
Proposal from the INB Bureau regarding the process to identify the substantive elements of the instrument, in furtherance of the Bureau’s mandate in this regard

MANDATE AND BACKGROUND

1. Per Health Assembly decision SSA2(5) (2021), operative paragraph 1(3): “as part of its working methods, the INB shall determine an inclusive Member State led process, to be facilitated by the co-chairs and vice-chairs, to first identify the substantive elements of the instrument and to then begin the development of a working draft to be presented, on the basis of progress achieved, for the consideration of the INB at its second meeting, to be held no later than 1 August 2022, at the end of which the INB will identify the provision of the WHO Constitution under which the instrument should be adopted...”.

2. In this paper, the Bureau of the Intergovernmental Negotiating Body to draft and negotiate a WHO convention, agreement or other international instrument on pandemic prevention, preparedness and response (INB) presents a process, for consideration by the INB, regarding the first component of the above mandate: the process to identify the substantive elements of the instrument. The Bureau will follow up the further aspect of its mandate, facilitating the process to begin the development of a working draft, in due course, and a second resumed session of the first meeting of the INB will be planned in June 2022 for the discussion of the process for the development of a working draft.

SUBSTANTIVE ELEMENTS OF AN INTERNATIONAL INSTRUMENT

3. Substantive elements of an international instrument may include parts to be addressed, such as “objectives”, “definitions”, “relationship with other agreements”, “guiding principles”, as well as, for this instrument in particular, technical areas related to pandemic preparedness, prevention, response and recovery, which can be informed by the work of the WGPR on “equity”, “governance”, “systems and tools” and “finance”, and others. Such elements could be further subcategorized, defined and elaborated. Conceptually, substantive elements could be consolidated into a matrix and an outline composed of categories, subcategories and sub-subcategories.

IDENTIFICATION OF THE SUBSTANTIVE ELEMENTS

4. The identification of the substantive elements does not require the drafting or negotiation of the final text of an instrument, a process which the Bureau will facilitate as a subsequent step per decision SSA2(5).

5. With the foregoing in mind, it is proposed that the final output of the process for development of the substantive elements would be a consolidated outline of substantive elements reflecting Member States' inputs pursuant to paragraph 7 below and may include or be informed by stakeholder inputs. It would be understood that this outline would be dynamic, and would not bind, limit, or prejudice the position of any Member State,¹ but would rather be a basis on which the Bureau can organize and allocate the division of work for the next step in developing a working draft called for in operative paragraph 1(3) of decision SSA2(5).

PROPOSED PROCESS TO IDENTIFY THE SUBSTANTIVE ELEMENTS

6. The Bureau proposes an inclusive and transparent Member State led process for identifying the substantive elements of the instrument, open to all Member States, consistent with the methods of work agreed by the INB.

7. The Bureau proposes that as a first step, input would be solicited by the Bureau from Member States. In the course of this process, inputs would also be invited from relevant stakeholders in accordance with the agreed modalities for the engagement of the relevant stakeholders.

8. Member States providing input will be able to do so through an online tool, designed for ease of access and use, and/or will also have the opportunity to submit an open-ended written submission.

9. With respect to the online tool, the Bureau, supported by the Secretariat, will develop a tool to gather and prioritize input towards defining the substantive elements. This may include components drawn from the 131 recommendations addressed by the WHO Secretariat in its report to the Working Group on Strengthening WHO Preparedness and Response to Health Emergencies.²

10. The process for identifying the substantive elements would involve all Bureau members in assisting to compile, categorize, and synthesize the input received into groups of potential substantive elements.

PROPOSED TIMELINE AND ACTION STEPS FOR THE PROCESS

11. Subject to technical considerations, the duration of the process for obtaining the above-described input could be six weeks, commencing on or about 21 March 2022 (one week after the resumed session of the first meeting of the INB), and ending on or about 29 April 2022.

12. During this period, Member States could provide their suggestions, ideas and thoughts on substantive elements through the online tool and open-ended written submissions, and the Bureau would compile, categorize, and synthesize the results of the online tool and open-ended written submissions

¹ Throughout this document, the term "Member States" is to be read to also include Associate Members and regional economic integration organizations, following decision SSA2(5).

² As described in document A/WGPR/3/5.

and consolidate all the inputs. The WHO Secretariat would support this process, including facilitating Member State outreach at all three levels of the Organization.

13. Upon completion of the input period from Member States, the Bureau would then elaborate a draft consolidated outline document, and provide that outline to all Member States as a basis for consideration and discussion.

14. Pursuant to the principle of transparency articulated in decision SSA2(5), submissions provided from Member States would be accessible to all other Member States, unless specifically requested otherwise. Member States will be requested to indicate whether they wish their submissions to be made publicly available.

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