

# **IHR Review Committee regarding amendments to the International Health Regulations (2005)**

## **Terms of Reference**

6 October 2022

### **1. Introduction**

The IHR Review Committee regarding amendments to International Health Regulations (2005) (IHR or Regulations)<sup>1</sup> (hereafter the “IHR Amendments RC”) is convened pursuant to Articles 50.1.(a)<sup>2</sup> and 47 of the IHR, as well as Decision WHA75(9).<sup>3</sup>

This Review Committee will function in accordance with the WHO Regulations for Expert Advisory Panels and Committees,<sup>4</sup> and will provide its report to the WHO Director-General (DG) no later than mid-January 2023.

Its sole purpose is to provide technical recommendations to the Director-General on amendments proposed to the IHR, as decided by the Health Assembly in Decision WHA75(9).

This document provides an overview of the mandate of this Review Committee, its scope of work and terms of reference, composition, conduct of business, timelines, and methods of work.

### **2. Mandate of the IHR Amendments RC**

Through Decision WHA75(9), the World Health Assembly decided:

(2) with respect to targeted amendments to the International Health Regulations (2005):

(a) to continue the Working Group on Strengthening WHO Preparedness and Response to Health Emergencies, with a revised mandate, including as appropriate and if agreed within each region, the rotation of the Bureau, and name (the “Working Group on Amendments to the International Health Regulations (2005)” (WGIHR)) to work exclusively on consideration of proposed targeted amendments to the International Health Regulations (2005), consistent with decision EB150(3) (2022),<sup>5</sup> for consideration by the Seventy-seventh World Health Assembly in 2024;

(b) to request the Director-General to convene a Review Committee on the International Health Regulations (2005) (IHR Review Committee), as early as possible but no later than 1 October 2022, in accordance with Part IX, Chapter III, of the International Health Regulations (2005), in particular Article 50, paragraphs 1(a) and 6, with particular attention to be paid to the fulfilment of the letter and spirit of Article 51, paragraph 2, to make technical recommendations on the proposed amendments referred to in subparagraph (c) below, with a view to informing the work of the WGIHR;

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<sup>1</sup> IHR 3rd Edition: <https://www.who.int/publications/i/item/9789241580496>

<sup>2</sup> Chapter III – The Review Committee; Article 50 - Terms of reference and composition:

1. The Director-General shall establish a Review Committee, which shall carry out the following functions:

(a) make technical recommendations to the Director-General regarding amendments to these Regulations; [...]

<sup>3</sup> Decision WHA75(9), [https://apps.who.int/gb/ebwha/pdf\\_files/WHA75/A75\(9\)-en.pdf](https://apps.who.int/gb/ebwha/pdf_files/WHA75/A75(9)-en.pdf)

<sup>4</sup> WHO Basic Documents 2020, [https://apps.who.int/gb/bd/pdf\\_files/BD\\_49th-en.pdf](https://apps.who.int/gb/bd/pdf_files/BD_49th-en.pdf)

<sup>5</sup> Decision EB150(3), [https://apps.who.int/gb/ebwha/pdf\\_files/EB150/B150\(3\)-en.pdf](https://apps.who.int/gb/ebwha/pdf_files/EB150/B150(3)-en.pdf)

- (c) to invite proposed amendments to be submitted by 30 September 2022, with all such proposed amendments being communicated by the Director-General to all States Parties without delay;
- (d) to request the WGIHR to convene its organizational meeting no later than 15 November 2022, and to coordinate with the process of the Intergovernmental Negotiating Body (INB)<sup>6</sup> to draft and negotiate a WHO convention, agreement or other international instrument on pandemic prevention, preparedness and response, including through regular coordination between the two Bureaus and alignment of meeting schedules and workplans, as both the International Health Regulations (2005) and the new instrument are expected to play central roles in pandemic prevention, preparedness and response in the future;
- (e) to request that the IHR Review Committee submit its report to the Director-General no later than 15 January 2023, with the Director-General communicating it without delay to the WGIHR;
- (f) to request the WGIHR to establish a programme of work, consistent with decision EB150(3), and taking into consideration the report of the IHR Review Committee, to propose a package of targeted amendments, for consideration by the Seventy-seventh World Health Assembly, in accordance with Article 55 of the International Health Regulations (2005).

### 3. Scope of work and terms of reference of the IHR Amendments RC

Pursuant to Article 50.1.(a) of the IHR, the “Review Committee [...] shall carry out the following functions: (a) make technical recommendations to the Director-General regarding amendments to these”.

As of 30 September 2022, the following 14 States Parties submitted proposals for amendments to the IHR, of which four did so also on behalf of other States Parties – Armenia; Bangladesh; Brazil; Czech Republic on behalf of the Member States of the European Union; Eswatini on behalf the WHO African Region Member States; India; Indonesia; Japan; Namibia; New Zealand; Russian Federation on behalf of the Member States of the Eurasian Economic Union; Switzerland; United States of America; and Uruguay on behalf of MERCOSUR.

Specifically,<sup>7</sup> the technical recommendations by the IHR Amendments RC shall be based on, address, and document in the final report the following:

- i. **Analysis** of each of the proposed amendments to the IHR submitted no later than 30 September 2022, in terms of:
  - Consistency across proposed amendments in case multiple proposals are submitted to the same article;
  - Pertinence vis-à-vis the purpose and scope of the IHR, as defined in Article 2;
  - Pertinence vis-à-vis the article intended to be amended;
  - Consistency with the Constitution of WHO;
  - Consistency, where applicable, with other provisions contained in the article intended to be amended;
  - Consistency with any other provisions of the IHR;

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<sup>6</sup> Information on the work of the INB is available at: <https://apps.who.int/gb/inb/>

<sup>7</sup> Regulations Item 4.9 in WHO Regulations for Expert Advisory Panels and Committees, [https://apps.who.int/gb/bd/pdf\\_files/BD\\_49th-en.pdf](https://apps.who.int/gb/bd/pdf_files/BD_49th-en.pdf)

- Compatibility and consistency with provisions of other relevant WHO frameworks and relevant international legal instruments under the auspices of other intergovernmental and international organizations, such as:
    - the Pandemic Influenza Preparedness (PIP) Framework;<sup>8</sup>
    - the International Food Safety Authorities Network (INFOSAN, under the auspice of the Food and Agriculture Organization (FAO) and WHO);<sup>9</sup>
    - the WHO Global Surveillance and Monitoring System for substandard and falsified medical products (GSMS);<sup>10</sup>
    - Convention on Biological Diversity (CBD), relevant legal instruments of the following UN agencies: International Atomic Energy Agency (IAEA), International Civil Aviation Organization (ICAO), International Maritime Organization (IMO), Organization for the Prohibition of Chemical Weapons (OPCW), United Nations Human Rights Council (HRC), United Nations Office for Disarmament Affairs (UNODA), World Organization for Animal Health (OIE), World Trade Organization (WTO);
  - Compatibility and consistency with the Working Draft of a WHO Convention, Agreement, or other International Instrument on Pandemic Prevention, Preparedness and Response (Document A/INB/2/3);<sup>11</sup>
  - Considerations about appropriate mechanisms allowing for the monitoring of compliance with the article intended to be amended;
  - Identification, where applicable, of other related Articles of the Regulations that would also need to be amended in order for the article intended to be amended to be applicable, so that the integrity and robustness of the IHR are maintained and/or strengthened.
- ii. **Proposals for reformulation and/or clarification** – e.g., rewording, rephrasing, inclusion of cross-references to other relevant articles of the IHR, inclusion of compliance monitoring elements – and/or consolidation, if/when necessary, of the text of the article intended to be amended, as well as of the text of any other article of the Regulations that needs amendments for the article intended to be amended to be applicable. Such proposals shall ensure the internal consistency, integrity, and robustness of the text of the IHR, as well as the compatibility and consistency with any other relevant international legal instrument under the auspices of intergovernmental and international organizations. Each of the above-mentioned proposals for reformulation and/or refinement by the IHR Amendments RC shall be accompanied by its rationale, including the reason/s why amendments proposed by States Parties have not been totally or partially retained, or have been reallocated to an article different from the one initially intended to be amended.
- iii. **Analysis of the remaining provisions of the IHR** – for provisions that were not subject to proposals for amendments– to identify internal inconsistencies, inconsistencies vis-à-vis other international legal instruments.

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<sup>8</sup> Information about the Pandemic Influenza Preparedness (PIP) Framework is available at:

<https://www.who.int/initiatives/pandemic-influenza-preparedness-framework>

<sup>9</sup> Information about the FAO/WHO International Food Safety Authorities Network (INFOSAN) is available at:

<https://www.who.int/groups/international-food-safety-authorities-network-infosan>; and <https://www.fao.org/food-safety/emergencies/infosan/en/>

<sup>10</sup> Information about the WHO Global Surveillance and Monitoring System for substandard and falsified medical products (GSMS) is available at: <https://www.who.int/who-global-surveillance-and-monitoring-system>

<sup>11</sup> Document A/INB/2/3, [https://apps.who.int/gb/inb/pdf\\_files/inb2/A\\_INB2\\_3-en.pdf](https://apps.who.int/gb/inb/pdf_files/inb2/A_INB2_3-en.pdf)

- iv. **Overall consistency analysis, including of definition of terms** – to advise on definitions of terms, either new or existing terms the meaning of which might be changed following the proposed amendments, to ensure clarity and consistency; as well as to advise on whether the inclusion, in the text of the IHR, of an explicit taxonomy related to the nature of amendments (e.g., targeted amendments, conforming amendments, technical adjustments, updates, “reopening the instrument”) is warranted and, if so, to formulate a proposal in that respect.

#### **4. Composition of the IHR Amendments RC**

The selection and appointment of the Members of the IHR Amendments RC comply with the application of the WHO Regulations for Expert Advisory Panels and Committees<sup>12</sup> and Article 50 of the Regulations, based on the specific Terms of Reference outlined above.

In addition to considerations related to maintaining of gender and geographical balance, the areas of expertise represented in the IHR Amendments RC encompass national and international health governance; international health law, including human rights; and health emergency preparedness and response, and the affiliations of the Members spans from the governmental sector to the academia and non-profit sector.

Some of the Members selected had expressed their interest in being appointed to the IHR Roster of Experts through the open “Call for expression of interest: International Health Regulations (2005) Roster of Experts” launched by the WHO Secretariat in April 2022. The final list of the Members of this Review Committee will be published on the WHO web site after the conclusion of the first meeting of the IHR Amendments RC.

#### **5. Conduct of business of the IHR Amendments RC**

The conduct of business of the IHR Amendments RC will comply with the application of the WHO Regulations for Expert Advisory Panels and Committees (including the Rules of Procedure in their Annex) and Articles 51 and 52 of the Regulations, encompassing, *inter alia*, rules related to the private nature of the Committee’s meetings, and the report of the Committee.<sup>13</sup>

Pursuant to Article 51.2, “The Director-General shall invite Member States, the United Nations and its specialized agencies and other relevant intergovernmental organizations or nongovernmental organizations in official relations with WHO to designate representatives to attend the Committee sessions. Such representatives may submit memoranda and, with the consent of the Chairperson, make statements on the subjects under discussion. They shall not have the right to vote.”

#### **6. Timeline of the work of the IHR Amendments RC**

The timeline of work of the IHR Amendments RC is set by Decision WHA75(9) as follows:

- **30 September 2022:** deadline for the submission of proposed amendments to the IHR.
- **1 October 2022:** Deadline for the DG to convene the IHR Amendments RC. The proposed schedule of the IHR Amendments RC meetings is below:
  - 6 October 2022: closed virtual meeting to elect Chair, Vice-Chair, and Rapporteur of the IHR Amendments RC, and define the Methods of Work;
  - **24-28 October 2022: face-to-face meeting** (5 days, Geneva, Switzerland), with, a one day meeting, on 26 October 2022, with Member States, United Nations and its specialized agencies and other relevant intergovernmental organizations or nongovernmental organizations in official

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<sup>12</sup> Regulations Items 4.1-4.7 in WHO Regulations for Expert Advisory Panels and Committees, [https://apps.who.int/gb/bd/pdf\\_files/BD\\_49th-en.pdf](https://apps.who.int/gb/bd/pdf_files/BD_49th-en.pdf)

<sup>13</sup> Regulations Items 4.12-4.15 in WHO Regulations for Expert Advisory Panels and Committees, [https://apps.who.int/gb/bd/pdf\\_files/BD\\_49th-en.pdf](https://apps.who.int/gb/bd/pdf_files/BD_49th-en.pdf)

relations with WHO, in accordance with Article 51.2 of the IHR, which will also include presentations of rationale for amendments proposed by States Parties, and, if needed, additional discussions of the IHR Amendments RC with each State Party that has proposed amendments;

- 16-17 November 2022: closed virtual working meeting;
- **28 November-2 December 2022: face-to-face meeting** (5 days, Geneva, Switzerland) for report drafting purposes, with, at least, one day meeting with Member States, United Nations and its specialized agencies and other relevant intergovernmental organizations or nongovernmental organizations in official relations with WHO, the Bureau of the Bureau of the Intergovernmental Negotiating Body (INB),<sup>14</sup> and the WGIHR;
- 15-16 December 2022: closed virtual working meeting;
- **9-13 January 2023: face-to-face meeting** (5 days, Geneva, Switzerland) for finalization of the report, with, at least, one day meeting with Member States, United Nations and its specialized agencies and other relevant intergovernmental organizations or nongovernmental organizations in official relations with WHO, the Bureau of the INB, and the WGIHR.
- **15 November 2022:** Deadline for the WGIHR to convene its first organizational meeting;
- **15 January 2023:** Deadline for the IHR Amendments RC to submit its report to the DG, noting that the DG shall communicate it without delay to the WGIHR.
- **15 December 2023:** The Review Committee remains “dormant” during 2023, and it will be reconvened in December 2023, to review the package of amendments agreed by the WGIHR, with a view to submit its final technical recommendations to the DG before mid-January 2024.
- **January 2024:** WGIHR submits their final package of proposed amendments to the DG who will communicate them to all States Parties in accordance with Article 55.2, for the consideration of the Seventy-seventh World Health Assembly.

## **7. Methods of work of the IHR Amendments RC**

The IHR Amendments RC will meet virtually and in person – see timeline above.

The Secretariat of the Review Committee will be provided by the IHR Secretariat, under the oversight of the Assistant Director-General on Health Emergencies Preparedness (ADG/WEP) and will include one focal person from each of the six WHO Regional Offices, to ensure alignment, coordination and consistent approach in support of the RC.

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<sup>14</sup> Information about the Intergovernmental Negotiating Body (INB) is available at: <https://apps.who.int/gb/inb/>