

## Strengthening WHO for Future Health Emergencies while Battling COVID-19: Major Outcomes of the 2021 World Health Assembly

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The World Health Assembly (WHA), which is the highest decision-making body of the World Health Organization (WHO), met on 24–31 May 2021 in a virtual format to discuss many critical health issues. The WHA adopted over 20 resolutions including on strengthening WHO global emergency preparedness and response, promoting local production of medicines, and strengthening prevention and control of diabetes. During the 8-day session much of the time was dedicated to discussing the COVID-19 response and the WHO work in health emergencies. This meeting of the WHA took place while many developing countries across the world are still battling devastating

second and third waves of COVID-19, and while access to vaccines remains concentrated in a few developed countries, leaving developing countries without access to the minimum doses of vaccines that they require.<sup>1</sup> As part of the discussion on the COVID-19 response, the WHA considered the reports of three major review bodies, the Independent Oversight Advisory Committee (IOAC), the Independent Panel for Pandemic Preparedness and Response (IPPR) and the International Health Regulations Review Committee (IHRC). The Assembly established an intergovernmental working group to further discuss the recommendations of the three reports and decided to hold a

### Abstract

The 74th World Health Assembly of the World Health Organization (WHO) took place in May 2021 in a time when developing countries had to confront a substantial surge in COVID-19 infections and fatalities, while continuing to face inadequate access to vaccines. Meanwhile, the majority of the global supplies were secured by a few rich countries, ignoring the pleas of the WHO Secretariat. However, even though discussions around the COVID-19 response and strengthening emergency preparedness and response dominated the Assembly, WHO Member States could not achieve any concrete outcome to addressing the question of equitable access to vaccines and other health technologies for COVID-19. In this context, this policy brief describes some of the major outcomes of the Assembly.

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*La 74ª Asamblea Mundial de la Salud de la Organización Mundial de la Salud (OMS) se celebró en mayo de 2021 en un momento en el que los países en desarrollo tuvieron que enfrentarse a un aumento considerable de las infecciones y muertes por COVID-19, mientras seguían teniendo un acceso inadecuado a las vacunas. Mientras tanto, la mayoría de los suministros mundiales estaban asegurados por unos pocos países ricos, ignorando las peticiones de la Secretaría de la OMS. Sin embargo, a pesar de que las discusiones en torno a la respuesta al COVID-19 y el fortalecimiento de la preparación y la respuesta de emergencia dominaron la Asamblea, los Estados Miembros de la OMS no pudieron lograr ningún resultado concreto para abordar la cuestión del acceso equitativo a las vacunas y otras tecnologías sanitarias para el COVID-19. En este contexto, este informe político describe algunos de los principales resultados de la Asamblea.*

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*La 74e Assemblée mondiale de la santé de l'Organisation mondiale de la santé (OMS) s'est tenue en mai 2021, à une période où de nombreux pays en développement, en particulier, devaient faire face à une forte augmentation des infections et des décès dus au COVID-19, tout en continuant à être confrontés à un accès insuffisant aux vaccins. Entre-temps, la majorité de l'approvisionnement mondial était détenue par quelques pays riches, ignorant les exhortations du Secrétariat de l'OMS. Cependant, même si les discussions autour de la réponse au COVID-19 et du renforcement de la préparation et de la réponse aux urgences ont dominé l'Assemblée, les États membres de l'OMS n'ont pu obtenir aucun résultat concret pour résoudre la question de l'accès équitable aux vaccins et aux autres technologies de santé pour la COVID-19. Dans ce contexte, ce document décrit certains des principaux résultats de l'Assemblée.*

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special session of the WHA in November 2021 to consider developing a WHO convention, agreement or other international instrument on pandemic preparedness and response.<sup>2</sup>

### **COVID-19 Response**

The WHA took note of a report<sup>3</sup> provided by the WHO Secretariat on the implementation of **resolution WHA73.1 (2020) on the COVID-19 response**,<sup>4</sup> which was adopted by the Assembly in its annual session in May 2020. The following are some of the highlights of the report:

- 176 countries have developed national COVID-19 preparedness and response plans
- Launch of an M&E framework for Strategic Preparedness and Response Plan
- Coordination with regional and country offices
- Substantial operational and technical support to countries through Global Outbreak Alert and Response Network (laboratory capacity, epidemiology, infection prevention and control, case management, contact tracing)
- WHO has published a number of technical guidelines, advisories, etc. Research activities ongoing such as the Solidarity Trial.
- Supply chains for PPEs, diagnostics and clinical care have improved but remain vulnerable, and will require continued coordination to ensure acquisition, equitable allocation and transport.
- Communication and information sharing activities
- Support to member States to assess their readiness to deploy new vaccines, diagnostics and therapeutics as they become available. WHO and UNICEF have published a Guidance on National Deployment and Vaccination Planning to help countries develop their plans for introduction of COVID-19 vaccines.

However, in spite of the progress noted in the report, the global response to the COVID-19 pandemic is falling short for lack of global solidarity, despite good efforts by WHO to support a coordinated, global response and provide necessary policy and normative guidance. The accelerated R&D efforts for vaccines has not been supported with a subsequent mechanism for ensuring equitable and timely access to priority populations in all countries. Indeed, most wealthy countries have made bilateral agreements with vaccine producers, consequently constraining the ability of the COVAX facility that was established in partnership with the WHO and Gavi—the Vaccine Alliance, for procurement and distribution of vaccines globally, to operate effectively. As a

result, developing countries are facing enormous challenges and delays in accessing vaccine doses.

### **Review of ongoing work on the COVID-19 Response**

During the assembly three committees presented their review of the COVID-19 response: the Independent Oversight Advisory Committee (IOAC) of the WHO Health Emergencies Programme,<sup>5</sup> and the International Health Regulations Review Committee (IHRC)<sup>6</sup> and the Independent Panel for Pandemic Preparedness and Response (IPPR).<sup>7</sup>

#### **Report of IOAC**

The IOAC has the mandate to review the performance of the Health Emergencies programme, provide guidance to the programme, advise the Director-General on related issues, and report its findings to the WHO Governing Bodies. The WHO Health Emergencies Programme was launched on 1 July 2016 to lead health emergency management while still maintaining its technical and normative functions. The Assembly took note of the ninth report of the IOAC which reviewed the work of the emergencies programme for the period of May 2020 to April 2021, and included an update to its interim report on the WHO response to COVID-19, and the four-year review of the programme that was submitted to the renewed 73rd session of the Assembly in November 2020. Some of the findings of the report informed that 1) the COVID-19 pandemic has revealed that the emergencies programme is inadequately equipped to deal with a global pandemic while simultaneously responding to other emergencies; 2) the ACT Accelerator has struggled with shortfalls of political will and global solidarity, limited production capacity of vaccines and insufficient financial investment (while presenting the report to the Assembly the co-chair of the IOAC commented on the chronic financial constraints that WHO faces particularly in the emergency response program and called for an increase of assessed contributions), 3) global vaccine production capacity should be expanded to meet global need and to allow for equitable distribution; 4) further efforts are needed to leverage existing systems and networks such as the R&D Blueprint and the Global Influenza Surveillance and Response System (GISRS), building on the success of open access to genomic data of influenza and coronaviruses, and to strengthen linkages with the animal sector such as the World Organisation for Animal Health and other One Health partners; and 5) the proposed pandemic treaty should support member States to comply with International Health Regulations (2005) provisions; build national, regional and global resilience for pandemic responses; mobilize financial resources collectively; and ensure universal access to diagnostics, treatments and vaccines for future

pandemics based on the principles of solidarity, equity, accountability and transparency.

### **Report of IHRC**

IHRC was convened by the WHO Director-General on 8 September 2020, pursuant to resolution WHA73.1 (2020), in line with Article 50 of the International Health Regulations (IHR).<sup>8</sup> The Committee's mandate was to review the functioning of the IHR during the COVID-19 response, with reference to IHR provisions. The Review Committee conducted its work from September 2020 to April 2021 and submitted its report in May 2021. The report addressed three critical areas of global health emergency preparedness and response: 1) compliance with IHR and empowerment for the same; 2) early alert, notification and response; and 3) financing and political commitment for IHR implementation. The report advanced 40 recommendations across different areas. Among the recommendations there is a recognition of the need for WHO to continue working with States Parties to strengthen their capacities particularly for emergency preparedness, surveillance and response and the overall strengthening of health systems and public health functions so that they are resilient during pandemics and other health emergencies. Guidance and technical support will be needed for IHR core capacities and development of national plans for emergency preparedness, surveillance and response. The IHRC Chair observed while presenting the report to the Assembly that many countries do not have the capacity to give timely warnings and that sufficient levels of preparedness cannot be realized unless there are political and financial commitments.

The report also recommended WHO to develop options to strengthen, and where appropriate, build global genomic sequencing infrastructure with a view to maximizing this critical technology as a component of future pandemic preparedness and response. The report also recommends expanding capacities related to One Health and research on emerging zoonotic diseases. Furthermore, the report states that "States Parties should consider the benefits of developing a global convention on pandemic preparedness and response in support of IHR implementation. Such a convention may include provisions for preparedness, readiness and response during a pandemic that are not addressed by the IHR, such as for example, strategies for the rapid and timely sharing of pathogens, specimens and genome sequence information for surveillance and the public health response, including for the development of effective countermeasures; provision for equitable access globally to benefits arising from sharing the above; and provisions for rapid deployment of a WHO team for early investigation and response, for

maintaining the global supply chain, as well as for prevention and management of zoonotic risks as part of a One Health approach." The IHRC chair also mentioned during the Assembly that the recommendation of a possible legal instrument that includes the rapid sharing of pathogens should also include equitable access to vaccines, diagnostics, equipment, etc. and include provisions for zoonotic pathogens aligned with the One Health approach.

### **Report of IPPR**

The Independent Panel for Pandemic Preparedness and Response (IPPR) was established by the WHO Director-General pursuant to the World Health Assembly Resolution 73.1. The mission of the independent panel was to provide an evidence-based path for the future, grounded in lessons of the present and the past to ensure that countries and global institutions, including specifically WHO, effectively address health threats.

Presenting the IPPR report,<sup>9</sup> the Co-chairs of the IPPR warned against a two-tier world of vaccinated people and people who are not, and called for urgently redistributing vaccines more equitably. They also called for strengthening WHO independence through the provision of unearmarked resources. IPPR also called for removing the barriers to manufacturing scale up by sharing intellectual property and transferring knowledge and technology, and by fully funding ACT-A. With regard to ACT-A, the IPPR also recommended its transformation from a market-based model for vaccines, diagnostics and therapeutics into a model aimed at delivering global public goods.

IPPR also stressed that WHO should remain the lead organization for health in the international system, while acknowledging that it has not been given sufficient authority or resources to undertake its task fully. IPPR recommended that WHO should focus on normative, policy, and technical guidance, including building capacity for pandemic preparedness and response. IPPR also recommended that WHO should be provided financial independence through the provision of only unearmarked resources, strengthening the authority and independence of the Director-General and the capacity of country offices.

IPPR also recommended establishing a Global Health Threats Council constituted at the head of State or government level to ensure political commitment to pandemic preparedness on an ongoing basis and promote maximum coordination and collective action across the international system, monitor progress towards goals and targets set by WHO, hold actors accountable, and guide allocation of resources from a new financial facility. This new financial facility was also proposed by IPPR to provide reliable, long-term, annual financing for preparedness, and deliver rapid surge financing for early stages of response, and

support activities such as surveillance, genomic sequencing capacity building, and diagnostic and therapeutic investments. IPPR also stressed that adequate capacities, organization and financing for pandemic preparedness must be put in place at the national and sub-national levels. IPPR also recommended the convening of a special session of the UN General Assembly for adoption of a political declaration by heads of States and governments laying down a roadmap for transformation of the present international system for pandemic preparedness and response.

Furthermore, IPPR recommended a revamped global surveillance and alert system that will empower WHO to report on and investigate threats without delays or awaiting Member State approval.

IPPR also supported the negotiation of a Pandemic Framework Convention under Article 19 of the WHO Constitution to address gaps in the current legal framework, clarify responsibilities between States and international organizations, and reinforce legal obligations and norms.

Many countries acknowledged the importance of the recommendations of the three reports and the need to increase preparedness and response as well as increase access to vaccines. They also stressed the need to analyze the recommendations and to investigate how to strengthen some aspects of the International Health Regulations. Some countries expressed concerns with the requested speed of implementation of some of the normative recommendations given that the pandemic is not under control and cautioned that this could hinder their ability to meaningfully engage in a norm-setting process.

### **Resolution on Strengthening WHO Global Emergency Preparedness and Response**

The World Health Assembly (WHA) adopted a resolution titled “Strengthening WHO preparedness for and response to health emergencies.”<sup>10</sup> The resolution addresses several issues related to preparedness and response to pandemics including strengthening health systems, sharing of information, guidance for the implementation of the International Health Regulations among many others.

The resolution established a Member States Working Group on Strengthening WHO preparedness and response to health emergencies, which is open to all Member States. The mandate of the working group is “to consider the findings and recommendations of the Independent Panel for Pandemic Preparedness and Response, the IHR Review Committee and the Independent Oversight and Advisory Committee for the WHO Health Emergencies Programme.”<sup>11</sup>

The working group is mandated to submit a report with proposed actions to the WHA in 2022. The resolution also asks the WHO Director-General to strengthen cooperation with FAO, OIE and UNEP for a One Health strategy,<sup>12</sup> to support the efforts of the Working Group on Sustainable Financing,<sup>13</sup> and to provide guidance in different areas related to pandemic response.

This resolution was the outcome of long negotiations that took place over several months before the WHA. Even though it provides a long list of issues to be addressed it remains unclear how current issues related to inequitable access to vaccines and other health products would be tackled under this resolution. There was an overall recognition from countries that critical areas for strengthening preparedness and response include increasing laboratory capacity for testing, resilience of national health systems, technical cooperation, and transfer of technology for increasing access to vaccines. There were also many calls made on ensuring appropriate financing for WHO.

Countries pointed out current challenges related to the COVID-19 response. For example, Côte d'Ivoire, on behalf of the 47 African countries (AFRO region), expressed the concern that the entire region has received less than 2 per cent of the vaccines in the world and called for increased access to vaccines against COVID-19. They also stressed that COVID-19 is an opportunity to strengthen health systems and hoped that this will be supported. Indonesia, speaking on behalf of the Association of Southeast Asian Nations (ASEAN), stressed the importance of supporting initiatives for the local production of vaccines, increasing manufacturing capacity and technology transfer. Other developing countries also emphasized the need to increase technology transfer and voluntary licenses to help increase vaccine equity and called for the support of the proposal of the WTO TRIPS waiver.<sup>14</sup> There were also calls for countries to donate their surplus vaccines and to increase contributions to COVAX.<sup>15</sup>

The United States emphasized the important efforts made by the WHO and the need to find multilateral solutions and global collaboration. They also expressed support for the ACT-Accelerator<sup>16</sup> and COVAX including the announcement of donations to COVAX. The European Union on similar lines spoke about possible donations of vaccines for COVAX and welcomed the initiatives to strengthen one health and continue to investigate the origins of the coronavirus.

Even though the adopted resolution recognizes multiple critical issues that will need to be strengthened, the response to health emergencies, the demand of developing countries to address the current inequities related to access to COVID-19 vaccines, while acknowledged, were not adequately addressed in the resolution

## **Development of an International Instrument on Pandemic Preparedness and Response**

On 30 March 2021, the President of the European Council Charles Michel and the Director-General of WHO Tedros Adhanom Ghebreyesus held a joint press conference calling for an international treaty on pandemics.<sup>17</sup> This was followed by a call of 24 Heads of States to support a treaty to protect States from pandemics.<sup>18</sup> Following these announcements and in preparation for the WHA, Member States of WHO held several rounds of negotiations to propose a decision text regarding an international instrument on pandemic preparedness and response. In the lead up to the Assembly there were diverging views among countries on whether a treaty was necessary and if it would really provide the help needed particularly by developing countries to address the ongoing COVID-19 crisis, including starting treaty negotiations while many countries continue battling current outbreaks and face a lack of access to vaccines.<sup>19</sup> Some member States were also concerned about the time frame proposed to finalize the treaty and sought clarity on what elements would it cover.

In the end an agreement was reached, and a decision was adopted by the Assembly to hold a “Special session of the World Health Assembly to consider developing a WHO convention, agreement or other international instrument on pandemic preparedness and response.”<sup>20</sup> The decision requests the “[m]ember States Working Group on Strengthening WHO Preparedness and Response to Health Emergencies to prioritize the assessment of the benefits of developing a WHO convention, agreement or other international instrument on pandemic preparedness and response” and the Director-General “to convene a special session of the World Health Assembly in November 2021, and to include on the agenda of the special session only one item dedicated to considering the benefits of developing a WHO convention, agreement or other international instrument on pandemic preparedness and response with a view towards the establishment of an intergovernmental process.” The special session of the World Health Assembly will be held from 29 November 2021 to 1 December 2021 at the WHO headquarters.

As Member States begin the process of considering the benefits of developing a convention or agreement, it will be vital that there is clarity from the outset on the elements and areas that will be the subject of negotiation.<sup>21</sup> The first step should be to identify the aspects of pandemic preparedness and response that the current crisis has revealed are not working and determine how to build up on the existing instruments, notably the International Health Regulations (IHR).

Negotiation of any treaty would require careful deliberation and attention not only in terms of issues that should be addressed, but also minute reflection of the textual language on each provision. It would also require coordination between different ministries of governments to inform the treaty making process with a comprehensive governmental approach. In the middle of a pandemic this may be very challenging for countries that have to overcome infections and fatalities alongside limited vaccine availability.

A recent editorial has noted that “it is still not clear whether the idea [treaty] has the support of a majority of nations, and it is being debated whether now is the time to be discussing a future pandemic, when so much remains to be done to end the current one.”<sup>22</sup> This is something that the working group and the special session in November 2021 will need to take into consideration.

## **Antimicrobial Resistance**

The Assembly noted the report presented by the WHO Secretariat on the progress achieved on implementing resolution WHA72.5 and resolution WHA68.7 (2015) on antimicrobial resistance (AMR). An important area highlighted is that the multi-partner trust fund has made some financing available for developing countries, though it is insufficient. Mobilization of funding continues to be a challenge for implementation of National Action Plans (NAPs). Hanan Balkhy, the Assistant Director-General for AMR noted that only 15 per cent of national plans are currently funded, which shows the inadequacy of funds in this area.

During the Assembly, one country announced new funding of 4 million euros for the multi-partner trust fund to help implement NAPs. The fund has approximately 14 million dollars and seven developing countries are currently being supported by the fund,<sup>23</sup> but to address AMR adequately more will need to be mobilized to provide support to developing countries.

Statements delivered by developing countries during the WHA coincided in the call for prioritizing implementation of national action plans with a One Health focus. Many countries recognized that they face challenges for implementation such as inadequate financing, infrastructure and technical capacities. They also mentioned the need to remove obstacles to ensure equitable access to diagnostics, vaccines, and treatments. Some countries also called for appropriate monitoring and evaluation of progress. Other developing countries noted the importance of continuing support to current measures to address COVID-19 that can help in tackling AMR. Some of these measures include incorporating AMR in pandemic preparedness and response and continuing to support infection prevention and control measures. There is also a need to increase research and development efforts and local

manufacturing that could help in expanding access to antimicrobials.

### **Prevention and Control of Diabetes**

The Assembly adopted a resolution on “Reducing the burden of noncommunicable diseases through strengthening prevention and control of diabetes.” The resolution highlights the increasing numbers of diabetes patients worldwide and the need for more preventive strategies that include the social and environmental determinants of health. The resolution also point out “that insulin is an essential life-saving medicine, but deeply concerned that despite being discovered 100 years ago in 1921, globally about half of the people in need of insulin have no or irregular access, with unacceptable inequities between and within countries.” In many cases issues of affordability are also an impediment to access appropriate treatment.

One of the key asks of the resolution is for WHO “to continue to analyze the availability of data on inputs throughout the value chain, including data on clinical trials and price information, with a view to assessing the feasibility and potential value of establishing a web-based tool to share information relevant to the transparency of markets for diabetes medicines, including insulin, oral hypoglycemic agents and related health products, including information on investments, incentives, and subsidies.”<sup>24</sup> This request to the WHO to monitor data, including price information, could potentially help countries in procuring insulin at lower prices. However, more concrete strategies and assistance will be needed to help countries design policies to ensure affordable access to insulin, including to deal with patents that may still be in force on different forms thereof.<sup>25</sup>

### **Financing WHO**

The program budget for 2022–2023 was adopted at the 74th WHA. In the resolution adopting the budget the Director-General has been requested to submit a revised budget to the 75th WHA in 2022 to incorporate any changes that may arise from the ongoing response to COVID-19 and in the light of the findings of the independent reviews and the recommendations from the Working Group on Sustainable Financing.

The Working Group on Sustainable Financing was established by the Executive Board in decision EB148(12) with the purpose of enabling WHO to have a robust structure and the capacity to fulfil its core functions. The working group has also been tasked with “ (a) to develop a high-level, systemic approach to identify the essential functions of WHO that should be funded in a sustainable manner; (b) to

assess the level of costing of the essential functions identified in (a); (c) identify and recommend the appropriate sources for their funding and options to improve sustainable financing and alignment in support of the essential functions, including possibilities for cost-saving and efficiencies; and (d) undertake any additional work, as appropriate, to enable sustainable financing.”<sup>26</sup>

The Group held two meetings prior to the WHA and will continue its work with the aim of reporting on its recommendations at the next Assembly. The issue of ensuring sustainable financing for WHO has been a critical issue for many years. During this WHA there was a broad recognition that WHO needs adequate financing to be able to effectively play its role in global health governance. The organization continues to struggle with the high percentage of funding that comes from voluntary contributions and is earmarked for specific activities, which lessens the flexibility for the Secretariat to allocate funding to other critical areas.

Many countries called on donors to provide more flexible funding and less earmarked funds and supported the idea of increasing assessed contributions though no specific proposal was provided on this last point. There were also mention of the need for WHO to be independent from donors and to be cautious of possible conflicts of interest that may interfere with the normative functions of WHO when engaging with private funds. The next sessions of the Working Group on Sustainable Financing will need to take these issues into consideration.

### **Global strategy and plan of action on public health, innovation and intellectual property**

Advancing the implementation of the Global strategy and plan of action on public health, innovation and intellectual property (GSP-PHI) is a critical issue for the WHO Member States, particularly in the context of promoting timely and affordable access to medicines, vaccines and diagnostics including for COVID-19.<sup>27</sup> This is an important agreed framework with a plan of action to be undertaken by the WHO Secretariat, Member States and other stakeholders. To date, unfortunately very little progress has been made in implementing the GSP-PHI.

Under this agenda item the WHA adopted a resolution on strengthening local production of medicines and other health technologies rightly linking the need to increase capacity for local production with the potential to improve access to medical products, which is a major concern for the COVID-19 pandemic. However, negotiations prior to the WHA left unresolved issues relating to intellectual property and technology transfer.

The resolution recognizes that “some countries face problems in accessing medicines, vaccines and other essential health technologies due to factors such as low manufacturing capacity and high prices, among others, and that such problems can be exacerbated in times of public health emergencies and/or overwhelming demand, such as during the COVID-19 pandemic.”<sup>28</sup> Therefore, increasing capacity for local manufacturing could help remedy some of these issues.

The resolution specifically requests WHO to provide leadership and direction to promote strategies for sustainable local production of medicines and other health technologies. WHO is also asked to provide technical support to help countries implement national policies and to foster research, manufacturing, creating an enabling environment and to build capacity on these areas. Furthermore, capacity will also be needed to ensure quality assurance and for regulatory approval of these medical products. Developing countries, in particular, will need support for creating research and development capacities, access to technology through technology transfer agreements and mechanisms for market intelligence.

The current pandemic has showed the vulnerabilities of the supply chain for health technologies and the importance of creating capacities in developing countries to respond to emergencies but also to strengthen their health systems. Expanding local production could help countries not only for the pandemic but also to address other health issues, while contributing to their industrialization. Implementation of this resolution would be a critical area for developing countries.

### **The public health implications of implementation of the Nagoya Protocol**

The WHO Secretariat submitted a report at the 2019 World Health Assembly seeking a broad mandate for the Secretariat to explore possible options for pathogen access and benefit-sharing. The options proposed to be explored included codes of conduct, guidelines, best practices and global multilateral mechanisms for access to pathogens and benefit-sharing.<sup>29</sup> However, many developing countries expressed concerns at this proposal and instead requested the Secretariat to share information on the current modalities for pathogen sharing. The WHA adopted a decision—WHA72(13)—which requested the WHO Secretariat to provide information on current pathogen sharing practices and arrangements, implementation of access and benefit-sharing measures, as well as potential public health outcomes and other implications. This report was submitted to the 74th session of the WHA with a

request to take note of the same and a recommendation by the WHO Secretariat to continue its work in this area with a specific mandate to develop options to provide additional transparency, equity, clarity and consistency in pathogen sharing practices globally, and increase worldwide capacity for sequencing of pathogen genomes and the analysis of those genomes.

The report by the WHO Secretariat focused predominantly on the issue of sharing of pathogen samples and largely neglected benefit-sharing issues in the context of shared pathogen samples. It did not address how benefit-sharing in the context of pathogens occurs in practice and practical challenges in that regard that should be addressed. This therefore did not fully address the mandate under decision WHA 72(13). The report presented a broad overview of pathogen sharing practices but did not give any account of practices within WHO for sharing of various pathogens (e.g., seasonal influenza, COVID-19, polio, etc.). Further work is needed to address these aspects.

The WHA took note of the report prepared by the WHO Secretariat on the public health implications of the Nagoya Protocol<sup>30</sup> that provided information on a survey carried out by WHO but that was not able to provide robust information. Some countries expressed concerns on the interpretation of the results. No resolution or decision was adopted on this topic.

During the discussions on the report some developing countries expressed that sharing of pathogens should go hand in hand with benefit-sharing mechanisms that will ensure equity in access to vaccines, diagnostics and therapies particularly during public health emergencies. The WHO Pandemic Influenza Preparedness Framework was mentioned as a mechanism that could serve as a reference for pathogens sharing. There were also some concerns raised on the issue that the governance frameworks of initiatives proposed by WHO and other partners to facilitate rapid sharing of pathogens, such as the BioHub<sup>31</sup> initiative, might be outside of the scope of WHO governance through its Member States and might not be in line with the Nagoya Protocol principles.<sup>32</sup>

Developed countries have been seeking to carve out a broad exception from the obligations under the Nagoya Protocol for securing immediate access to pathogens for development of health products. During the Assembly, Portugal speaking on behalf of the European Union emphasized that significant public health benefits can be drawn from timely and efficient pathogen sharing and stressed that pathogens with epidemic and pandemic potential cannot be treated in the same way as other genetic resources. The European Union (EU) in this context favored the development of new mechanism for cooperation for rapid sharing of scientific findings and samples within the global scientific

community. Significantly, there was no reference in the EU statement to the importance of adherence to the CBD and the Nagoya Protocol in this respect. While the EU noted the importance of benefit sharing in the form of equitable access to the tools developed from such sharing, the EU also stated that "... those tools must first go to places where they are most needed, which is not necessarily the place where the pathogen was first detected and shared from." The US urged the WHO Secretariat to undertake advocacy on the importance of rapid pathogen sharing, including genetic sequence information of pathogens, in relevant bodies of the CBD and the Nagoya Protocol.

Discussions on how to guarantee the rapid sharing of samples while at the same time ensuring equitable access to benefits will continue to be an issue of debate among WHO Member States including in the context of the consideration of a WHO convention or agreement for pandemic preparedness and response.<sup>33</sup>

While the WHA merely took note of the report submitted by the WHO Secretariat, it did not provide specific guidance on future work in the context of the request made by the Secretariat in the report to "develop options to provide additional transparency, equity, clarity and consistency in pathogen sharing practices globally, and increase worldwide capacity for sequencing of pathogen genomes and the analysis of those genomes." In this context, it will be critical to ensure that future work undertaken by the WHO Secretariat addresses how benefit-sharing obligations are implemented effectively in practice, in relation to pathogen sharing, and keeping in view the concerns expressed by many developing countries. Such a balanced approach would be necessary in the context of future work such as the development of a background paper and study on options for global access and benefit-sharing of pathogens for which the WHO Secretariat has issued a call for proposals, after the conclusion of the Assembly, as well as the implementation of initiatives or arrangements for sharing of pathogens coordinated by the WHO, such as the Bio Hub initiative.

## Conclusions

The 74th WHA was held while many countries were still battling surges of COVID-19 and their devastating effects. Therefore, discussions around the COVID-19 response and strengthening emergency preparedness and response dominated the Assembly but regrettably there was no agreement on any direct actions to ensure equitable distribution of vaccines, even though the causes and limitations of the existing mechanisms were broadly acknowledged. Several other topics were also discussed, and new

mandates were provided to the WHO Secretariat on areas of work such as increasing support for local production of medicines, advancing price transparency and capacity to address diabetes and antimicrobial resistance.

A special session of WHA will be held in November 2021 where the potential for a pandemic treaty will be considered. Without prejudice to preparing better for future pandemics, the current critical issues such as ensuring equitable access to vaccines, diagnostics and treatments for COVID-19 are vital elements that need to be addressed now. The outcomes of the 74th WHA however fell short of the expectations of many WHO members that were looking for a more robust and decisive action by the global health agency to address the crisis brought about by the COVID-19 pandemic.

## Endnotes:

<sup>1</sup> See, e.g., Carlos M. Correa, "Vaccination inequalities and the role of the multilateral system", *SouthViews*, 19 July 2021. Available from <https://www.southcentre.int/wp-content/uploads/2021/07/SouthViews-Correa.pdf>; Muhammad Zaheer Abbas, *Practical Implications of 'Vaccine Nationalism': A Short-Sighted and Risky Approach in Response to COVID-19*, Research Paper No.124 (Geneva, South Centre, 2020). Available from <https://www.southcentre.int/wp-content/uploads/2020/11/RP-124.pdf>.

<sup>2</sup> See German Velasquez and Nirmalya Syam, "A New WHO International Treaty on Pandemic Preparedness and Response: Can it Address the Needs of the Global South?", Policy Brief No.93, May 2021, South Centre, Geneva. Available from <https://www.southcentre.int/policy-brief-93-may-2021/>.

<sup>3</sup> World Health Assembly document A/74/15, 17 May 2021. Available from [https://apps.who.int/gb/ebwha/pdf\\_files/WHA74/A74\\_15-en.pdf](https://apps.who.int/gb/ebwha/pdf_files/WHA74/A74_15-en.pdf).

<sup>4</sup> World Health Assembly resolution WHA 73.1, 19 May 2020. Available from [https://apps.who.int/gb/ebwha/pdf\\_files/WHA73/A73\\_R1-en.pdf](https://apps.who.int/gb/ebwha/pdf_files/WHA73/A73_R1-en.pdf).

<sup>5</sup> The full report can be accessed here <https://www.who.int/groups/independent-oversight-and-advisory-committee>.

<sup>6</sup> The full report can be accessed here [https://apps.who.int/gb/ebwha/pdf\\_files/WHA74/A74\\_9Add1-en.pdf](https://apps.who.int/gb/ebwha/pdf_files/WHA74/A74_9Add1-en.pdf).

<sup>7</sup> The full report can be accessed here [https://theindependentpanel.org/wp-content/uploads/2021/05/COVID-19-Make-it-the-Last-Pandemic\\_final.pdf](https://theindependentpanel.org/wp-content/uploads/2021/05/COVID-19-Make-it-the-Last-Pandemic_final.pdf).

<sup>8</sup> The International Health Regulations is an "overarching legal framework that defines countries' rights and obligations in handling public health events and emergencies that have



the potential to cross borders.” The full definition of the IHR can be found here [https://www.who.int/health-topics/international-health-regulations#tab=tab\\_1](https://www.who.int/health-topics/international-health-regulations#tab=tab_1).

<sup>9</sup> See The Independent Panel for Pandemic Preparedness and Response, The Co-Chairs’ presentation to the 74th World Health Assembly, 25 May 2021. Available from <https://theindependentpanel.org/the-co-chairs-presentation-to-the-74th-world-health-assembly-25-may-2021/>.

<sup>10</sup> The final text of the resolution can be accessed here [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>11</sup> [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>12</sup> One Health is defined by WHO as: “an approach to designing and implementing programmes, policies, legislation and research in which multiple sectors communicate and work together to achieve better public health outcomes. The areas of work in which a One Health approach is particularly relevant include food safety, the control of zoonoses (diseases that can spread between animals and humans, such as flu, rabies and Rift Valley Fever), and combatting antibiotic resistance” See <https://www.who.int/news-room/q-a-detail/one-health..>

<sup>13</sup> See below the section on financing of WHO for more detail information on the Working Group on Sustainable Finance.

<sup>14</sup> The TRIPS waiver refers to a proposal, advanced by the governments of South Africa and India, to the World Trade Organization to waive intellectual property rights protection for technologies needed to prevent, contain, or treat COVID-19. More information on what the TRIPS waiver is can be found here <https://www.jhsph.edu/covid-19/articles/wto-trips-waiver-for-covid-19-vaccines.html>.

<sup>15</sup> Info on donation pledges for COVAX can be found here <https://www.gavi.org/sites/default/files/covid/covax/COVAX-Dose-Donation-Table.pdf>.

<sup>16</sup> In April 2020 the ACT-Accelerator was launched by the WHO and partners. It is a partnership that aims to “accelerate development, production, and equitable access to COVID-19 tests, treatments, and vaccines.” Please see <https://www.who.int/initiatives/act-accelerator/about>. ACT-Accelerator is a partnership that includes the participation of some governments, scientists, businesses, civil society, and philanthropists and global health organizations. It is not a member state driven initiative.

<sup>17</sup> See information on the press conference here <https://www.consilium.europa.eu/en/press/press-releases/2021/03/30/remarks-by-president-charles-michel-during-a-joint-press-conference-with-who-director-general-tedros-adhanom-gebreyesus/>.

<sup>18</sup> Information on the 24 heads of state call can be found here <https://www.theguardian.com/world/2021/mar/30/global-treaty-needed-to-protect-states-from-pandemics-say-world-leaders>.

<sup>19</sup> See Geneva Health Files covered on the negotiations on the decision text <https://genevahealthfiles.substack.com/p/spanner-in-the-works-for-a-pandemic>.

<sup>20</sup> [https://apps.who.int/gb/ebwha/pdf\\_files/WHA74/A74\\_A\\_CONF7-en.pdf](https://apps.who.int/gb/ebwha/pdf_files/WHA74/A74_A_CONF7-en.pdf).

<sup>21</sup> Please see G. Velásquez and N. Syam publication A New WHO International Treaty on Pandemic Preparedness and Response: Can It Address the Needs of the Global South? <https://www.southcentre.int/policy-brief-93-may-2021/>.

<sup>22</sup> See [https://www.nature.com/articles/d41586-021-01460-7?utm\\_source=Nature+Briefing&utm\\_campaign=f6bf0abbed-briefing-dy-20210602&utm\\_medium=email&utm\\_term=0\\_c9dfd39373-f6bf0abbed-45674014](https://www.nature.com/articles/d41586-021-01460-7?utm_source=Nature+Briefing&utm_campaign=f6bf0abbed-briefing-dy-20210602&utm_medium=email&utm_term=0_c9dfd39373-f6bf0abbed-45674014).

<sup>23</sup> Information on the Multi-Partner Trust Fund can be found here <http://mptf.undp.org/factsheet/fund/AMR00>.

<sup>24</sup> Full text of the resolution can be access here [https://apps.who.int/gb/ebwha/pdf\\_files/WHA74/A74\\_A\\_CONF5-en.pdf](https://apps.who.int/gb/ebwha/pdf_files/WHA74/A74_A_CONF5-en.pdf).

<sup>25</sup> See Warren Kaplan and Reed Beall, “Insulin Patent Profile”, Health Action International, Amsterdam, April 2016. Available from <https://haiweb.org/wp-content/uploads/2016/04/ACCISS-PatentReport-FINAL.pdf>.

<sup>26</sup> Information on the mandate and the report of the first meeting of the Working Group can be found here [https://apps.who.int/gb/wgsf/pdf\\_files/wgsf1/WGSF1\\_5-en.pdf](https://apps.who.int/gb/wgsf/pdf_files/wgsf1/WGSF1_5-en.pdf).

<sup>27</sup> See German Velasquez, *Medicines and Intellectual Property: 10 Years of the WHO Global Strategy*, Research Paper No.100 (Geneva, South Centre, 2019). Available from [https://www.southcentre.int/wp-content/uploads/2019/12/RP100\\_Medicines-and-Intellectual-Property-10-Years-of-the-WHO-Global-Strategy-EN.pdf](https://www.southcentre.int/wp-content/uploads/2019/12/RP100_Medicines-and-Intellectual-Property-10-Years-of-the-WHO-Global-Strategy-EN.pdf).

<sup>28</sup> Full text of the resolution can be found here [https://apps.who.int/gb/ebwha/pdf\\_files/WHA74/A74\\_R6-en.pdf](https://apps.who.int/gb/ebwha/pdf_files/WHA74/A74_R6-en.pdf).

<sup>29</sup> Viruses are microorganisms that form part of the biological or genetic resources that exist in nature. Under international law States have sovereign rights over genetic resources that originate or exist in their territories. This right is explicitly recognized under the UN Convention on Biological Diversity (CBD). The CBD makes access to genetic resources subject to the prior informed consent of the country providing the genetic resource and on mutually agreed terms, in order to ensure fair and equitable sharing of the benefits arising from the utilization of the genetic resource. This principle of the CBD has been elaborated and given effect through an international legal framework established by the Nagoya Protocol on Access to Genetic Resources and the Fair and Equitable Sharing of Benefits Arising from their Utilization. For more information on the Nagoya Protocol please see <https://www.southcentre.int/policy-brief-86-november-2020/>.

<sup>30</sup> WHO document EB148/21, 6 January 2021. Available from [https://apps.who.int/gb/ebwha/pdf\\_files/EB148/B148\\_21-en.pdf](https://apps.who.int/gb/ebwha/pdf_files/EB148/B148_21-en.pdf).

<sup>31</sup> Information on the Bio Hub initiative can be found here [WHO and Switzerland launch global BioHub for pathogen storage, sharing and analysis](#).

<sup>32</sup> These concerns relating to ensuring effective benefit-sharing vis a vis sharing of pathogen samples are real and legitimate. For example, it is reported that during the Ebola virus outbreak in Guinea in 2014–16 all the samples collected by African researchers were shipped out of the country and that researchers were not given acknowledgements in the papers published and the patents filed on those samples. Furthermore, laboratories in Guinea didn't benefit from that work and are unable to sequence samples. See Amy Maxmen, "Why some researchers oppose unrestricted sharing of coronavirus genome data", *Nature*, 5 May 2021. Available from <https://www.nature.com/articles/d41586-021-01194-6>.

<sup>33</sup> See Anthony Rizk *et al.*, "Everybody knows this needs to be done, but nobody really wants to do it": Governing Pathogen-and-Benefit-Sharing, Global Health Center Working Paper No.23, Graduate Institute of International and Development Studies, 2020. Available from [https://www.graduateinstitute.ch/sites/internet/files/2021-12/GHC\\_WorkingPaper\\_No\\_23\\_Web.pdf](https://www.graduateinstitute.ch/sites/internet/files/2021-12/GHC_WorkingPaper_No_23_Web.pdf).



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