

Geneva, 16 September 2024.

**To**

**The Co-Chairs of the Bureau of the Intergovernmental Negotiating Body (INB)  
WHO Member States**

## **PREVENT PANDEMICS BY ADOPTING A MEANINGFUL PABS SYSTEM**

*Civil Society Letter to the INB Bureau and WHO Member States participating in the 11th meeting of the Intergovernmental Negotiating Body (INB)*

Your Excellencies,

We, the undersigned civil society organizations, are writing to express our deep concerns and dismay over recent developments in the Intergovernmental Negotiating Body (INB), particularly regarding the Bureau's Text Proposal on the Pathogen Access and Benefit Sharing (PABS) system under Article 12 of the Pandemic Agreement.

We understand that the Bureau is pressing for further streamlining of the Article 12 text with the goal of concluding negotiations by December 2024. In pursuit of this objective, the Bureau has alarmingly stripped Article 12 of most of the meaningful benefits that should stem from the sharing of pathogen materials and sequence information. The only guaranteed benefit in the Bureau's proposal is a minimal donation by a manufacturer of 5% of vaccines, therapeutics, and diagnostics (VTDs) during a pandemic emergency—an infrequent occurrence.

The Bureau's text provides no certainty of access to VTDs during public health emergencies of international concern (PHEIC). Instead, it introduces a condition, "taking into account IHR temporary recommendations," which effectively absolves manufacturers from any obligation to reserve VTDs for WHO. This leaves WHO—and by extension, countries in need—at the bottom of the priority list for supply. Moreover, the text makes no provision for the allocation of VTDs to WHO stockpiles or countries at risk, crucial measures to prevent PHEICs.

Equally concerning is the lack of provisions ensuring that access to materials and sequences is governed by enforceable terms and conditions agreed upon at the point of access. The text offers no clarity on mechanisms that guarantee transparency and accountability, particularly regarding the users of these materials and sequences, or the implementation of fair and equitable benefit-sharing. It is not clear who will provide access to whom, through which mechanisms and under what conditions. And yet, the Bureau's text readily excludes the application of national access and benefit-sharing laws. As a result, the rights established under the Convention on Biological Diversity (CBD) and the Nagoya Protocol are compromised.

We have repeatedly witnessed stark inequities between developed and developing countries during global health crises such as COVID-19, Ebola, and most recently, Mpox.

The Bureau's proposed text will only perpetuate this disparity, reinforcing the status quo.

The Pandemic Agreement aims to prevent, prepare for, and respond to pandemics, with equity as a central guiding principle. The decision to establish the INB clearly emphasizes the need for a comprehensive and coherent approach to strengthen the global health architecture, prioritizing equity. It explicitly calls on Member States to

frame their efforts around the principle of solidarity with all people and countries, ensuring that practical actions address both the causes and consequences of pandemics and other health emergencies.

**We strongly urge the Bureau to realign its focus in the negotiations toward achieving outcomes that genuinely narrow the inequity gap and enhance global capacities for pandemic prevention, preparedness, and response (PPPR). The Bureau must heed the calls of the Africa Group and the Group of Equity for more detailed and operational provisions for the PABS system.**

The PABS system provides a legally sound framework that can guarantee reliable access to VTDs, and other benefits essential for PPPR. Therefore, postponing critical decisions on its design and substantive content to a separate process is illogical and counterproductive. We are deeply concerned that the Bureau is steering WHO Members toward another arbitrary deadline of December 2024, pressuring them to accept an incomplete and inadequate agreement.

The sharing of pathogen materials and sequences with pandemic potential through the PABS system is invaluable for manufacturers and other recipients. However, for such sharing to occur regularly and smoothly, it is crucial that all governments are confident that the system will effectively operationalize the essential principles and elements of the CBD and the Nagoya Protocol. This requires the PABS system to be transparent, accountable, and equitable. There must be clear, enforceable mechanisms to identify all recipients and ensure they accept legally binding terms that include *inter alia* concrete commitments to provide benefits.

**Crucially, the system must offer certainty and predictability regarding the benefits to be provided, particularly VTDs needed to prevent and respond to PHEICs and pandemics. Manufacturing licenses to meet heightened demands during such crises and monetary benefit-sharing are equally essential. Early access to VTDs is key to ensuring more effective prevention and response efforts.**

**Additionally, we emphasize that the PABS system should be administered and coordinated by WHO, under the oversight of Parties.** Any engagement with non-state actors must strictly adhere to WHO's norms and standards, such as those outlined in the Framework of Engagement with Non-State Actors (FENSA).

We would like to stress that an incomplete Pandemic Agreement serves no real benefit to humanity. Similar to the PABS system, several critical elements, such as the Global

Supply Chain and Logistics Network, are proposed to be developed after the adoption of the Pandemic Agreement. Relying on a future Conference of Parties (COP) to address these crucial components is misleading, as the World Health Assembly (WHA) is already empowered to oversee the development of the WHO Pandemic Agreement. **Therefore, we urge WHO Members to abandon false deadlines and focus on meaningful, substantive discussions within the INB to ensure the adoption of a comprehensive and effective Pandemic Agreement including a PABS system that delivers concrete equitable benefit sharing to prevent and respond to pandemics.**

We remain confident that you will carefully weigh our concerns and that our request will receive your thoughtful attention. We place our highest hopes in your exceptional wisdom and deliberations to lead the INB to its most promising outcome.

In solidarity,

### **Global**

1. Development Alternatives with Women for a New Era (DAWN)
2. International Treatment Preparedness Coalition (ITPC)
3. Oxfam
4. Medical Impact
5. People's Medicines Alliance (PMA)
6. People's Health Movement (PHM)
7. Public Services International (PSI)
8. Social Watch
9. Society for International Development (SID)
10. Southern African Programme on Access to Medicines
11. Third World Network (TWN)

### **Regional**

12. Health Action International Asia Pacific
13. Observatorio de Justicia Sanitaria y Climática Latinoamérica

### **National**

14. Access to Medicines, *Ireland*
15. Acción Internacional para la Salud, *Perú*
16. Akbayan, *Philippines*
17. Akbayan Quezo, *Philippines*
18. All India Drug Action Network, *India*
19. Asia Pacific Network of People Living with HIV, *Thailand*
20. Asociación Civil para la Promoción y Protección de los Derechos Humanos (XUMEK), *Argentina*
21. Asociación de Derechos Humanos Amigos de Margarita, *Venezuela*
22. Asociación de Mujeres Gente Nueva (AMUGEN), *Guatemala*
23. Asociación Movimiento de Apoyo a una Nueva Universalidad (MANU), *Costa Rica*
24. Asociación MVVS Santa Micaela, *Peru*



25. Asociación Para Una Vida Mejor de Personas Infectadas /Afectadas por el VIH-SIDA, *Honduras*
26. Asociación por un Acceso Justo al Medicamento, *Spain*
27. Association Burkinabé d'Action Communautaire (ABAC ONG), *Burkina Faso*
28. Association of Family Support and Welfare Selangor & KL (Family Frontiers), *Malaysia*
29. Australian Fair trade and Investment Network, *Australia*
30. Blue Circle Diabetes Foundation, *India*
31. Cancer Alliance, *South Africa*
32. Civil Society Coalition on Transport, *Uganda*
33. Colectivo TLGB Tarija, *Bolivia*
34. Consortium of Christian Relief and Development Association, *Ethiopia*
35. Corporación Innovarte, *Chile*
36. Corresponsales Clave, *Peru / Mexico*
37. Disability People's Forum, *Uganda*
38. Drug Action Forum - Karnataka, *India*
39. Eastern Africa National Networks of AIDS Service Organizations, *Tanzania*
40. Ekumenická akademie (Ecumenical Academy) , *Czech Republic*
41. Fesprosa, *Argentina*
42. Foundation for Integrative AIDS Research (FIAR), *United States*
43. Fundación Acción Positiva por la Vida, *Venezuela*
44. Fundación IFARMA, *Colombia*
45. Gabriela National Alliance of Women, *Philippines*
46. GIVAR, *Peru*
47. Global Humanitarian Progress Corporation, *Colombia*
48. Global Surgery Umbrella, *Netherlands and United States of America*
49. Health Action International, *Netherlands*
50. Health Equity Initiatives, *Malaysia*
51. Health Justice Initiative, *South Africa*
52. HGVS Haryana, *India*
53. Humanity for Orphans, Youth and Widows Initiatives Kenya (HOYWIK), *Kenya*
54. Indonesia for Global Justice, *Indonesia*
55. Initiative for Health & Equity in Society, *India*
56. Integrated Change Agent, *Burundi*
57. International Centre for Humanitarian Action Networking and Grassroots Empowerment, *Côte d'Ivoire*
58. Law and Patients, *India*
59. Low Cost Standard Therapeutics, *India*
60. Lupus Foundation of South Africa, *South Africa*
61. Masimanyane Women's Rights International, *South Africa*
62. Mouvement Gabonais pour la Promotion de la Bonne Gouvernance, *Gabon*
63. Movimiento de Mujeres Positivas, *Panama*
64. Ongd AFRICANDO, *Spain*
65. Pathways Policy Institute, *Kenya*
66. Penabulu Foundation, *Indonesia*
67. People's Health Movement, *Ghana*
68. People's Welfare and Reform for Social Advancement, *Philippines*
69. Philippines Association Caregiver Training Services, *NCR*
70. Pilipinas Ma. D. Jareño, *Philippines*

71. Proyecto sobre Organización, Desarrollo, Educación e Investigación (PODER), *Mexico*
72. Public Eye, *Switzerland*
73. Red Lesbica Cattrachas, *Honduras*
74. Red Personas con VIH, *Uruguay*
75. Red Uruguaya Personas Viviendo con VIH (Redlac+), *Uruguay*
76. Red Nacional de Personas Viviendo con VIH y Sida en Bolivia (REDBOL), *Bolivia*
77. Research and Support Center for Development Alternatives-Indian Ocean (RSCDA-IO), *Madagascar*
78. Sandvik Health Empowerment Foundation, *Nigeria*
79. Sindicato de La Medicina Hospitales y Similares (SITRAMEDHYS), *Honduras*
80. Sindicato Único Nacional de Empleados Públicos, Profesionales Administrativos, Asistenciales y Contratados del Ministerio del Poder Popular para la Salud, *Venezuela*
81. Sindistritales- CUT, *Colombia*
82. Soweto Cancer Society, *South Africa*
83. Speaking 4 the Planet, *Australia*
84. STISSS, *El Salvador*
85. STOPAIDS, *United Kingdom*
86. The Movement for a Democratic Ecological Socialist Republic of Australia, *Australia*
87. Vivo+ (CDSG), *Bolivia*
88. Voice of the Plantation People Organization, *Sri Lanka*
89. Wemos, *The Netherlands*
90. WomanHealth, *Philippines*
91. Workers League, *Philippines*
92. Working Group on Intellectual Property (GTPI), *Brazil*
93. Working Group on the Pandemic Agreement and the Amendments to the IHR, *Brazil*
94. Wote Youth Development Projects (CBO), *Kenya*