

Union Calendar No. 540

118TH CONGRESS
2D SESSION

H. R. 1425

[Report No. 118-643]

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.

IN THE HOUSE OF REPRESENTATIVES

MARCH 7, 2023

Mr. TIFFANY (for himself, Mr. BIGGS, Ms. 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

AUGUST 30, 2024

Additional sponsors: Mr. GROTHMAN, Ms. HAGEMAN, Mr. STEUBE, Mr. HUDSON, Mr. MOOLENAAR, Mr. GUEST, Mr. OGLES, Mr. CRENSHAW, Mr. DUNCAN, Mr. ROSENDALE, Mr. NORMAN, Mr. WEBER of Texas, Mr. BRECHEEN, Mr. CLINE, Mr. BANKS, Mr. BABIN, Mr. CLOUD, Mr. GIMENEZ, Mr. SMITH of New Jersey, Mr. MEUSER, Mr. BACON, Mr. BEAN of Florida, Mr. GOOD of Virginia, Mr. DESJARLAIS, Mr. MOONEY, Mr. FINSTAD, Mr. MILLS, Mr. GREEN of Tennessee, Mr. STAUBER, Mr. FLEISCHMANN, Mr. LOUDERMILK, Mr. VAN DREW, Ms. MACE, Mr. MOORE of Alabama, Ms. STEFANIK, Mr. POSEY, Mr. MORAN, Ms. MALLIOTAKIS, Mr. ROSE, Mr. BERGMAN, Mr. DAVIDSON, Mr. JACKSON of Texas, Mr. ZINKE, Mr. VAN ORDEN, and Mr. HILL

AUGUST 30, 2024

Committed to the Committee of the Whole House on the State of the Union
and ordered to be printed

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:

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

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

17 (B) the United States would withdraw
18 from WHO if it did not commit to substantive
19 improvements within 30 days.

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

23 (A) unjustified delays informing member
24 states about a potentially serious disease out-
25 break in Wuhan, China; and

1 (B) repeated grossly inaccurate or mis-
2 leading claims about the transmissibility of the
3 virus and about the Government of China’s
4 handling of the outbreak.

5 (3) On June 30, 2020, Secretary of State Mike
6 Pompeo formally notified the United Nations of the
7 United States decision to withdraw from WHO,
8 which would have taken effect on July 6, 2021,
9 under the terms of a joint resolution adopted by
10 Congress on June 14, 1948 (Public Law 80–643; 62
11 Stat. 441).

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

16 (5) On January 20, 2021, President Joseph
17 Biden sent United Nations Director-General António
18 Guterres a letter retracting the United States notice
19 of withdrawal from WHO.

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

23 (A) to establish an intergovernmental ne-
24 gotiating body (referred to in this section as the
25 “INB”) to draft and negotiate a WHO conven-

1 tion (referred to in this section as the “Conven-
2 tion”), agreement, or other international instru-
3 ment on pandemic prevention, preparedness,
4 and response, with a view to adoption under Ar-
5 ticle 19 or any other provision of the WHO
6 Constitution; and

7 (B) that the INB shall submit a progress
8 report to the Seventy-sixth WHA and a working
9 draft of the convention for consideration by the
10 Seventy-seventh WHA, which is scheduled to
11 take place beginning on March 18, 2024.

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

17 (A) Building national, regional, and global
18 capacities based on a whole-of-government and
19 whole-of-society approach.

20 (B) Establishing global access and benefit
21 sharing for all pathogens, and determining a
22 global policy for the equitable production and
23 distribution of countermeasures.

24 (C) Establishing robust systems and tools
25 for pandemic preparedness and response.

1 (D) Establishing a long-term plan for sus-
2 tainable financing to ensure support for global
3 health threat management and response sys-
4 tems.

5 (E) Empowering WHO to fulfill its man-
6 date as the directing and coordinating authority
7 on international health work, including for pan-
8 demic preparedness and response.

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

14 (9) On December 5 through 7, 2022, the INB
15 held its third meeting at which it accepted a concep-
16 tual zero draft of the Convention and agreed to pre-
17 pare a zero draft for consideration at the INB's next
18 meeting.

19 (10) In early January 2023, an initial draft of
20 the Convention was sent to WHO member states in
21 advance of its formal introduction at the fourth
22 meeting of the INB, which is scheduled for February
23 27 through March 3, 2023. The draft includes broad
24 and binding provisions, including rules governing
25 parties' access to pathogen genomic sequences and

1 how the products or benefits of such access are to
2 be distributed.

3 (11) Section 723.3 of title 11 of the Depart-
4 ment of State’s Foreign Affairs Manual states that
5 when “determining whether any international agree-
6 ment should be brought into force as a treaty or as
7 an international agreement other than a treaty, the
8 utmost care is to be exercised to avoid any invasion
9 or compromise of the constitutional powers of the
10 President, the Senate, and the Congress as a whole”
11 and includes the following criteria to be considered
12 when determining whether an international agree-
13 ment should take the form of a treaty or an execu-
14 tive agreement:

15 (A) “The extent to which the agreement
16 involves commitments or risks affecting the na-
17 tion as a whole”.

18 (B) “Whether the agreement is intended to
19 affect state laws”.

20 (C) “Whether the agreement can be given
21 effect without the enactment of subsequent leg-
22 islation by the Congress”.

23 (D) “Past U.S. practice as to similar
24 agreements”.

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

3 (F) “The degree of formality desired for
4 an agreement”.

5 (G) “The proposed duration of the agree-
6 ment, the need for prompt conclusion of an
7 agreement, and the desirability of concluding a
8 routine or short-term agreement”.

9 (H) “The general international practice as
10 to similar agreements”.

11 **SEC. 3. SENSE OF CONGRESS.**

12 It is the sense of Congress that—

13 (1) a significant segment of the American pub-
14 lic is deeply skeptical of the World Health Organiza-
15 tion, its leadership, and its independence from the
16 pernicious political influence of certain member
17 states, including the People’s Republic of China;

18 (2) Congress strongly prefers that any agree-
19 ment related to pandemic prevention, preparedness,
20 and response adopted by the World Health Assembly
21 pursuant to the work of the INB be considered a
22 treaty requiring the advice and consent of the Sen-
23 ate, with two-thirds of Senators concurring;

24 (3) the scope of the agreement which the INB
25 has been tasked with drafting, as outlined by the Di-

1 rector-General, is so broad that any application of
2 the factors referred to in section 2(11) will weigh
3 strongly in favor of it being considered a treaty; and

4 (4) given the level of public distrust, any rel-
5 evant new agreement by the World Health Assembly
6 which cannot garner the two-thirds vote needed for
7 Senate ratification should not be agreed to or imple-
8 mented by the United States.

9 **SEC. 4. ANY WORLD HEALTH AGENCY CONVENTION OR**
10 **AGREEMENT OR OTHER INTERNATIONAL IN-**
11 **STRUMENT RESULTING FROM THE INTER-**
12 **NATIONAL NEGOTIATING BODY'S FINAL RE-**
13 **PORT DEEMED TO BE A TREATY SUBJECT TO**
14 **ADVICE AND CONSENT OF THE SENATE.**

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

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