

Does the new global pandemic treaty have enough teeth?

Although the agreement on the draft treaty has been hailed as groundbreaking and historic, several experts have said that it has a limited scope

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New Delhi | April 22, 2025 16:53 IST



 6 min read





A COVID-19 vaccination is administered in Silver Spring in 2021. (Photo: The New York Times)

Following more than three years of arduous negotiations, member states of the World Health Organization (WHO) last week agreed on a draft of a legally binding treaty designed to tackle future pandemics better. The deal is expected to be ratified at the World Health Assembly in May.

The pandemic treaty, which was agreed upon without the United States, is the only the second legally binding accord in the WHO's 75-year history, the first being the 2003 tobacco control treaty.

WHO Director-General Tedros Adhanom Ghebreyesus described the deal as “a significant milestone in our shared journey towards a safer world”.

Here is a look at what the treaty comprises, and if it is strong enough.

But first, why was there a need for a global pandemic treaty?

The negotiations for a [global pandemic treaty](#) began in December 2021, at a time when the Omicron variant of SARS-CoV-2 was spreading across the world and producing a massive new surge of [COVID-19](#). By then, countries that were manufacturing COVID-19 vaccines had hoarded millions of doses, leaving those with no vaccine plants often with no access to the shots.

A 2022 study published by the journal Nature revealed that more than one million lives could have been saved if COVID-19 vaccines had been shared more equitably with lower-income countries — the virus had claimed more than seven million lives across the world.

A 2021 report published by the Independent Panel for Pandemic Preparedness and Response said, “The combination of poor strategic choices, unwillingness to tackle inequalities, and an uncoordinated system created a toxic cocktail which allowed the pandemic to turn into a catastrophic human crisis.”

In a bid to prevent loss of human life, and disruption to households and societies at large – as it happened due to the COVID-19 pandemic — during future pandemics, WHO member states got together and began to iron out a treaty. It took nearly three-and-a-half years and 13 rounds of meetings to reach the deal.

What does the pandemic treaty say?

One of the key elements of the draft agreement is a “pathogen access and benefit sharing” system, which gives pharmaceutical companies access to scientific data such as pathogen samples and genomic sequences in return for more equitable sharing of drugs, vaccines and diagnostics during a pandemic, according to a report in Nature.

The draft treaty says participating manufacturers will have to allocate 10% of their production of vaccines, therapeutics and diagnostics to the WHO. Another 10% will then be supplied at “affordable prices”.

Also, member states should “promote and otherwise facilitate or incentivise” the exchange of technology and know-how to help manufacturers in developing nations make their own drugs and vaccines, the draft agreement says.

Countries also need to develop national policies for putting conditions on research into drugs and vaccines that they fund — given either to universities or companies — to guarantee “timely and equitable access” to resulting drugs or diagnostics during pandemics.

Michelle Childs, policy advocacy director at the non-profit organisation Drugs for Neglected Diseases Initiative in Geneva, told Nature, “Concretely, this means that when the next pandemic hits and a life-saving medicine developed thanks to taxpayer funding is unaffordable or unavailable, a government will be able to intervene for the benefit of its citizens and people in need around the world.”

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How strong is the global pandemic treaty?

Although the agreement on the draft treaty has been hailed as groundbreaking and historic, several experts have said that it has a limited scope.

For instance, the agreement does not give the WHO powers over individual states.

Clause 24, paragraph three states, “Nothing in the WHO Pandemic Agreement shall be interpreted as providing the WHO Secretariat, including the WHO Director-General, any authority to direct, order, alter, or otherwise prescribe the national and/or domestic laws, as appropriate, or policies of any Party.”

The draft treaty also says that the WHO does not have the power to mandate or otherwise impose any requirements such as “ban or accept travellers, impose vaccination mandates or therapeutic or diagnostic measures, or implement lockdown”.

This means that in a situation like the fierce competition for COVID-19 vaccines, the WHO would have no way to ensure countries adhere to the terms to which they had agreed. As a result, pharmaceutical companies may hesitate to commit resources to developing medical solutions for emerging pathogens.

Dr David Reddy, Director General of the International Federation of Pharmaceutical Manufacturers and Associations, told The Telegraph, “Intellectual property protection and legal certainty are essential for the innovative-based pharmaceutical industry to invest in high-risk research and development and enable voluntary partnerships that we will need in the next pandemic. We hope that in subsequent negotiations Member States maintain the conditions for the private sector to continue innovating against pathogens of pandemic potential.”

Also, currently, there is no clarity on how the pathogen access and benefit sharing system will work.

Notably, the draft treaty has been agreed upon without the US. The country withdrew from negotiations after President [Donald Trump](#) came back to the White House in January, and announced his plans of withdrawing the US from the WHO. Therefore, it is unlikely that the US will ratify the treaty.

Given the dominance of the country in the drug, vaccine, and diagnostics manufacturing industries, its absence will weaken the agreement, according to experts.

Lawrence Gostin, a specialist in health law and policy at Georgetown University in Washington [DC](#), told Nature, “There is no sugar coating it. The absence of the US leaves a gaping hole.”

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This article went live on April twenty-second, twenty twenty-five, at fifty-three minutes past four in the evening.

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