

117TH CONGRESS
2D SESSION

S. 4343

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 SENATE OF THE UNITED STATES

MAY 26, 2022

Mr. JOHNSON (for himself, Mr. BARRASSO, Mr. BRAUN, Mr. COTTON, Mr. CRUZ, Mr. GRASSLEY, Mr. HAGERTY, Mr. HOEVEN, Mrs. HYDE-SMITH, Mr. LEE, Mr. MARSHALL, Mr. RUBIO, Mr. SCOTT of Florida, Mr. TUBERVILLE, Mr. DAINES, and Mr. TILLIS) introduced the following bill; which was read twice and referred to the Committee on Foreign Relations

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
17 negotiating body . . . (the ‘INB’) to draft and
18 negotiate a WHO convention, agreement or
19 other international instrument on pandemic
20 prevention, preparedness and response, with a
21 view to adoption under Article 19, or under
22 other provisions of the WHO Constitution . . .
23 .”; and

24 (B) that the INB shall submit a progress
25 report to the Seventy-sixth WHA and a working

1 draft of the convention for consideration by the
2 Seventy-seventh WHA, which is scheduled to
3 take place beginning on March 18, 2024.

4 (7) On February 24 and March 14 and 15,
5 2022, the INB held its inaugural meeting at which
6 the Director-General proposed the following 5
7 themes to guide the INB's work in drafting the Con-
8 vention:

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

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

16 (C) Establishing robust systems and tools
17 for pandemic preparedness and response.

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

22 (E) Empowering WHO to fulfill its man-
23 date as the directing and coordinating authority
24 on international health work, including for pan-
25 demic preparedness and response.

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

13 (A) "The extent to which the agreement
14 involves commitments or risks affecting the na-
15 tion as a whole".

16 (B) "Whether the agreement is intended to
17 affect state laws".

18 (C) "Whether the agreement can be given
19 effect without the enactment of subsequent leg-
20 islation by the Congress".

21 (D) "Past U.S. practice as to similar
22 agreements".

23 (E) "The preference of the Congress as to
24 a particular type of agreement".

1 (F) “The degree of formality desired for
2 an agreement”.

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

7 (H) “The general international practice as
8 to similar agreements”.

9 **SEC. 3. SENSE OF THE SENATE.**

10 It is the sense of the Senate that—

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

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

22 (3) the scope of the agreement which the INB
23 has been tasked with drafting, as outlined by the Di-
24 rector-General, is so broad that any application of

1 the factors referred to in section 2(8) will weigh
2 strongly in favor of it being considered a treaty; and

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

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

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

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