been guided by two general notions.

- We have aimed at identifying ‘the common good’ – proposals that will benefit all of us. We believe that a mind-set of working towards ‘the common good’ will help us to move forward towards finding convergence and towards adoption of the new agreement in the very short time-frame we have available.

- We have aimed at crafting legal provisions – with concrete obligations upon the individual Parties to the Agreement as well as commitments for cooperation – that will make a real difference for PPR on the ground. Provisions that will not merely be beautiful words on paper, but that will actually change the world to the better when it comes to PPR and ensure that we, collectively, will be much better equipped both in terms of avoiding future pandemics and in terms of being able to respond should they still hit.

From this point of departure, we have worked to develop concrete and solid provisions on all aspects of PPR that we believe will truly benefit all of us, and that will have a very significant impact on the ground once the agreement enters into force. The proposals pay particular attention to operationalizing equity in the agreement and specifically to ensuring equitable access to countermeasures. In this important area, we are proposing concrete legal obligations upon the individual parties to the agreement aimed at ensuring availability and affordability of countermeasure for all. Consequently, our proposals introduce a price cap on the sales of countermeasures to low income countries and tiered pricing vis-à-vis middle-income countries. We believe that such specific obligations on individual parties to take action will be an effective way to ensure equitable access to countermeasures next time a pandemic hits.

Road ahead

As stressed above, we remain eager and interested in discussing our text proposals with all WHO MS and to continue to work together to develop a First Draft that will help us move forward towards adoption of a Pandemic Agreement in May 2024.