

118TH CONGRESS  
1ST SESSION

# H. R. 1425

To require any convention, agreement, or other international instrument on pandemic prevention, preparedness, and response reached by the World Health Assembly to be subject to Senate ratification.

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## IN THE HOUSE OF REPRESENTATIVES

MARCH 7, 2023

Mr. TIFFANY (for himself, Mr. BIGGS, Mrs. BOEBERT, Mr. FITZGERALD, Mr. GOODEN of Texas, Mr. GOSAR, Mrs. HARSHBARGER, Mrs. HOUCHIN, Mrs. MILLER of Illinois, Mr. NEHLS, Mr. ROY, Mr. SELF, Mr. SESSIONS, Mr. STEIL, and Ms. TENNEY) introduced the following bill; which was referred to the Committee on Foreign Affairs

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## A BILL

To require any convention, agreement, or other international instrument on pandemic prevention, preparedness, and response reached by the World Health Assembly to be subject to Senate ratification.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “No WHO Pandemic  
5 Preparedness Treaty Without Senate Approval Act”.

6 **SEC. 2. FINDINGS.**

7 Congress makes the following findings:

1           (1) On May 18, 2020, President Donald Trump  
2           sent a letter to World Health Organization (referred  
3           to in this Act as “WHO”) Director-General Tedros  
4           Adhanom Ghebreyesus (referred to in this Act as the  
5           “Director-General”), announcing that—

6                   (A) United States contributions to WHO  
7                   would be halted due its mismanagement of the  
8                   COVID–19 outbreak and its lack of independ-  
9                   ence from the People’s Republic of China; and

10                   (B) the United States would withdraw  
11                   from WHO if it did not commit to substantive  
12                   improvements within 30 days.

13           (2) President Trump’s May 18 letter cited nu-  
14           merous instances of WHO mismanagement of the  
15           COVID–19 pandemic, including—

16                   (A) unjustified delays informing member  
17                   states about a potentially serious disease out-  
18                   break in Wuhan, China; and

19                   (B) repeated grossly inaccurate or mis-  
20                   leading claims about the transmissibility of the  
21                   virus and about the Government of China’s  
22                   handling of the outbreak.

23           (3) On June 30, 2020, Secretary of State Mike  
24           Pompeo formally notified the United Nations of the  
25           United States decision to withdraw from WHO,

1       which would have taken effect on July 6, 2021,  
2       under the terms of a joint resolution adopted by  
3       Congress on June 14, 1948 (Public Law 80–643; 62  
4       Stat. 441).

5               (4) A Pew Research Center survey conducted in  
6       April and May 2020 indicated that 51 percent of  
7       Americans felt that WHO had done a poor or fair  
8       job in managing the COVID–19 pandemic.

9               (5) On January 20, 2021, President Joseph  
10       Biden sent United Nations Director-General António  
11       Guterres a letter retracting the United States notice  
12       of withdrawal from WHO.

13              (6) On December 1, 2021, at the second special  
14       session of the World Health Assembly (referred to in  
15       this Act as the “WHA”) decided—

16                   (A) to establish an intergovernmental ne-  
17                   gotiating body (referred to in this section as the  
18                   “INB”) to draft and negotiate a WHO conven-  
19                   tion (referred to in this section as the “Conven-  
20                   tion”), agreement, or other international instru-  
21                   ment on pandemic prevention, preparedness,  
22                   and response, with a view to adoption under Ar-  
23                   ticle 19 or any other provision of the WHO  
24                   Constitution; and

1 (B) that the INB shall submit a progress  
2 report to the Seventy-sixth WHA and a working  
3 draft of the convention for consideration by the  
4 Seventy-seventh WHA, which is scheduled to  
5 take place beginning on March 18, 2024.

6 (7) On February 24, March 14 and 15, and  
7 June 6 through 8 and 15 through 17, 2022, the  
8 INB held its inaugural meeting at which the Direc-  
9 tor-General proposed the following 5 themes to guide  
10 the INB's work in drafting the Convention:

11 (A) Building national, regional, and global  
12 capacities based on a whole-of-government and  
13 whole-of-society approach.

14 (B) Establishing global access and benefit  
15 sharing for all pathogens, and determining a  
16 global policy for the equitable production and  
17 distribution of countermeasures.

18 (C) Establishing robust systems and tools  
19 for pandemic preparedness and response.

20 (D) Establishing a long-term plan for sus-  
21 tainable financing to ensure support for global  
22 health threat management and response sys-  
23 tems.

24 (E) Empowering WHO to fulfill its man-  
25 date as the directing and coordinating authority

1           on international health work, including for pan-  
2           demic preparedness and response.

3           (8) On July 18 through 22, 2022, the INB held  
4           its second meeting at which it agreed that the Con-  
5           vention would be adopted under Article 19 of the  
6           WHO Constitution and legally binding on the par-  
7           ties.

8           (9) On December 5 through 7, 2022, the INB  
9           held its third meeting at which it accepted a concep-  
10          tual zero draft of the Convention and agreed to pre-  
11          pare a zero draft for consideration at the INB’s next  
12          meeting.

13          (10) In early January 2023, an initial draft of  
14          the Convention was sent to WHO member states in  
15          advance of its formal introduction at the fourth  
16          meeting of the INB, which is scheduled for February  
17          27 through March 3, 2023. The draft includes broad  
18          and binding provisions, including rules governing  
19          parties’ access to pathogen genomic sequences and  
20          how the products or benefits of such access are to  
21          be distributed.

22          (11) Section 723.3 of title 11 of the Depart-  
23          ment of State’s Foreign Affairs Manual states that  
24          when “determining whether any international agree-  
25          ment should be brought into force as a treaty or as

1 an international agreement other than a treaty, the  
2 utmost care is to be exercised to avoid any invasion  
3 or compromise of the constitutional powers of the  
4 President, the Senate, and the Congress as a whole”  
5 and includes the following criteria to be considered  
6 when determining whether an international agree-  
7 ment should take the form of a treaty or an execu-  
8 tive agreement:

9 (A) “The extent to which the agreement  
10 involves commitments or risks affecting the na-  
11 tion as a whole”.

12 (B) “Whether the agreement is intended to  
13 affect state laws”.

14 (C) “Whether the agreement can be given  
15 effect without the enactment of subsequent leg-  
16 islation by the Congress”.

17 (D) “Past U.S. practice as to similar  
18 agreements”.

19 (E) “The preference of the Congress as to  
20 a particular type of agreement”.

21 (F) “The degree of formality desired for  
22 an agreement”.

23 (G) “The proposed duration of the agree-  
24 ment, the need for prompt conclusion of an

1 agreement, and the desirability of concluding a  
2 routine or short-term agreement”.

3 (H) “The general international practice as  
4 to similar agreements”.

5 **SEC. 3. SENSE OF CONGRESS.**

6 It is the sense of Congress that—

7 (1) a significant segment of the American pub-  
8 lic is deeply skeptical of the World Health Organiza-  
9 tion, its leadership, and its independence from the  
10 pernicious political influence of certain member  
11 states, including the People’s Republic of China;

12 (2) Congress strongly prefers that any agree-  
13 ment related to pandemic prevention, preparedness,  
14 and response adopted by the World Health Assembly  
15 pursuant to the work of the INB be considered a  
16 treaty requiring the advice and consent of the Sen-  
17 ate, with two-thirds of Senators concurring;

18 (3) the scope of the agreement which the INB  
19 has been tasked with drafting, as outlined by the Di-  
20 rector-General, is so broad that any application of  
21 the factors referred to in section 2(11) will weigh  
22 strongly in favor of it being considered a treaty; and

23 (4) given the level of public distrust, any rel-  
24 evant new agreement by the World Health Assembly  
25 which cannot garner the two-thirds vote needed for

1 Senate ratification should not be agreed to or imple-  
2 mented by the United States.

3 **SEC. 4. ANY WORLD HEALTH AGENCY CONVENTION OR**  
4 **AGREEMENT OR OTHER INTERNATIONAL IN-**  
5 **STRUMENT RESULTING FROM THE INTER-**  
6 **NATIONAL NEGOTIATING BODY'S FINAL RE-**  
7 **PORT DEEMED TO BE A TREATY SUBJECT TO**  
8 **ADVICE AND CONSENT OF THE SENATE.**

9 Notwithstanding any other provision of law, any con-  
10 vention, agreement, or other international instrument on  
11 pandemic prevention, preparedness, and response reached  
12 by the World Health Assembly pursuant to the rec-  
13 ommendations, report, or work of the International Nego-  
14 tiating Body established by the second special session of  
15 the World Health Assembly is deemed to be a treaty that  
16 is subject to the requirements of article II, section 2,  
17 clause 2 of the Constitution of the United States, which  
18 requires the advice and consent of the Senate, with two-  
19 thirds of Senators concurring.

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