

118TH CONGRESS
2D SESSION

H. R. 1425

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 17, 2024

Received; read twice and referred to the Committee on Foreign Relations

AN ACT

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,*

1 **SECTION 1. SHORT TITLE.**

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

4 **SEC. 2. FINDINGS.**

5 Congress makes the following findings:

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

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

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

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

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

24 (B) repeated grossly inaccurate or mis-
25 leading claims about the transmissibility of the

1 virus and about the Government of China’s
2 handling of the outbreak.

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

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

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

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

21 (A) to establish an intergovernmental ne-
22 gotiating body (referred to in this section as the
23 “INB”) to draft and negotiate a WHO conven-
24 tion (referred to in this section as the “Conven-
25 tion”), agreement, or other international instru-

1 ment on pandemic prevention, preparedness,
2 and response, with a view to adoption under Ar-
3 ticle 19 or any other provision of the WHO
4 Constitution; and

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

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

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

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

22 (C) Establishing robust systems and tools
23 for pandemic preparedness and response.

24 (D) Establishing a long-term plan for sus-
25 tainable financing to ensure support for global

1 health threat management and response sys-
2 tems.

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

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

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

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

1 (11) Section 723.3 of title 11 of the Depart-
2 ment of State’s Foreign Affairs Manual states that
3 when “determining whether any international agree-
4 ment should be brought into force as a treaty or as
5 an international agreement other than a treaty, the
6 utmost care is to be exercised to avoid any invasion
7 or 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 (12) Article II, Section 2 of the United States
10 Constitution provides that the President “shall have
11 Power, by and with the Advice and Consent of the
12 Senate, to make Treaties, provided two-thirds of the
13 Senators present concur”.

14 (13) Alexander Hamilton writes in Federalist
15 Paper #75 regarding the Treaty Making Powers of
16 the Executive that “Its objects are CONTRACTS
17 with foreign nations, which have the force of law,
18 but derive it from the obligations of good faith. They
19 are not rules prescribed by the sovereign to the sub-
20 ject, but agreements between sovereign and sov-
21 ereign. The power in question seems therefore to
22 form a distinct department, and to belong, properly,
23 neither to the legislative nor to the Executive. The
24 qualities elsewhere detailed as indispensable in the
25 management of foreign negotiations, point out the

1 Executive as the most fit agent in those trans-
2 actions; while the vast importance of the trust, and
3 the operation of treaties as laws, plead strongly for
4 the participation of the whole or a portion of the leg-
5 islative body in the office of making them”.

6 (14) If any provisions of a treaty are to have
7 legal bearing on United States citizens those provi-
8 sions must pass both the United States House of
9 Representatives and the Senate and be presented to
10 the President, as all Federal laws must.

11 (15) The United States Constitution establishes
12 a clear framework for making treaties by the Execu-
13 tive and with the advice and consent of the Senate.
14 This process is indispensable for the Founders’ vi-
15 sion of constitutional government.

16 (16) The United States House of Representa-
17 tives does not vote for, ratify, affirm, or consent to
18 treaties.

19 **SEC. 3. STATEMENT OF POLICY.**

20 It is the policy of the United States to unequivocally
21 support Taiwan’s full participation in the World Health
22 Organization.

23 **SEC. 4. SENSE OF CONGRESS.**

24 It is the sense of Congress that—

1 (1) a significant segment of the American pub-
2 lic is deeply skeptical of the World Health Organiza-
3 tion, its leadership, and its independence from the
4 pernicious political influence of certain member
5 states, including the People's Republic of China;

6 (2) Congress strongly prefers that any agree-
7 ment related to pandemic prevention, preparedness,
8 and response adopted by the World Health Assembly
9 pursuant to the work of the INB be considered a
10 treaty requiring the advice and consent of the Sen-
11 ate, with two-thirds of Senators concurring;

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

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

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

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

18 **SEC. 6. NO FORCE OR EFFECT TO TREATY PRIOR TO RATI-**
19 **FICATION.**

20 Notwithstanding any other provision of law, any con-
21 vention, agreement, or other international instrument on
22 pandemic prevention, preparedness, and response deemed
23 to be a treaty by section 5—

24 (1) shall have no force or effect under the laws
25 of the United States before the date on which such

1 treaty is ratified with the advice and consent of the
2 Senate; and

3 (2) may not be used, prior to such date, to es-
4 tablish or demonstrate the existence of a violation of
5 United States law or an offense against the law of
6 nations in United States courts, including—

7 (A) to establish standing, a cause of ac-
8 tion, or damages as a matter of law; or

9 (B) to demonstrate whether an action by a
10 Federal agency is arbitrary or capricious, an
11 abuse of discretion, or otherwise not in accord-
12 ance with law.

Passed the House of Representatives September 11,
2024.

Attest: KEVIN F. MCCUMBER,
Clerk.