Background Research Report: Meaningful & Effective Civil Society Participation in the Pandemic Accord & IHR Amendment Negotiations

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I. Civil Society Participation in Public Health Emergency Prevention, Preparedness, Response & Recovery

The COVID-19 pandemic has profoundly changed the world, aggravating economic and social inequalities and triggering widespread violations of human rights and freedoms. In so doing, the pandemic has eroded the bedrock of democracy and health systems – public trust in governments and institutions, and brought into sharp relief the inextricable linkages between pandemics and the economic, social, and environmental circumstances in which individuals live.[1] Restoring such trust, as the UN High Commissioner for Human Rights noted in his recent address, will require stronger institutions, genuine participation, and a free and empowered civic space.[2]

To build greater resilience against future pandemics, it is imperative that health policies, laws and regulations are responsive and adaptive to people's lived realities, and enable the full realization of the rights and freedoms of all individuals.[3] This includes health-related rights, such as the right to health, life, and bodily security, as well as other rights more distally related to health, including the freedom of speech, assembly, and movement. Only by addressing the root causes of inequality and ensuring that all individuals have access to the resources and support they need can we hope to build a more resilient and equitable society capable of withstanding future pandemics.

The scale, intensity and endurance of the COVID-19 health threat have created a window of opportunity for multilateral global health law reforms, including amendments to the World Health Organization's (WHO's) International Health Regulations (IHR) and negotiations for a new pandemic accord, as well as a forthcoming United Nations High-Level Meeting (HLM) on Pandemic Prevention, Preparedness and Response (PPR) which is widely expected to drive political momentum towards the latter two reforms. Whether such law-making reflexes will lead to improved prevention, preparedness and response depends, *inter alia*, on the degree to which states are willing to negotiate in good faith on the basis of equity, inclusivity and solidarity.[4]

Our collective experience with the COVID-19 pandemic underscores the critical role that civil society can assume in coordinating responses, providing support to communities most impacted by inequality and discrimination, and advocating for the rights of all individuals in health decision-making forums at all levels of governance and in all lifecycles of a pandemic.[5] Thus, civil society should not only have a seat at the table in the deliberations towards a potential pandemic accord or any potential amendments to the IHR, but also in the monitoring of implementation and compliance with such instruments and subsequent decision-making taking place under their auspices.[6] By involving civil society in the drafting of a pandemic accord & IHR amendments, we can ensure that the voices of those most affected by the crisis are heard, and that their needs and concerns are adequately addressed in negotiations and beyond. Advocacy networks and civil society organizations bring invaluable expertise and knowledge to the table, as well as a deep understanding of the diverse needs and perspectives of different communities. Without

[1] Bowtell B, 'Our HIV Lesson: Exclude Politicians and Trust the Experts - and the People - to Confront Coronavirus' *The Sydney Morning Herald* (3 May 2020).
[2] A/HRC/52/72.
[3] World Health Organization, 'Voice, Agency, Empowerment - Handbook on Social Participation for Universal Health Coverage' (2021).
[4] SHARIFAH SEKALALA, SOFT LAW AND GLOBAL HEALTH PROBLEMS: LESSONS FROM RESPONSES TO HIV/AIDS, MALARIA AND TUBERCULOSIS (2017), /core/books/soft-law-and-global-health-problems/BD93483C8116577E6BE7D4AABE64FC6D (last visited Dec 14, 2019).
[5] This report uses the term "civil society" to mean "individuals or groups of individuals who associate together based on shared interests, goals, needs and functions" in a manner independent from the public and private for-profit sectors. This definition is distinct from the term "civil society organizations" and non-State actors. See World Health Organization, 'Voice, Agency, Empowerment - Handbook on Social Participation for Universal Health Coverage' (2021).
[6] Hodgson TF, Carmona MS and Podmore M, 'States Cannot Negotiate a Pandemic Treaty Alone' [2022] BMJ o1281.

their meaningful participation, intergovernmental negotiations for global health law reform are unlikely to reflect lessons learned from the vast array of public health and human rights issues exposed by the COVID-19 pandemic.[7]

This in-progress research report sets out two objectives. The first is to unpack the role that civil society can play in the drafting and negotiation of the pandemic accord, as well as in the amendments to the IHR and a political declaration on pandemic prevention, preparedness, response and recovery. The second is to identify possible avenues of civil society participation past the negotiation phase of the pandemic accord and/or IHR amendments. Before addressing these two objectives, however, it is important to briefly set the stage of events that have brought the international community to this juncture, and to describe the existing document framing Member States' engagement with non-State actors. The next section launches into setting this context.

II. Setting the Stage: Civil Society Participation in Multilateral Reform Processes in Global Health

a. Draft pandemic accord

In a Special Session in December 2021, the World Health Assembly (WHA) agreed to establish an Intergovernmental Negotiating Body (INB) for the development of a "WHO convention, agreement or other international instrument on pandemic prevention, preparedness and response,"[8] now more commonly called the "pandemic accord". The decision establishing the INB also requested that the Director-General (DG) support the negotiation process by "holding public hearings, in line with standard WHO practice,"[9] and:

> …facilitating participation, to the extent the INB so decides, in accordance with relevant Rules of Procedure and resolutions and decisions of the Health Assembly, of representatives of organizations of the United Nations system and other intergovernmental organizations with which WHO has established effective relations, Observers, representatives of non-State actors in official relations with WHO, and of other relevant stakeholders and experts as decided by the INB, recognizing the importance of broad engagement to ensure a successful outcome.[10]

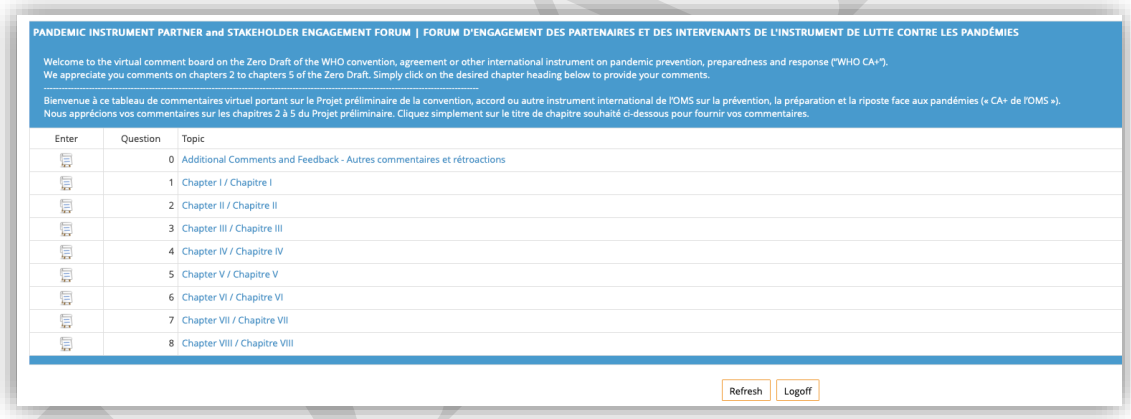
The INB has held five official meetings, including two resumed sessions of its first meeting, since its establishment, with a deadline to table a final draft by the 77th WHA in 2024. Thus far, the INB's engagement with non-State actors has involved a series of public hearings held in April and September 2022,[11] "informal, focused consultations" with experts on selected key issues in fall 2022, three informal intersessional events by invited experts in March 2023, the opportunity to provide inputs via an open portal, as well as the possibility to attend open sessions of the INB. Invitations to open sessions are extended to non-State actors in official relations with WHO,[12] and "relevant stakeholders" proposed by

[7] Tlaleng Mofokeng et al., *Negotiations for international instrument on pandemic preparedness must be guided by human rights: UN experts* (2022).
[8] The World Together: Establishment of an intergovernmental negotiating body to strengthen pandemic prevention, preparedness and response, SSA2(5).
[9] *Ibid*, para. 2(2).
[10] *Ibid*, para. 2(3).
[11] Outcomes of the first set of public hearings are available at A/INB/1/10 & outcomes of the second set of public hearings are available at A/INB/3/INF./3. In its second outcome report, the Secretariat noted that: "the overarching aim of the methodology was to approximate, at the global level, a 'town hall' approach, where individuals, speaking on their own behalf or on behalf of their organizations, expressed their uncensored views, mindful only of propriety, relevance and decorum" adding that it is "not aware of any other United Nations entity conducting this style of broad public outreach."
[12] The list of entities in official relations with WHO is available on the WHO website at: https://www.who.int/publications/m/item/non-state-actors-in-official-relations-with-who.

Member States for inclusion.[13] Since its fourth official meeting, the INB has entered the active negotiation phase of the zero draft of the pandemic accord in closed meetings, excluding non-State actors from the drafting sessions where article-by-article reviews of the draft are taking place.

Notwithstanding these limited opportunities for civil society participation within meetings of the INB, some states (e.g., the United Kingdom, Canada, the United States, Germany and Sweden) have set in motion listening sessions between government officials and their constituencies to inform priorities in pandemic accord drafting. On 21-22 March 2023, for instance, the Government of Canada held a two-day "Pandemic Instrument Partner and Stakeholder Engagement Forum," in which it invited individuals representing health officials from Canadian provinces and territories, Indigenous partners, civil society, academia, the private sector and youth to Ottawa to "foster cross-sectoral dialogue" and share "information, views and perspectives" on the zero draft of the pandemic accord. The meeting involved breakout sessions, roundtable discussions, and other engagement activities such as a platform wherein written input could be offered on specific chapters of the draft pandemic accord (see **Figure 1**). A summary report of the engagement forum is expected to be shared with participants soon. The Government of Canada has indicated that it may organize similar events in response to new drafts of the accord.

Figure 1: Government of Canada's online platform for written input on draft pandemic accord



b. Proposed amendments to the International Health Regulations (2005)

In tandem with negotiations on a new pandemic accord, the WHA has also agreed to embark on potential amendments to the IHR through a Working Group on Amendments to the IHR (WGIHR).[14] The Assembly tasked the WGIHR with proposing "a package of potential amendments," taking into account the report of a Review Committee regarding amendments to the IHR, by the 77th WHA. Established by the DG in October 2022, the Review Committee submitted its technical report on over 300 proposed amendments to the IHR in January 2023.[15]

[13] The latest version of the "Modalities for engagement of relevant stakeholders" (A/INB/4/5). Non-State actors proposed for inclusion by Member States are found under "Annex E" of the document. Annex E was populated by Member States. Note however that these modalities are framed as a "living document" which is subject to change if the INB wishes.
[14] Earliest traces of an impetus to amend the IHR can be found in the WHO Executive Board's decision EB150(3). At the 75th WHA, Member States agreed to revise the mandate of the Working Group on Strengthening WHO Preparedness and Response to Health Emergencies, now renamed to WGIHR, to focus exclusively on potential amendments of the IHR. See WHA75(9).
[15] Report of the Review Committee regarding amendments to the International Health Regulations (2005), A/WGIHR/2/5.

Thus far, the WGIHR has held two official meetings, with its latest set of meetings concluded in February 2023, considering the report of the Review Committee, and setting a workplan towards revising the 300+ proposed amendments to the IHR.[16] While the WGIHR and the INB have consistently emphasized the need for coordinating and streamlining processes and timelines between the parallel reforms, far less consideration has been given to mechanisms of civil society participation within the meetings of the WGIHR. In its latest "Proposed Modalities for Engagement with Relevant Stakeholders," dated 6 February 2023, modalities of engagement are contemplated for non-State actors in official relations with WHO.[17] At the time of writing, non-State actors not in official relations with WHO were not contemplated within such modalities.[18]

Despite these avenues of participation, civil society input remains limited in the drafting of the pandemic accord as well as in the negotiations to amend the IHR (see **Table 1**). [19] Moreover, it remains unclear the extent to which civil society will play a role in the implementation and subsequent decision-making involved in the secretariat of either instrument, if negotiations come to pass.

Table 1: Summary of civil society participation within and by the INB & WGIHR

	INB	WGIHR
Number of official meetings held	5	2
Modalities of stakeholder engagement published	Yes (17 March 2023)	Yes (6 February 2023)
Broadcast open sessions	Yes	Yes
Public hearings	Yes (2x in 2022)	No
Written input	Yes (time-limited)	No
Informed, focused consultations	Yes	No
Informal, intersessional work	Yes	No
Participation of NSAs in open sessions	NSAs in official relations & NSAs listed in Annex E	NSAs in official relations
Participation of NSAs in drafting group	No	No
Briefing sessions with NSAs	Yes (1x)	No
Debriefing/feedback sessions with NSAs	No	No

The process for the drafting of a political declaration ahead of the HLM on PPR in September remains as of yet unclear. However, the HLM on PPR plans to hold a multistakeholder hearing on 9 May 2023 in New York.

[16] The WGIHR's provisional timeline suggests that four additional meetings will take place on the following dates: 17-20 April 2023, 24-28 July 2023, 2-6 October 2023, and 7-8 December 2023. The WGIHR's package of amendments will be tabled before the World Health Assembly in May 2024. It should also be noted that between August and October 2023, regional committees are contemplated for Africa, South East Asia, the Americas, the Eastern Mediterranean, the Western Pacific and Europe. See "Provisional WGIHR Timeline (2022-2024)," A/WGIHR/2/4 Rev.1.

[17] Entities in official relations are international in membership and /or scope. All entities in official relations shall have a constitution or similar basic document, an established headquarters, a governing body, an administrative structure, and a regularly updated entry in the WHO register of non-State actors.

[18] The latest version of "Modalities for engagement of relevant stakeholders" (A/WGIHR/2/3). The document states that the engagement of non-State actors not in official relations with WHO "may be determined and agreed, if and as appropriate." Note however that these modalities are framed as a "living document" which is subject to change if the WGIHR wishes.

[19] It remains unclear at this stage why the WGIHR departs from the INB in terms of the NSAs involved in its negotiations, since both processes ostensibly involve actors with very similar interests and agendas.

III. Key Normative Imperatives on Civil Society Participation

a. General Normative Imperatives

International law is often touted as a matter concerning States and intergovernmental organizations alone. Democracy, however, is one of the foundational values of the United Nations (UN). The UN Charter is proclaimed in the name of 'the peoples'[20] and the Universal Declaration of Human Rights (UDHR) underscores that the will of the people is the basis of all governmental authority.[21] These guiding values and principles must frame all engagements between States and non-State actors under the aegis of the UN.[22] The Sustainable Development Goals in particular call on States to "ensure responsive, inclusive, participatory and representative decision-making at all levels" and to "ensure public access to information and protect fundamental freedoms, in accordance with national legislation and international agreements."[23]

In keeping with the spirit of democratic values enshrined in the UN Charter, the UN Economic and Social Council is mandated to "make suitable arrangements for consultation with nongovernmental organizations which are concerned with matters within its competence" on both an international and domestic level. UN member states further committed to upholding participation rights through the Sustainable Development Cooperation Framework.[24]

Under international human rights law, participation is not only a human right, but necessary to amplify the voices of those who would otherwise not be heard in the multilateral stage. This right is inextricably linked with the right to take part in the conduct of public affairs and the rights to freedom of expression and access to information, peaceful assembly and association. These rights are protected by the International Covenant on Civil and Political Rights, which has 173 States Parties. This right is also protected by a range of other widely ratified international treaties, including the Convention on Economic, Social and Cultural Rights, the Convention on Elimination of All Forms of Discrimination Against Women, the Convention on the Rights of the Child, and the Convention of the Rights of Persons with Disabilities. They are also reinforced by most regional human rights treaties and various UN declarations (such as the Declaration on Human Rights Defenders, Declaration on the Right to Development, and the Declaration on the Rights of Indigenous Peoples).

b. Normative Imperatives under auspices of WHO

Within the institutional setting of WHO, the WHO Constitution sets the framework of permissibility for engagement with other organizations, including "non-governmental international organizations" and "national organizations, governmental or non-governmental."[25] These imperatives have since been

[20] UN Charter, Preamble.
[21] UDHR, art. 21(3).
[22] Secretary-General António Guterres' vision on global collaboration for the next 24 years, *Our Common Agenda*, concludes as follows:

> 130. Finally, echoing calls made to the United Nations system, we have received suggestions on how to increase opportunities for engagement by civil society and other stakeholders across all the intergovernmental organs. These have included…calls for an updated resolution defining how organs like the Economic and Social Council, the General Assembly and the Security Council relate to civil society, local and regional governments and business actors, and for the President of the Economic and Social Council to convene a general review of arrangements for observer status or consultation in this regard. I encourage Member States to give serious consideration to these ideas, in keeping with our quest for a multilateralism that is more networked, inclusive and effective.

[23] *Ibid*, Target 16.7 & 16.10.
[24] Sustainable Development Goals (SDGs), 2017, Goal 17.
[25] WHO Constitution, Arts. 2, 18(h), 33, 41, 71. In particular, Article 71 broadly states that the "Organization may, on matters within its competence, make suitable arrangements for consultation and co-operation with non-governmental international

affirmed in dozens of resolutions, declarations and other soft law instruments negotiated under the auspices of the WHO. The Declaration of Alma Ata, for instance, recognizes that "people have the right … to participate individually and collectively in the planning and implementation of their health care."[26] More recently, the 2019 Political Declaration on Universal Health Coverage underscores the need to govern in a participatory manner across several of its clauses, including through the following:

> We…recognize that people's engagement…and the inclusion of all relevant stakeholders is one of the core components of health system governance to fully empower all people in improving and protecting their own health, giving due regard to addressing and managing conflicts of interest and undue influence, contributing to the achievement of universal health coverage for all, with a focus on health outcomes.[27]

Such broad statements have been further interpreted and applied by the WHO which has described social participation as a "key driver of health equity", and acknowledged that reduced levels of social participation create a range of problems including: "limi[ting] opportunities to detect the specific needs of social groups"; "bias[ing] political decisions in favour of the most advantaged social groups", "dismiss[ing] population knowledge about their own needs"; "exclud[ing] the groups with the highest level of health disadvantage in decisions affecting their health"; and "imply[ing] fewer mechanisms of public control and accountability".[28]

At the peripheries of WHO, inclusive governance with civil society is the standard at several leading global health institutions and global health governance processes. UNAIDS, Unitaid and the Global Fund to Fight AIDS, Tuberculosis and Malaria, for example, have integrated permanent civil society representation directly within their governance boards, and routinely consult with civil society and affected communities at national and regional levels in developing their strategies and policies.[29] Within WHO, the Partnership for Maternal, Newborn and Child Health also integrates civil society constituencies within their work. At the UN General Assembly-level, the Political Declarations on HIV/AIDS, the Political Declaration on Tuberculosis, and the Political Declaration on Universal Health Coverage have involved the robust participation of civil society and community-led organizations.

Framework of Engagement with Non-State Actors (FENSA)

In recent decades, the Organization has entered into a growing number of engagements with non-State actors,[30] recognizing that the era of SDGs mandates a "more proactive approach to engagement."[31] Such engagements, while diverse and dynamic, raise concerns about whether the right balance and mix of non-State actors are in close proximity to the activities of the WHO Secretariat and its Member States. The

organizations and, with the consent of the Government concerned, with national organizations, governmental or non-governmental."

[26] International Conference on Primary Health Care, Alma-Ata, USSR, 6-12 September 1978 (Declaration of Alma Ata), para. III.

[27] United Nations General Assembly, 74th sess, Political Declaration of the High-Level Meeting on Universal Health Coverage, A/RES/74/2 at para. 20.

[28] See WHO Regional Office for Europe, 'Participation as a Driver of Health Equity' (2019).

[29] The governing body of United Nations Joint Programme on HIV/AIDS (UNAIDS), for instance, consists of and leveraging the expertise of ten co-sponsoring UN agencies and five NGOs selected by the NGO community, as well as 22 geographically diverse member states, provides an innovative model for the collaborative intergovernmental governance needed to address the wide-ranging economic, social and health consequences of major global disease outbreaks. As examples of inclusive public-private partnerships, the Executive Board of Unitaid seats two representatives from relevant civil society networks. The Board of the Global Fund includes ten 'implementer constituencies' with voting rights

[30] See EB144/36, para. 4, which notes that WHO regularly enters into "thousands of engagements."

[31] EB144/36, para. 3.

primary WHO document governing such engagements is the *Framework of Engagement with Non-State Actors* (FENSA).

The WHA adopted FENSA in the 2016 resolution WHA69.10, following lengthy negotiations and policy development over the course of five years.[32] FENSA replaces the Organization's prior *Principles governing relations between the World Health Organization and nongovernmental organizations*,[33] and the *Guidelines on interaction with commercial enterprises to achieve health outcomes*.[34] According to the Third World Network, the origins of FENSA stretch back to the WHO reform programme of 2011, in which the Secretariat had proposed a "multi-stakeholder forum" for global health, with the aim of increasing "engagement (particularly of those whose voices are less heard in current settings)" and trust. However, the WHO Executive Board soon thereafter agreed on a Chair's summary of their meeting, which called for further discussion "on WHO's engagement with other stakeholders, including different categories of nongovernmental organisations and industry."[35] This triggered a cascading series of intergovernmental negotiations which culminated five years later in the final provisions of FENSA.

FENSA outlines the overarching principles through which WHO collaborates with non-State actors (NSAs). The term NSA is broadly construed under FENSA to capture non-governmental organizations, private sector entities (including international business associations), philanthropic foundations and academic institutions and think tanks.[36] As further described below, capturing such a wide array of actors under very similar rules has raised criticisms and posed certain challenges for the Organization's perceived independence and credibility.

FENSA elaborates upon five categories of engagement between WHO and NSAs:

(1) **Participation:** WHO may invite NSAs to attend meetings organized by the Organization, including meetings of the governing bodies, consultations (physical or virtual) for exchange of information and views, hearings for participants to present their evidence, views and positions, and to be questioned about them; and other meetings that are not part of the process of setting policies, norms or standards.
(2) **Resources**: WHO may receive resources whether financial or in-kind.
(3) **Evidence**: NSAs may provide WHO with up-to-date information and knowledge on technical issue and share their experience with WHO.
(4) **Advocacy**: NSAs may advocate for increased awareness of health issues, including issues that receive insufficient attention, and engage in joint action with WHO where required.
(5) **Technical collaboration**: NSAs may collaborate with WHO in other activities that fall within the General Programme of Work, including product development, capacity-building, operational collaboration in emergencies, and contributing to the implementation of WHO's policies.

While FENSA contemplates the participation of NSAs in meetings, it does not articulate the deeper parameters of "meaningful and effective participation" as understood within international human rights law, nor the notion of "deliberativeness" or a "deliberative process" which tends to be used in health care

[32] It is unique within international organizations to negotiate a policy document concerning NSAs. For an overview of the FENSA negotiation process, see Guilbaud A, 'Negotiating the Opening of International Organizations to Non-State Actors: The Case of the World Health Organization' (2023) 1 International Negotiation 1.
[33] Adopted in resolution WHA40.25. See Basic documents, 48th ed. Geneva: World Health Organization; 2014.
[34] Document EB107/20, Annex.
[35] Gopakumar K, 'Reform and WHO: The Continuing Saga of FENSA' (*Third World Network*, 2015).
[36] Each of these categories of entities also has a policy under FENSA. See WHO Policy and Operational Procedures on Engagement with Private Sector Entities/NGOs/Philanthropic Foundations/Academic Institutions, WHA69.10, 28 May 2016.

more often in the development of policy guidance or recommendations, and priority setting, and which aims to create the "conditions for reasoned dialogue."[37]

FENSA has also been widely criticized for its inadequate safeguards against conflicts of interest (COI). It strives to manage and identify institutional COIs and other risks of engagement, calling only for "particular caution" when engaging with private sector entities whose activities negatively affect health, and banning entirely engagement with tobacco and arms industries. However, FENSA does not prescribe caution in domestic relations between countries and their private sectors (e.g., through lobbying of governments), and leaves considerable interpretive room for Secretariat staff to implement the framework. As Berman explains:

> FENSA does not determine the criteria for identifying private sector influence, for identifying conflicts of interest, for carrying out the risk assessment, for determining which entities 'negatively affect human health' and for exercising 'particular caution'. [38]

In combining civil society with a wide swathe of other actors, including business associations, private sector entities, academic institutions and philanthropic entities, FENSA neglects to account for the particularities of interacting with civil society, and the power imbalances involved when it is treated the same as all other actors. This is especially problematic when considered against the backdrop of WHO's chronic funding woes, with earmarked voluntary funding making up approximately 75 per cent of the Organization's budget. After the USA, for instance, the Bill and Melinda Gates Foundation is the largest donor to voluntary contributions within the Organization.

WHO Civil Society Commission

Following the adoption of FENSA, the DG requested that the United Nations Foundation and RESULTS create a working group to explore strategies for improving engagement between WHO and civil society organizations. The group, referred to later as the Ad Hoc Task Team on WHO-Civil Society Engagement, was established in January 2018, and in November 2018, submitted its report to the DG, in which it recommended that WHO "update its policies, guidance, and processes to encourage…Member States to more regularly, broadly and meaningfully consult [civil society organizations]."[39] On policy dialogue specifically, the Task Team recommended that:

> …WHO create more formal roles for CSOs in various policymaking forums to foster more meaningful CSO participation in policymaking, including at the World Health Assembly, Regional Committee Meetings, and in Technical Working Groups and Advisory Committees. The Task Team recommends that WHO consistently and actively engage a wide range of CSOs, both in health and relevant non-health sectors and with experience across policy, advocacy, and service delivery, during governance meetings and in advisory groups at all levels.

The Task Team also recommended that WHO establish an Advisory Committee on WHO-CSO Engagement to constructively advise, *inter alia*, on "strategic engagement with civil society across all levels of the organization (global, regional and country) and all aspects of the General Programme of

[37] See World Health Organization, 'Voice, Agency, Empowerment - Handbook on Social Participation for Universal Health Coverage' (2021).
[38] Berman A, 'Between Participation and Capture in International Rule-Making: The WHO Framework of Engagement with Non-State Actors' (2021) 32 European Journal of International Law 227. The DG has gone on record stating that: "*FENSA is not a fence*. We must use whatever partnerships are open to us … to achieve our goal." *See* World Health Assembly, Address by Dr Tedros Ghebreyesus, Director General, A71/3, 21 May 2018.
[39] WHO-Civil Society Task Team, 'Together for the Triple Billion: A New Era of Partnership between WHO and Civil Society' (2018).

Work." Following this recommendation, and a series of civil society dialogues with the WHO Secretariat on the topic of social participation, a public call for applications from CSOs was launched by WHO earlier this year to strike an ongoing "WHO Civil Society Commission." Anticipated for an initial period of three years, the Commission is intended to serve as a "WHO network of civil society organizations that comprises a Steering Committee, a General Meeting and working groups," and its composition will include a broader range of CSOs than just those which are in official relations with WHO.[40] Nevertheless, the Commission is still bound by the FENSA and other "applicable WHO rules, policies, procedures and practices," and its Terms of Reference carefully circumscribe the role of the Commission, noting in particular that the Commission is "not a separate legal entity" and "not a decision-making body."

The CSO Commission holds promise as a longer term strategy for promoting regular engagement between the WHO Secretariat and a broader network of civil society organizations. It would not be the first time, however, that a CSO platform has been established to provide input into WHO's work, and few evaluations of the impact of such platforms exist.[41] More particularly, while this Commission could in principle accommodate a 'working group' to advise the WHO Secretariat on mechanisms for facilitating civil society participation within processes to negotiate a pandemic accord and IHR amendments,[42] timelines for establishing the Commission may be too slow to match the breakneck pace of negotiations. The multiplication of processes with specific modalities for civil society engagement makes it difficult to follow and identify aenues of participation which are ultimately uneven and limited.

IV. Participation in Negotiations Towards the Pandemic Accord & IHR Amendments

a. Civil society participation during treaty drafting & negotiation

Transparent, full, meaningful and effective consultation processes that engage with a wide range of civil society actors and community-led organizations are long standing good treaty drafting practices. The building blocks of meaningful and effective civil society participation in treaty negotiations include:

(1) transparent and simple access and accreditation processes;
(2) rights for civil society to intervene and be considered during deliberations – in an unrestricted and timely way;
(3) public livecasting of plenary and working group sessions of the deliberations to the extent possible, and where not possible, enable nonetheless some form of civil society participation (e.g., through presence of a limited number of observers); and
(4) funding for stakeholder participation.

[40] The publicly available Terms of Reference (TORs) of the Commission recognize that participants of the Commission may include: "grassroots community organizations, civil society groups and networks, faith-based organizations, professional groups and patient groups." Yet the TORs also go on to note that: "The establishment of the WHO Civil Society Commission does not have any impact on the role, rights and responsibilities of the non-State actors in official relations, including their participation in WHO governing bodies' meetings. It complements and strengthens the ongoing work to ensure the meaningful engagement of civil society at a governance and decision-making level, as and when appropriate, at WHO and do not replace these." See World Health Organization, 'Terms of Reference of WHO Civil Society Commission' (2022) <https://pmnch.who.int/docs/librariesprovider9/meeting-reports/terms-of-reference-who-cso-commission.pdf?sfvrsn=ba15ba9f_5> accessed 3 April 2023.

[41] See for instance the Civil Society Task Force on TB, established in November 2018 by the Global TB Programme of WHO: https://www.who.int/publications/i/item/9789240049765. See also the Platform for ACT-A Civil Society & Community Representatives: WACI Health, Global Fund Advocates Network, and STOPAIDS, 'Platform for ACT-A Civil Society and Community Representatives' (*Platform for ACT-A Civil Society and Community Representatives*) <https://covid19advocacy.org/> accessed 3 April 2023.

[42] "Working groups," according to the CSO Commission TORs, are "set up to achieve specific tasks aiming at supporting the Commission's mandate and work and may be established by the Steering Committee based on need." See note 40.

The below list offers examples of treaty drafting processes in which some combination of the above building blocks were used:

- The 2016 Regional Agreement on Access to Information, Public Participation and Access to Justice in Environmental Matters in Latin America and the Caribbean (Escazú Agreement): the negotiations of this agreement – which aims "to guarantee the full and effective implementation in Latin America and the Caribbean of the rights of access to environmental information, public participation in the environmental decision-making process and access to justice in environmental matters" were broadly open to the "interested public," and individuals could make statements to the sessions. All sessions were public by default unless States decided to hold them in private – in which case they were required to provide reasons for the request. Two public representatives were moreover elected and designated to maintain continuous dialogue with presiding officers.
- The 2006 Convention on the Rights of Persons with Disabilities: CSOs, including organizations of people with disabilities, were actively engaged in the drafting of this Convention. More than 400 such groups were granted equal speaking and voting rights to government representatives on the Ad Hoc Committee that drafted the Convention. They also had the right to attend Committee meetings, make written and oral presentations, and receive copies of official documents. The UN General Assembly passed two significant resolutions to establish separate accreditation processes to enable disability rights organizations without prior ECOSOC accreditation to participate effectively. Additionally, a Trust Fund was established to provide targeted support for participation from the Global South.
- The 1997 Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on their Destruction: This Convention was initiated by a coalition of NGOs operating under the banner of the International Campaign to Ban Landmines. The Coalition eventually came to represent more than 1000 NGOs across 60 countries. In an effort to democratize the international lawmaking process, NGO engagement sought to create an international civil society that expanded international negotiations and pressed states to act.
- The 1989 Convention on the Rights of the Child: included NGOs as active participants in treaty drafting, engaging them through written and oral interventions and as part of the "Informal NGO Ad Hoc Group on the Drafting of the Convention on the Rights of the Child".

In general human rights treaties are negotiated by Open-Ended Working Groups established by the Human Rights Council, which are automatically open to all NGOs accredited by ECOSOC. These rules apply to ongoing treaty negotiations, including the proposed treaty on Business and Human Rights. The World Intellectual Property Organization (WIPO) is also committed to transparency in all of its meetings, with all Committees and Assemblies livecasted, and records of diplomatic conferences publicly available.

b. Civil society participation in treaty governing bodies

Over the past few years, the creation of multilateral treaties has become more widespread in various areas of global concern such as human rights, trade, environment, and health. With this expansion of treaty-making, more attention has been placed on how to effectively implement these treaties in practice, as their success or failure is dependent on their implementation. The process of adopting a treaty and having it ratified by states is just the beginning. Equally important is the interpretation and action taken by the treaty parties, both in terms of implementing it domestically and working together internationally, as well as effectively addressing any issues that may arise during implementation.

Both the zero draft of the pandemic accord and certain proposed amendments to the IHR have proposed a governing or plenary body which may resemble an annual or biannual conference or meeting of the

Parties.[43] Civil society participation within these governing bodies matters. This especially true within the context of treaties that adopt a Framework Convention/Protocol approach, as the final, agreed upon text of a Framework Convention is likely to be aspirational and high-level in nature, containing few if any specific obligations.[44] Subsequent plenary meetings of the Parties are essential to further legislative development under a Framework Convention/Protocol approach to treaty design. Since the draft pandemic accord has already taken a Framework Convention approach, the next section deals specifically with the role of civil society across its preamble, objectives and governing body provisions.

Draft pandemic accord

The zero draft of the pandemic accord explicitly recognizes the imperative of "whole-of-government" and "whole-of-society" approaches across several of its provisions, and indicates across such provisions that such approaches also mean including non-State actors in global and regional decision-making processes. Under draft Article 15(d), for instance, the pandemic accord calls on States to:

> promote equitable gender, geographical and socioeconomic status, representation and participation, as well as the participation of youth and women, in global and regional decision-making processes, global networks and technical advisory groups.

It moreover emphasizes that States should "promote effective and meaningful engagement of communities, civil society and non-State actors, including private sector, as part of a whole-of-society response in decision-making, implementation, monitoring and evaluation, as well as effective feedback mechanisms."[45]

Within the institutional arrangements contemplated by the zero draft of the pandemic accord itself, it is proposed that the implementation of the accord will be overseen by a 'Governing Body,' composed of both a Conference of the Parties (or COP - the supreme policy-setting organ) and the Officers of the Parties (the administrative organ).[46] The provisions on a governing body currently do not contemplate a role for civil society participation in the COP (unlike the Framework Convention on Tobacco Control, further described below). It remains to be seen whether this model will be ultimately selected by Member States and if so, whether the COP's adoption of any rules of procedure in the future may include rules on a separate accreditation scheme for granting observer status to NGOs who wish to contribute to, and take part in, treaty decision-making processes of the COP.[47]

Nevertheless, NGO participation may be possible under Article 21 within the 'Consultative Body' of the pandemic accord, whose aim is to provide "advice and technical inputs for decision-making processes of

[43] See Zero draft of the WHO CA+ for the consideration of the Intergovernmental Negotiating Body at its fourth meeting, A/INB/4/3, art. 20; and World Health Organization, 'Proposed Amendments to the International Health Regulations (2005) Submitted in Accordance with Decision WHA75(9) (2022)' (2022) <https://apps.who.int/gb/wgihr/pdf_files/wgihr1/WGIHR_Submissions-en.pdf> accessed 3 April 2023 (in particular, proposals for an "Implementation Committee" submitted by Eswatini on behalf of the WHO African Region Member States & for a biannual meeting of all parties by Czech Republic on behalf of the Member States of the European Union.

[44] Siatitsa, I. (2010) The Evolution of the Monitoring Mechanism of the Framework Convention for the Protection of National Minorities: Co-operation of Independent and Political Bodies in the Interest of Effectiveness. Revue Hellénique de Droit International, Vol. 63, 771.

[45] Zero draft of the WHO CA+ for the consideration of the Intergovernmental Negotiating Body at its fourth meeting, A/INB/4/3, art. 16(3).

[46] *Ibid*, art. 20(2).

[47] Such a scheme is set for the COP proceedings under Article 23(5)(h).

the COP, without participating in any decision-making."[48] A broad array of actors may be part of the Consultative Body, including:

> representatives of any body or organization, whether national or international, governmental or *nongovernmental* [emphasis added], private sector or public sector, which is qualified in matters covered by the WHO CA+.

Article 21 goes on to note that such actors "may be admitted upon formal application, in accordance with terms and conditions to be adopted by the COP, renewable every three years, unless at least one third of the Parties object."[49] It is useful to consider how this framework for CSO engagement within the consultative body of the treaty may differ from an already existing WHO treaty which also touches on the matter. The next section provides an overview of key differences between the modalities of CSO engagement contemplated by the Framework Convention on Tobacco Control (FCTC), and those proposed in the current draft of the pandemic accord.

Framework Convention on Tobacco Control

In the late 1990s, then DG, Dr. Gro Harlem Brundtland, was firm on the need for WHO to partner with the NGO community to "give health and health-related issues the profile they deserve in all places where policy is made, and resources are allocated."[50] It is unsurprising, therefore, that the FCTC – governed by 181 Parties including the European Union – has been a hallmark of inclusivity, both in its development and implementation.

The FCTC differs from the zero draft of the pandemic accord in several respects: first, the FCTC recognizes the particular importance of civil society within its guiding principles and preamble (unlike the current draft of the pandemic accord, which refers to civil society only in a grouping with includes the private sector); second, the FCTC restricts participation in the COP to nongovernmental organizations and bodies only, while the text of the pandemic accord under negotiation envisions that a wide network of actors – including the private sector – may be admitted to the consultative body, perhaps in keeping with the spirit of FENSA, which had not yet emerged at the time of the FCTC's development; and finally the FCTC has foresees NGO participation within the COP, while the draft pandemic accord separates non-State actors into a consultative body, and emphasizes the fact that the consultative body should remain under the supervision of the COP. These distinctions are described in greater detail below.

(1) The particular role of civil society under FCTC

Under its Guiding Principles, the FCTC explicitly recognizes that "the participation of civil society is essential to the achievement of the objectives of the Convention and its protocols."[51] Such an understanding is further reinforced within its preamble,[52] and underscored in the Global Strategy to

[48] Zero draft of the WHO CA+ for the consideration of the Intergovernmental Negotiating Body at its fourth meeting, A/INB/4/3, art. 21(1)
[49] Zero draft of the WHO CA+ for the consideration of the Intergovernmental Negotiating Body at its fourth meeting, A/INB/4/3, art. 21(3).
[50] Brundtland GH. WHO and NGO Partnerships for Global Tobacco Control. Proceedings of the INGCAT International NGO mobilization meeting; 1999.
[51] WHO Framework Convention on Tobacco Control, 21 May 2003, 2302 UNTS 16 (No. 41032), Art. 4.7.
[52] *Ibid*, Preamble.

Accelerate Tobacco Control (2019-2025).[53] Subsequent Guidelines adopted by the COP have similarly emphasized the important role of civil society to the effective implementation of the FCTC.[54]

The added emphasis of the role of civil society from other NSAs under the FCTC framework would somewhat now be considered an anomaly, departing in some respects from the standards set out in FENSA. It is also accompanied by an explicit provision calling on Parties to act to protect public health policies with respect to tobacco control "from commercial and other vested interests of the tobacco industry in accordance with national law."[55] In practice, these provisions have established a culture which has empowered civil society to play an active role in the decision-making processes of the COP.[56]

(2) The engagement of civil society within the COP under FCTC

The provision of the FCTC which expands on the COP explicitly provides for the possibility of the COP's engagement with NGOs. Under Article 23(g), the COP may:

> request, where appropriate, the services and cooperation of, and information provided by, competent and relevant organizations and bodies of the United Nations system and other international and regional intergovernmental organizations and nongovernmental organizations and bodies as a means of strengthening the implementation of the Convention.

The Rules of Procedure adopted under the FCTC elaborate on the procedures for NGOs attaining obtaining observer status, with criteria that are less onerous than obtaining official relations with the WHO. The criteria for FCTC observer status are that:

> (1) the NGO must work either internationally or regionally (NGOs at national and subnational levels may not get observer status);
> (2) the NGO must abide by the 17th and 18th preambular paragraphs of the FCTC, as well as Article 5.3 on acting to protect against vest interests in commercial; and
> (3) the NGO's aims and activities must be in conformity with the spirit, purpose and principles of the Convention.[57]

Applications for accreditation are reviewed first by the FCTC Secretariat, then by its Bureau, and finally by the COP. Observers to the COP may observe open or public meetings of the COP, and may speak after Member State and intergovernmental bodies. According to one civil society representative to the FCTC,

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[53] World Health Organization, 'Global Strategy to Accelerate Tobacco Control - Advancing Sustainable Development through the Implementation of the WHO FCTC 2019-2025' (2019).

[54] See for instance the Guidelines for implementation of Article 12 of the WHO FCTC (*Education, communication, training and public awareness*), which recognizes that "[t]he active participation of and partnership with civil society, as specified in Article 4.7 of the Convention, is essential to the effective implementation of these guidelines." More Guidelines available at https://fctc.who.int/who-fctc/overview/treaty-instruments.

[55] WHO Framework Convention on Tobacco Control, 21 May 2003, 2302 UNTS 16 (No. 41032), Art. 5.3.

[56] Sparks M, 'Governance beyond Governments: The Role of NGOs in the Implementation of the FCTC' (2010) 17 Global Health Promotion 67.

[57] FCTC Rules of Procedure, Rule 31, para. 2. Note that the requirement for NGOs to work either 'internationally' or 'regionally' contravenes the United Nations High Commissioner for Human Rights, 'Guidelines for States on the Effective Implementation of the Right to Participate in Public Affairs' (2018) <https://www.ohchr.org/sites/default/files/Documents/Issues/PublicAffairs/GuidelinesRightParticipatePublicAffairs_web.pdf> accessed 3 April 2023 (see para. 109):

> The capacity of rights holders to participate meaningfully in international forums should be strengthened, in particular among those who are less proficient in procedures governing participation at the international level, such as grass-roots and local civil society organizations working with individuals or groups that are marginalized or discriminated against.

"FCTC observer status means front seat into live negotiations"[58] – a privilege that is not as common within the framework of the World Health Assembly, where very little speaking time is afforded to CSOs (and where they may sometimes even be asked to speak as one group representing many different organizations).[59]

(3) The delineation of the COP and consultative body within the draft pandemic accord

The FCTC does not contain a consultative body, and instead foresees civil society participation directly within meetings of the Conference of Parties. It remains as of yet unclear how such a delineation may impact the participation of civil society in the governenace of a future pandemic accord. One interpretation, based upon the text that currently appears within the draft pandemic accord, may be to exclude NGO observers from the meetings of the COP: "For the avoidance of doubt, it is understood that the Consultative Body will not participate in any decision-making, whether by consensus, voting or otherwise, of the COP."[60]

It is uncommon to see the above type of language in the governing bodies clauses of a framework convention. For comparison, the 1985 Vienna Convention for the Protection of the Ozone Layer recognizes that "[a]ny body or agency, whether national or international, governmental or non-governmental, qualified in fields relating to the protection of the ozone layer" may be represented at a meeting of the COP if it so informs the secretariat of its wish and unless one-third of the Parties object to its representation.[61] The Framework Convention on Climate Change (FCCC) similarly foresees the participation of "[a]ny body or agency, whether national or international, governmental or non-governmental, which is qualified in matters covered by the Convention, and which has informed the secretariat of its wish to be represented at a session of the Conference of the Parties."[62] The 1993 Convention on Biological Diversity contains near-identical language as well.[63] In all of these instances, the precise criteria determining admissibility of an entity as an observer must be established by the Rules of Procedure adopted by the COP.

It should be noted that in recent pandemic accord negotiations, the European Union has advanced text that proposed to delete the 'consultative body' in the draft pandemic accord, and instead, borrowing directly from the provisions of the above-described Framework Conventions under the auspices of the UN Environment Programme, includes the following within the clauses dealing with governing bodies:

> Any other body or agency, whether national or international, governmental or non-governmental, *including civil society and the private sector* [emphasis added], that is qualified in areas covered by the Agreement and has requested the Secretariat to participate in the sessions of the conference of the Parties as an observer, is admitted unless one third of the Parties present object.[64]

[58] Leslie Ferat Rae, Executive Director, Framework Convention Alliance (personal communication).
[59] The close engagement between civil society and Member States at meetings of the Conference of Parties has enabled Member States to build relationships of trust with CSOs, according to Leslie Rae Ferat (also cited above).
[60] Zero draft of the WHO CA+ for the consideration of the Intergovernmental Negotiating Body at its fourth meeting, A/INB/4/3, art. 21(2).
[61] Vienna Convention on the Protection of the Ozone Layer, 22 March 1985, 1513 UNTS 3 (No. 26164), art. 7.5.
[62] See UN Framework Convention on Climate Change, 9 May 1992, UNTS 1907 (No.30822), art.7(6).
[63] See Convention on Biological Diversity, 5 June 1992, 1760 UNTS 9 (No. 30619), art. 23.5: "…Any other body or agency, whether governmental or non-governmental, qualified in fields relating to conservation and sustainable use of biological diversity, which has informed the Secretariat of its wish to be represented as an observer at a meeting of the Conference of the Parties, may be admitted unless at least one third of the Parties present object. The admission and participation of observers shall be subject to the rules of procedure adopted by the Conference of the Parties." This same language is also found in the 2013 Minamata Convention on Mercury.
[64] European Union, 'Outline of EU Textual Proposals in the Zero Draft of the WHO Convention, Agreement or Other International Instrument on Pandemic Prevention, Preparedness and Response ("WHO CA+")' (2023)

The emphasis placed in the above is not borrowed from either environmental regime or from the FCTC. As noted earlier, the grouping of civil society and the private sector is an anomaly that resides particularly under the institutional umbrella of the WHO and the FENSA.

Table 2: Recognizing civil society within the governance of the pandemic accord & the FCTC

	FCTC	Pandemic Accord (Zero Draft)[65]
Preamble	*Emphasizing the special contribution of nongovernmental organizations and other members of civil society not affiliated with the tobacco industry, including health professional bodies, women's, youth, environmental and consumer groups, and academic and health care institutions, to tobacco control efforts nationally and internationally and the vital importance of their participation in national and international tobacco control efforts,*	*17. Recognizing the synergies between multisectoral collaboration – through whole-of-government and whole-of-society approaches at the country and community level – and international, regional and cross-regional collaboration, coordination and global solidarity, and their importance to achieving sustainable improvements in pandemic prevention, preparedness and effective response,*
Substantive paragraphs	**Article 4 (Guiding Principles)** To achieve the objective of this Convention and its protocols and to implement its provisions, the Parties shall be guided, inter alia, by the principles set out below: … 7. The participation of **civil society** is essential in achieving the objective of the Convention and its protocols.	**Article 4 (Guiding principles and rights)** 9. Inclusiveness – The active engagement with, and participation of, **all relevant stakeholders and partners** across all levels, consistent with relevant and applicable international and national guidelines, rules and regulations (including those relating to conflicts of interest), is fundamental for mobilizing resources and capacities to support pandemic prevention, preparedness, response and health systems recovery.
Participation in governance	**Article 23 (Conference of the Parties)** 5. The Conference of the Parties shall keep under regular review the implementation of the Convention and take the decisions necessary to promote its effective implementation and may adopt protocols, annexes and amendments to the Convention, in accordance with Articles 28, 29 and 33. Towards this end, it shall: …	**Article 21 (Consultative Body for the WHO CA+)** … 2. The Consultative Body will provide opportunity for broad, fair and equitable input to the COP for the decision-making processes of the COP. Further, the Consultative Body will provide opportunity for facilitation of implementation of COP decisions

<https://www.eeas.europa.eu/sites/default/files/documents/2023/EU%20proposals%20integrated%20into%20the%20ZD%2028%20March.pdf> accessed 3 April 2023.

[65] The provisions listed below omit those provisions of the pandemic accord where the role of CSOs is recognized in relation to national policies.

	(g) request, where appropriate, the services and cooperation of, and information provided by, competent and relevant organizations and bodies of the United Nations system and other international and regional intergovernmental organizations and **nongovernmental organizations** and bodies as a means of strengthening the implementation of the Convention 6. The Conference of the Parties shall establish the criteria for the participation of observers at its proceedings.	through modalities to be established by the COP. For the avoidance of doubt, it is understood that the Consultative Body will not participate in any decision-making, whether by consensus, voting or otherwise, of the COP. 3. The Consultative Body shall be composed of (i) delegates representing Parties; and (ii) representatives of the United Nations and its specialized and related agencies, as well as any State Member thereof or observers thereto not Party to the WHO CA+. Further, representatives of any body or organization, **whether national or international, governmental or nongovernmental, private sector or public sector,** which is qualified in matters covered by the WHO CA+, may be admitted upon formal application, in accordance with terms and conditions to be adopted by the COP, renewable every three years, unless at least one third of the Parties object. 4. The Consultative Body shall be subject to the oversight of the COP, including rules of procedure adopted by the COP.

c. Civil society participation in treaty oversight & implementation

The draft pandemic accord does not currently have strong provisions on treaty oversight, and instead provides that the COP develop cooperative procedures and institutional mechanisms to promote compliance with the provisions of the WHO CA+. In recent drafting sessions, however, the European Union has proposed an "Implementation and Compliance Committee" with the mandate to "promote implementation of, and review compliance with, the provisions of the Agreement, including by addressing matters related to possible non-compliance." Similar to UN human rights treaty bodies, the proposed Implementation and Compliance Committee would "consist of…independent experts, nominated by the Parties and elected by the Conference of the Parties, with due consideration to gender equality and equitable geographic representation."[66] If there is no consensus on the proposal for a compliance and/or implementation committee within the main body of the draft pandemic accord, future

[66] European Union, 'Outline of EU Textual Proposals in the Zero Draft of the WHO Convention, Agreement or Other International Instrument on Pandemic Prevention, Preparedness and Response ("WHO CA+")' (2023) <https://www.eeas.europa.eu/sites/default/files/documents/2023/EU%20proposals%20integrated%20into%20the%20ZD%2028%20March.pdf> accessed 3 April 2023.

parties to the accord may nonetheless wish to establish one for a legally binding protocol to the accord (see **Table 3**).

Some amendments proposed to the IHR have also advanced the idea of a "Compliance Committee" which may be empowered, *inter alia*, to "seek the services of experts and advisors, including representatives of NGOs or members of the public, as appropriate."[67] The Committee may also ask the Director-General to invite representatives of NGOs in official relations to attend sessions of the Committee "to address a specific issue under consideration."

Such committees are not without precedent within multilateral human rights and environmental agreements; however, the participation of nongovernmental organizations and bodies within these Committees, either as attendees of meetings or by submitting relevant information, is relatively rare outside of the UN human rights regime (see **Table 3**).

Table 3: Systems for Implementation Review under Multilateral Environmental Agreements

	Montreal Implementation Committee (1992)	ECE Compliance Committee (1997)	Basel Mechanism (2002)	Cartagena Compliance Committee (2004)	Kyoto Compliance Committee (2005)
Members	Nominees of States Parties, elected by COP/MOP. Equitable geographical representation	Representatives of States Parties, elected by Executive Body (COP).	Nominees of States Parties, elected by COP, having relevant expertise and serving objectively.	Nominees of States Parties, elected by COP/MOP, having recognised competence in relevant field/s. Equitable geographical representation.	Elected by COP/MOP, having recognised competence and serving in individual capacities. Equitable geographical representation.
Outside expertise permitted?	No.	No.	May be drawn on, with the consent of the Party concerned, or under direction from the COP.	Committee may request information from relevant international organizations.	Committee may seek expert advice. Competent intergovernmental and non-governmental organizations are entitled to submit relevant technical and factual information.

[67] WHO, Article-by-Article Compilation of Proposed Amendments to the International Health Regulations (2005) submitted in accordance with decision WHA75(9) (2022). See in particular: NEW Chapter IV (Article 53 bis-quater): The Compliance Committee. See also: New Article 54 bis – Implementation.