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**IMPLEMENTATION AND COMPLIANCE IN  
INTERNATIONAL LAW:  
IMPLICATIONS FOR PANDEMIC RULEMAKING**

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<b>Abbreviation</b>	<b>Definition</b>
CED	United Nations Committee on Enforced Disappearances
COP	Conference of the Parties
CSO	Civil Society Organization
ETF	Enhanced Transparency Framework
IAEA	International Atomic Energy Agency
IHR	International Health Regulations
ILC	International Law Commission
IPPPR	Independent Panel for Pandemic Preparedness and Response
LOIPR	List of Issues Prior to Reporting
MEA	Multilateral Environmental agreement
MOP	Meeting of the Parties
MTR	Mid-term Report
MLF	Multilateral Fund
NCP	Non-Compliance Procedure
NDC	Nationally Determined Contribution
NHRI	National Human Rights Institution
ODS	Ozone-depleting Substance
OHCHR	Office of the United Nations High Commissioner for Human Rights
OPCW	Organisation for the Prohibition of Chemical Weapons
PPR	Prevention, Preparedness and Response
TB	Treaty Body
UN	United Nations
UNCAC	United Nations Convention Against Corruption
UNDP	United Nations Development Programme
UNEP	United Nations Environment Programme
UNIDO	United Nations Industrial Development Organization
UNODC	United Nations Office on Drugs and Crime
UPR	Universal Periodic Review
UHPR	Universal Health and Preparedness Review
WHO	World Health Organization
WHO CA+	WHO convention, agreement or other international instrument on pandemic prevention, preparedness and response

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# INTRODUCTION

This discussion paper has been prepared for the workshop on "**Implementation and Compliance in International Law: Implications for Pandemic Rulemaking**," which took place on July 6, 2023, at the Geneva Graduate Institute. The workshop aimed to provide an opportunity for members of Geneva-based permanent missions and government officials from capitals to delve into theories and practices of implementation and compliance across different international legal regimes.

At the time of writing, Member States of the World Health Organization (WHO) are actively negotiating an international agreement on pandemic prevention, preparedness, and response (WHO CA+) and amendments to the International Health Regulations (IHR). While discussions are still at an early stage, the workshop at the Geneva Graduate Institute offered an opportunity to initiate reflections on the wide range of implementation and compliance mechanisms available under international law and their relevance in light of the ongoing negotiations.

This paper begins by introducing theories of compliance in international law. It then presents examples of institutions and practices related to implementation and compliance within three distinct regimes: human rights, anti-corruption, and multilateral environmental agreements. Finally, it provides a synthesis of the main elements of implementation and compliance present across various international legal frameworks and compares them with specific provisions of the Bureau's Text of WHO CA+ and proposed amendments to the IHR.

# UNPACKING COMPLIANCE WITH INTERNATIONAL LAW

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## I. INTRODUCTION

Because international law does not have centralized enforcement mechanisms, compliance with international law is of significant practical importance, all the more so when international instruments aim to establish multilateral regulatory frameworks and create rules, standards, and guidelines to deal with problems of common concern.

Most instruments in global health law do not include any provisions specifically dedicated to compliance or implementation.<sup>1</sup> However, the ongoing negotiations for both the adoption of a new Convention, Agreement, or other International Instrument on Pandemic Prevention, Preparedness and Response under the auspices of the World Health Organisation (WHO CA+) and the Amendment of the 2005 International Health Regulations (IHR) can provide a good opportunity to include robust and effective compliance mechanisms within a holistic regulatory framework.

Against this background, the present paper provides an overview of the basic compliance drivers and mechanisms under international law. Such an endeavour is very useful for conducting effective negotiations for a new international instrument on the complex issue of pandemic preparedness. The analysis of the issue in the paper will proceed as follows. Part II will provide some definitional clarifications. Part III will explain why compliance is important to bear in mind at the rulemaking stage. Part IV will provide an overview of the main drivers behind compliance in international law. Part V will examine some mechanisms that have been used in practice to strengthen compliance with international law.

## II. COMPLIANCE AND EFFECTIVENESS

Compliance is the correspondence of a State's behaviour with rules of international law.<sup>2</sup> Effectiveness is a related but distinct concept. It refers to the changes observed in State behaviour because of the existence and operation of an international rule.<sup>3</sup> In other words, a rule is effective when it has an observable impact on State behaviour. Implementation, namely the adoption of measures to give effect to international commitments,<sup>4</sup> can be an indicator of effectiveness.

1 L Gostin and A Taylor, 'Global Health Law: A Definition and Grand Challenges' (2008) 1 Public Health Ethics 53, 59-60.

2 Rb Mitchell, *Intentional Oil Pollution at Sea: Environmental Policy and Treaty Compliance* (MIT Press 1994) 30; K Raustiala, 'Compliance & Effectiveness in International Regulatory Cooperation' (2000) 32 Case Western Reserve Journal of International Law 387, 391; M Bothe, 'Compliance' [MPEMPIL 2010] para 1.

3 K Raustiala, 'Form and Substance in International Agreements' (2005) 99 AJIL 581, 610.

4 V Lowe, *International Law: A Very Short Introduction* (OUP 2015) 39.

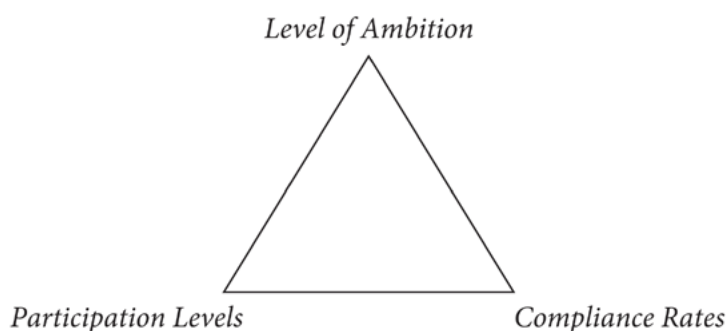
An international instrument can have a low compliance rate but remain effective by triggering gradual changes in State behaviour.<sup>5</sup> Conversely, an instrument that simply registers the current behaviour without entailing much change would have a high compliance rate and low effectiveness. With many States being unable to comply with their obligations due to lack of capacity/resources, robust implementation measures based on international cooperation can ensure long-lasting and effective results.

### III. HOW TREATY DRAFTING CAN INFLUENCE COMPLIANCE

While it is tempting to associate compliance with the final product of international negotiations, how a rule is drafted can have a significant impact on its compliance rate. It is, for instance, often observed that rules with precise and determinate content have a greater compliance pull than rules that are ambiguous. As Professor Thomas Franck famously observed, making sure that ‘those addressed know precisely what is expected of them... is a necessary first step towards compliance.’<sup>6</sup> Conversely, ‘indeterminate normative standards not only make it harder to know what conformity is expected, but also make it easier to justify noncompliance.’<sup>7</sup>

Similarly, what has been termed the ‘compliance trilemma’ implies that most agreements entail a trade-off between wide participation, ambitious commitments and compliance in the sense that only two of these goals can be achieved at the same time.<sup>8</sup> In this regard, negotiators can choose one of the following options:

1. A high level of ambition (more depth) and a high level of international participation (more breadth) but a low level of compliance.
2. A high level of ambition (more depth) and a high level of compliance but a low level of international participation (less breadth).
3. A high level of international participation (more breadth) and a high level of compliance but a reduced substantive ambition (less depth).<sup>9</sup>



The compliance trilemma—‘Pick two, any two’

5 DA Farber, ‘Taking Slippage Seriously: Noncompliance and Creative Compliance in Environmental Law’ (1999) 23 *Harvard Environmental Law Review* 297, 299.

6 TM Franck, ‘Legitimacy in the International System’ (1988) 82 *AJIL* 705, 713.

7 *Ibid.*, 714.

8 JL Dunoff, ‘Is Compliance an Indicator for the State of International Law?: Exploring the “Compliance Trilemma”’ in H Krieger, G Nolte and A Zimmermann (eds), *The International Rule of Law: Rise or Decline?* (OUP 2019) 183.

9 *Ibid.*, 195.



## IV. WHY DO STATES COMPLY WITH INTERNATIONAL LAW? OVERVIEW OF THE MAIN DRIVERS OF COMPLIANCE

Professor Louis Henkin's famous statement that 'almost all nations observe almost all principles of international law and almost all of their obligations almost all of the time'<sup>10</sup> is one of the most commonly cited propositions in the literature of international law. However reassuring that statement may have been to international lawyers, the question of how international law can be a meaningful constraint on State action in the absence of centralized enforcement mechanisms in the international legal order has never lost its relevance. Various theories have sought to identify the main drivers behind State compliance with international law. The most commonly accepted drivers are those referred to as three Rs of compliance: reputation, reciprocity and retaliation.

**Reputation** - When a State fails to comply with its international commitments, it is likely to be seen as an unreliable partner by its peers. Reputation is seen as a driver of State compliance with international law based on the assumption that States are interested in the benefits of international cooperation and that they cultivate their social standing in order not to be excluded from 'future opportunities to cooperate'.<sup>11</sup> Obviously, this story can only work if the failure to comply with international law necessarily leads to a loss of future opportunities to cooperate, which cannot be taken for granted.<sup>12</sup> But it cannot be denied that States do care about their reputation and that reputation for compliance with international law is relevant to the attractiveness of a State for future opportunities to cooperate.

**Reciprocity** – returning the like behavior – has been described as 'the most effective strategy for maintaining cooperation among egoists'.<sup>13</sup> It is based on the premise that each party's compliance with its obligations is conditioned on the other parties' compliance, which means that one can only get the other party to comply with its obligations if one complies with its own obligations. An obvious limitation of this theory is that not all international commitments follow the logic of reciprocity (e.g. international human rights law).

**Retaliation** is a mechanism that can act preventively to deter a breach or intervene after the breach to force the non-compliant State to resume compliance. It can take the form of retorsion, lawful but unfriendly acts such as the closing of an embassy or cancellation of a formal invitation. It can also take the form of countermeasures – a non-performance of an obligation in response to a breach. As Article 49 of the Articles of the International Law Commission on State Responsibility clarifies, 'an injured State may only take countermeasures against a State which is responsible for an internationally wrongful act in order to induce that State to comply with its obligations.'

The recent literature has also highlighted the role of social mechanisms of influence such as persuasion and acculturation. With persuasion through arguments and deliberations, actors internalize the norms and conform their behaviour to those norms. Acculturation refers to 'the process by which actors adopt the beliefs and behavioral patterns of the surrounding culture, without actively assessing the merits of those beliefs and behaviors'.<sup>14</sup>

10 L Henkin, *How Nations Behave: Law and Foreign Policy* (2nd edn, Columbia University Press 1979) 47.

11 R Brewster, 'Unpacking the State's Reputation' (2009) 50 *Harvard International Law Journal* 231, 232.

12 *Ibid.*, 231.

13 RO Keohane, *After Hegemony: Cooperation and Discord in the World Political Economy* (Princeton University Press 1984) 214.

14 R Goodman and D Jinks, *Socializing States: Promoting Human Rights through International Law* (OUP 2013) 22.



## V. MECHANISMS DESIGNED TO ACHIEVE COMPLIANCE WITH INTERNATIONAL COMMITMENTS

### A. Self-Reporting and Peer Reviewing Mechanisms

Currently most international instruments include mechanisms to assess compliance based either on self-reporting or peer-reviews or a combination of both.

Self-reporting is the most common implementation monitoring mechanism across various international agreements.<sup>15</sup> For example, human rights treaties typically provide for self-reporting.<sup>16</sup> Self-reporting also constitutes the first step of complex compliance mechanisms in most agreements concerning arms control.<sup>17</sup>

Self-reporting mechanisms can promote awareness-raising and institutional learning, by allowing States to determine common shortcomings in compliance.<sup>18</sup> They also foster exchange of information and best practices among States.

Self-reporting is usually combined with peer and/or expert review mechanisms.<sup>19</sup> With peer review mechanisms, States exchange views and information, receive feedback and specific recommendations while not being subjected to 'hard sanctions'.<sup>20</sup> External review mechanisms, usually involving experts, can provide States with the necessary tools to overcome shortcomings.<sup>21</sup> In the Bureau's Text of the WHO CA+ self-reporting and peer review mechanisms are also present. Both alternatives of Article 8 provide for the establishment of a peer review mechanism or a Universal Health and Preparedness Review (UHPR), in order to allow for active dialogue, communication and capacity-building among the Parties.

Article 21 refers to the submission of periodic reports by the Parties to the WHO CA+ to the Conference of the Parties (COP). In these reports, States are called upon to list their implementation measures and challenges in order to ensure tailored approaches. Self-assessment mechanisms, such as the ones currently applicable under the IHR, have been criticised for lack of independent overview and wide deference to State-provided information,<sup>22</sup> but Article 21 tries to address such concerns. Peer reporting must be done in a transparent way (para 2) while the publication of the reports by the Secretariat (para 4) allows for a higher level of scientific scrutiny and political pressure.

### B. On-site Verification Missions

Verification procedures through on-site visits by institutions, peers or technical teams constitute

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15 B Koremenos, *The Continent of International Law* (CUP 2016) 261-2; A Florini, 'The Evolution of International Norms' (1996) 40 *International Studies Quarterly* 363.

16 X Dai, 'Information Systems in Treaty Regimes' (2002) 54 *World Politics* 405.

17 J Vaynman, *Enemies in Agreement: Domestic Politics, Uncertainty, and Cooperation Between Adversaries*, PhD Thesis (2014) Chapter 3.

18 W Kälin, 'Examination of State Reports' in H Keller and G Ulfstein (eds), *UN Human Rights Treaty Bodies: Law and Legitimacy* (CUP 2012) 16, 39; CESCR, 'General Comment No. 1: Reporting by States Parties', Document E/1989/22 (1981), para 8.

19 CD Creamer and BA Simmons, 'The Proof is in the Process: Self-Reporting Under International Human Rights Treaties' (2019) 114 *AJIL* 1, 6.

20 S Lehtimäki et al., 'Independent Review and Investigation Mechanisms to Prevent Future Pandemics: A Proposed Way Forward' (2021) 4-5.

21 V Carraro, 'Promoting Compliance with Human Rights: The Performance of the United Nations' Universal Periodic Review and Treaty Bodies' (2019) 63 *International Studies Quarterly* 1079, 1089-90.

22 GL Burci and M Eccleston-Turner, 'Preparing for the Next Pandemic: The International Health Regulations and World Health Organization during COVID-19' (2019) 2 *Yearbook of International Disaster Law* 259; G Bartolini, 'The Failure of "Core Capacities" under the WHO International Health Regulations' (2021) 70 *ICLQ* 233.

additional compliance mechanisms.<sup>23</sup> On-site visits, usually based on the Parties pre-existing or ad hoc consent, aim to collect up-to-date and accurate information, determine States' compliance needs and provide technical and scientific support.

The use of on-site routine and exceptional verification mechanisms is quite widespread in the arms control and disarmament fields.<sup>24</sup> For example, the International Atomic Energy Agency (IAEA) is empowered to conduct routine on-site investigations in order to verify that States comply with their obligations under their 'safeguard agreements' based on the information that they provide (self-reporting as a first step).<sup>25</sup> The consent of the States is not always necessary for such verification especially in relations to States' 'designated facilities' of nuclear energy use, while the IAEA can also conduct announced verification missions<sup>26</sup> regarding a broad array of concerns.

In the same vein, in the field of chemical weapons, the Organisation for the Prohibition of Chemical Weapons (OPCW) is empowered to conduct both routine verifications of the destruction or conversion of stocks of chemical weapons<sup>27</sup> and unconsented 'challenge inspections' following the request of another State Party.<sup>28</sup> The Optional Protocol to the Convention against Torture allows for unannounced expert visits on the territory of the parties.<sup>29</sup>

In global health governance, on-site verification and data-collection initiatives require States' explicit consent,<sup>30</sup> which is regarded as slowing pandemic preparedness and response ability.<sup>31</sup>

### C. Dedicated Compliance Mechanisms/Committees

The past few decades have seen the rise of encouragement-based compliance mechanisms aiming to create positive dialogue and ensure that States acquire the necessary means to overcome the lack of material or financial capacities.<sup>32</sup> For example, in international environmental law, noncompliance procedures are typically delegated to specific committees with the primary goal of assisting States with an effective implementation of commitments. Moving away from traditional blame-allocation, these committees have primarily advisory and non-punitive functions focusing on States' communications and needs.<sup>33</sup>

Such international fora aim to create spaces for engaging in a non-adversarial dialogue with an emphasis on non-coercive cooperative measures, such as scientific, technical or information transfer. Therefore, the lack of coercion enhances their effectiveness.<sup>34</sup> Through their dialogues in such fora, States highlight their common concerns and establish their common needs and methods to ensure compliance.<sup>35</sup>

23 G Le Moli et al., 'The Deep Prevention of Future Pandemics through a One Health Approach: What Role for a Pandemic Instrument?', Geneva Graduate Institute Global Health Centre Policy Brief 2022, 23.

24 UNIDIR/VERTIC, 'Coming to Terms with Security: A Handbook on Verification and Compliance' (2003) 22-6.

25 IAEA, '[IAEA Safeguards Overview](#)', accessed 20 June 2023.

26 A Persbo, 'An Overview of the Evolution, Operation and Status of Nuclear Safeguards' (ODI 2005) 4.

27 Bothe (n 2) para 38.

28 Lehtimäki et al. (n 20) 10; UNIDIR/VERTIC (n 25) 77; Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on their Destruction (adopted 3 September 1992 entered into force 29 April 1997) 1975 UNTS 4, Article IX.

29 Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (adopted 18 December 2002 entered into force 22 June 2006) 2375 UNTS 237, Article 4.

30 See for example, International Health Regulations (2005) Article 10.

31 Lehtimäki et al. (n 20) 26.

32 A van Aaaken and B Simsek, 'Rewarding in International Law' (2021) 115 AJIL 195, 208.

33 M Koskenniemi, 'Breach of Treaty or Non-compliance? Reflections on the Enforcement of the Montreal Protocol' (1992) 3 Yearbook of International Environmental Law 123, 131 and 147.

34 Carraro (n 21) 1090.

35 M Finnemore and K Sikkink, 'Taking Stock: The Constructivist Research Program in International Relations and Comparative Politics' (2001) 4 Annual Review of Political Science 391.

The Compliance Committee established under Article 15 of the 1998 Aarhus Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters is a good example. The Committee was designed as advisory and non-confrontational in nature<sup>36</sup> with the aim to assist Parties in the compliance with their commitments without engaging in 'punitive' procedures. Therefore, the Aarhus system can be considered as an instance of enhanced regional dialogue towards the achievement of the Convention's objectives by all Parties.<sup>37</sup> A similar system has been adopted under the Paris Agreement more recently.

In the context of pandemic preparedness, Article 22 of Bureau's Text of the WHO CA+ also reflects the need for non-adversarial and cooperative compliance institutions, by contemplating an Implementation and Compliance Committee with the aim to support States in their implementation efforts based on their specific needs and capacities.

## D. International Courts and Tribunals

Settlement of international disputes by international courts or tribunals is typically associated with cases of non-compliance: it is because one side or both sides are in breach of their legal obligations that a dispute arises in the first place. But international courts and tribunals can also help with compliance with international law, as they can deter potential non-compliance before it takes place.<sup>38</sup> Deterrence is based on the presumption that, because of possible negative consequences of non-compliance, especially in terms of reputation, States will choose to comply with international law.<sup>39</sup>

International courts and tribunals may be important in the rulemaking stage for other reasons. For instance, States may be more willing to articulate their commitments in clear and precise language instead of delegating authority to external mechanisms, such as courts.

## VI. CONCLUSION

Compliance with and effectiveness of international commitments has been extensively discussed in international law. While closely related, effectiveness tries to highlight the reasons that lead to changes in State behaviour. Compliance and effectiveness should be considered as integral elements of the negotiation and rulemaking phase. Incorporating concerns regarding compliance and effectiveness, creating clear substantive and procedural rules, and establishing inclusive and dialogue-based compliance mechanisms must constitute the priority in the field of global health law where effective compliance mechanisms are lacking.

International institutions play a central role in compliance processes by creating necessary fora for States' socialisation and cooperative learning or by allowing for information and practices-exchange. Transparency, credibility, flexibility and adaptability to various needs and capacities are among the key principles that should guide international institutional design. Special attention should be paid to the issue of capacity in global health law where the willingness to comply is not always sufficient due to the lack of expertise or other capacity-related difficulties.

Effective compliance mechanisms can take various forms. Self-reporting in combination with

<sup>36</sup> E Fasoli and A McGlone, 'The Non-Compliance Mechanism Under the Aarhus Convention as "Soft" Enforcement of International Environmental Law: Not So Soft After All!' (2018) 65 *Netherlands International Law Review* 27, 33.

<sup>37</sup> G Samvel, 'Non-Judicial, Advisory, Yet Impactful? The Aarhus Convention Compliance Committee as a Gateway to Environmental Justice' (2020) 9 *Transnational Environmental Law* 211, 235; UNECE, '[Guidance Document on the Aarhus Convention Compliance Mechanism](#)' (May 2019)

<sup>38</sup> OR Young, *Compliance and Public Authority: A Theory with International Applications* (John Hopkins University Press 1979) 104.

<sup>39</sup> Bothe (n 2) paras 105 and 107.

peer and expert review can empower States to engage in meaningful international dialogue, enhance international trust and exchange of information and work towards the achievement of common goals. Additionally, compliance committees of non-adversarial character can be crucial in assisting these efforts by systematising compliance initiatives, by providing specific and targeted recommendations, and by exerting pressure for compliance with international commitments. Lastly, the existence of mechanisms of dispute settlement through courts and tribunals can deter violations of international law.

# IMPLEMENTATION AND COMPLIANCE IN PRACTICE

## HUMAN RIGHTS TREATIES COMPLIANCE MECHANISMS

By **Stefania Di Stefano**, Project Officer, Geneva Human Rights Platform, Geneva Academy of International Humanitarian Law and Human Rights & PhD Researcher in International Law, Geneva Graduate Institute

The UN human rights system is an elaborate system composed of different but complementary mechanisms. This paper will present two human rights mechanisms, the UN treaty bodies system and the Universal Periodic Review.

### I. FEATURES AND PURPOSE OF HUMAN RIGHTS TREATIES COMPLIANCE MECHANISMS

#### A. THE UN TREATY BODY SYSTEM

The United Nations human rights treaty body system is a key component of universal human rights protection, anchored as it is in the international legal obligations accepted by states. Treaty bodies (TBs) are expert supervisory bodies (Committees) established by international human rights treaties to evaluate the compliance with those treaties of states that have ratified them (states parties). There are currently ten TBs.<sup>40</sup> Their main functions<sup>41</sup> are to:

- Review state party reports. A state is required to report to the relevant Committee on the steps it has taken to give effect to each treaty to which it is a party every 8 years.<sup>42</sup> Country examinations also provide an opportunity for states parties to dialogue directly with Committees. At the end of their examination, the Committee adopts 'concluding observations' that contain recommendations on how the state party can improve implementation of the treaty at domestic level.

40 The Human Rights Committee (CCPR) monitors the International Covenant on Political and Civil Rights (ICCPR). The Committee on Economic Social and Cultural Rights (CESCR) monitors the International Covenant on Economic, Social and Cultural Rights (ICESCR). The Committee on the Elimination of Racial Discrimination (CERD) monitors the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD). The Committee on the Elimination of Discrimination against Women (CEDAW) monitors the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW). The Committee against Torture (CAT) monitors the Convention against Torture and Cruel, Inhuman or Degrading Treatment or Punishment (CAT). The Committee on the Rights of the Child (CRC) monitors the Convention on the Rights of the Child (CRC). The Committee on Migrant Workers (CMW) monitors the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (ICMW). The Committee on Enforced Disappearances (CED) monitors the Convention for the Protection of All Persons from Enforced Disappearance (CED). The Committee on the Rights of Persons with Disabilities (CRPD) monitors the Convention on the Rights of Persons with Disabilities (CRPD). The Subcommittee on Prevention of Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (SPT) has a preventive mandate derived from the Optional Protocol to the Convention against Torture (OP-CAT).

41 TBs also interpret human rights provisions through General Comments and statements, clarifying the scope and meaning of treaty provisions, and thereby the content of human rights and states parties' substantive and reporting obligations, as well as prevent human rights violations by conducting inquiries

42 Previously, states were required to report every 4 years.

- Consider individual complaints<sup>43</sup> and develop jurisprudence. Individuals under the jurisdiction of a state party who believe that the state has violated provisions of a treaty are entitled to send communications to the relevant Committee. This crucial function is grounded in the idea that individual human rights cannot be said to be meaningfully guaranteed unless persons whose rights have been violated have the right to complain to an international authority. The decisions that TBs have reached on individual communications are referred to as ‘views’ and represent an impressive body of jurisprudence. Eight of the ten TBs can receive individual complaints as an optional system that states parties have to accept to bring it into force.<sup>44</sup>

With respect to state party reporting, the TBs prepare a “list of issues prior to reporting” (LOIPR) that is tailored to the situation in the State under review. The State party’s replies constitute its periodic report. This modality was introduced to address the reporting burden, guide States in preparing their reports and focus on certain aspects depending on the country.

Following the submission of the written report, the State under review then engages in a “constructive dialogue” with the relevant Treaty Bodies, which is oral and generally happens in person, in Geneva.

At the end of the reporting process, the Treaty Bodies adopt “Concluding Observations” as an outcome to the reporting process. Concluding observations presents “positive aspects” of a State party’s implementation of a treaty as well as “areas of concern” on which the Treaty Body makes recommendations on action and measures that should be taken by the State. The concluding observations constitute a benchmark for the subsequent review.

## **B. THE UNIVERSAL PERIODIC REVIEW (UPR)**

The Universal Periodic Review (UPR) is a unique process which involves a periodic review every 4-5 years of the human rights records of all 193 UN Member States. The UPR is a significant innovation of the Human Rights Council which is based on equal treatment for all countries.

The UPR was established when the Human Rights Council was created by the UN General Assembly in resolution 60/251 of 15 March 2006. This resolution mandated the Council to “undertake a universal periodic review, based on objective and reliable information, of the fulfillment by each State of its human rights obligations and commitments in a manner which ensures universality of coverage and equal treatment with respect to all States”.

The reviews are conducted by the UPR Working Group which consists of the 47 members of the Council; however any other UN Member State can take part in the discussion/dialogue with the reviewed States. The documents on which the reviews are based are: 1) information provided by the State under review, which can take the form of a “national report”; 2) information contained in the reports of independent human rights experts and groups, known as the Special Procedures, human rights treaty bodies, and other UN entities; 3) information from other stakeholders including national human rights institutions and non-governmental organizations. Civil society actors, national human rights institutions (NHRIs) and regional mechanisms can submit written information for the “other stakeholders” report which is considered during the review. NGOs can

<sup>43</sup> Interstate complaints (which have never been used) are also allowed under the following treaty provisions: Article 21 and Article 30, CAT; Article 74 and Article 92, CMW; Article 10, Optional Protocol to the ICESCR; Article 12, Optional Protocol on a communication procedure to the CRC; Articles 11-13 and Article 22, ICERD; Article 41-43, ICCPR; Article 29, CEDAW; Article 32, CED. Since they have not been used, these procedures are not addressed in this report.

<sup>44</sup> This function is restricted because states must not only have ratified the treaty but must also declare they recognize the Committee’s competence to receive and consider such communications. They can do so by a declaration recognizing the competence of the Committee (CAT, ICERD, CMW and CED) or by ratifying a protocol (the Optional Protocols of the ICCPR, CEDAW, ICRPD, and ICESCR)



attend the UPR Working Group sessions and can make statements at the regular session of the Human Rights Council when the outcome of the State reviews are considered. It is the only UN mechanism that provides an official avenue for civil society organizations to actively engage in the process, giving it a participatory nature that is not found in other mechanisms.

Reviews take place through an interactive discussion between the State under review and other UN Member States. This takes place during a meeting of the UPR Working Group. During this discussion any UN Member State can pose questions, comments and/or make recommendations to the States under review. Each State review is assisted by groups of three States, known as “troikas”, who serve as rapporteurs. The selection of the troikas for each State is done through a drawing of lots following elections to the Council membership by the General Assembly.

The UPR is a truly universal mechanism involving all States and all rights. As such, it assesses the extent to which States respect their human rights obligations and commitments set out in: (1) the UN Charter; (2) the Universal Declaration of Human Rights; (3) human rights instruments to which the State is party (human rights treaties ratified by the State concerned); (4) voluntary pledges and commitments made by the State (e.g. national human rights policies and/or programmes implemented); and, (5) applicable international humanitarian law.

Following the review by the Working Group, the “outcome report”, prepared by the troika, provides a summary of the actual discussion. It therefore consists of the questions, comments and recommendations made by States to the country under review, as well as the responses by the reviewed State. The reviewed State has the opportunity to make preliminary comments on the recommendations choosing to either accept or note them. Both accepted and noted recommendations are included in the report. The report then has to be adopted at a plenary session of the Human Rights Council. During the plenary session, the State under review can reply to questions and issues that were not sufficiently addressed during the Working Group and respond to recommendations that were raised by States during the review. Time is also allotted to member and observer States who may wish to express their opinion on the outcome of the review and for National Human Rights Institutions (NHRIs), NGOs and other stakeholders to make general comments.

## **II. COMPLIANCE AND IMPLEMENTATION REVIEW PROCESSES: SUCCESSES AND CHALLENGES**

### **A. THE UN TREATY BODY SYSTEM**

A number of challenges confront the TB system. They concern its effectiveness, efficiency and coordination.

- Overload due to the system’s growth. The number of TBs has doubled in the last decade and growth is likely to continue. The number of ratifications is also growing. The effect is a considerable backlog in the consideration of reports. The number of individual communications has also risen sharply.
- Inadequate resources. The TBs’ increasing workload has not been matched by a corresponding increase in resources, either in number of staff or level of expertise.
- Non-compliance with reporting obligations. Many states do not report to the Committees on time or do not report at all. The 2022 Secretary General Report (A/77/279) confirms the trends from previous reports: at the end of December 2021, only 14 percent of states parties had met their reporting obligations fully by submitting their reports on time. The percentage increases if we consider states who submit reports but not within the original deadlines. Nonetheless, because of a significant backlog, TBs can currently continue to

review state reports for the next 3.2 years even if no new reports are submitted in the meantime.

- Coherence. The ten TBs have developed their own working methods and procedures. Some work on similar issues without much coordination, though aligning their working methods would not undermine their independence.
- Implementation. Implementation of international human rights treaties and related TB recommendations and decisions is jeopardized by a number of factors, including states' non-compliance, the weakness of the diverse follow-up procedures adopted by Committees, lack of access to TBs' work, and their low visibility.

## **B. THE UNIVERSAL PERIODIC REVIEW (UPR)**

Since established in 2006, the UPR has solidified as an innovative and universal mechanism that allows all States to be evaluated on the fulfillment of their international human rights obligations.

Up to and including the 40th session (January-February 2022), 193 States were reviewed in the third cycle of the UPR. In total, 45,053 recommendations were handed out to States in the third cycle - an increase of 111% on the first cycle of the UPR and 24% on the second cycle. CSOs also appeared to be considerably more engaged during the third cycle. It is possible to observe a significant increase both in the number of stakeholders and mid-term reports submitted by CSO from some countries.

A welcome development within the UPR cycles is the voluntary practice of Governments and other stakeholders to prepare mid-term reports (MTRs).<sup>45</sup> The MTRs allow for an assessment of the stage at which States are at towards implementing UPR recommendations. The MTRs also present an opportunity for national actors to detail the steps they are taking, including advocacy, institution building and the development of implementation tools and strategies, towards implementation.

## **III. REFORMS TO IMPROVE THE MECHANISMS' EFFECTIVENESS**

### **A. THE UN TREATY BODY SYSTEM**

Several initiatives have sought to remedy shortcomings in the TB system.<sup>46</sup> The TBs themselves have taken steps to increase the system's effectiveness. To rationalize the consideration of state reports and reduce the backlog, TBs started reviewing reports in two parallel chambers and examined some overdue reports jointly (i.e., the first and the second reports together). To facilitate the reporting process for states parties and avoid redundancy, TBs also introduced an expanded or common core document, in which states combine information that is relevant to all or several treaties, or relevant to all or several Committees. The 'expanded core document' is submitted in tandem with a treaty-specific report to each relevant committee. Preparation in advance of lists of issues also facilitates the Committees' dialogues with states. In a further development of this practice, Committees have created a Simplified Reporting Procedure, which builds on the 'list of issues' by prioritizing some issues; and the state's replies replace the state's report.

TBs have also developed follow-up procedures. States parties are requested to provide complementary information on the measures they have taken to implement previous

<sup>45</sup> As of 2 November 2020 76 States have voluntarily submitted MTRs. These reports, and the MTRs submitted by NHRIs and CSOs can be found at: [www.ohchr.org/EN/HRBodies/UPR/Pages/UPRImplementation.aspx](http://www.ohchr.org/EN/HRBodies/UPR/Pages/UPRImplementation.aspx)

<sup>46</sup> For an overview of past TB reform initiatives by the United Nations, see the dedicated page on the OHCHR's website. At: <http://www.ohchr.org/EN/HRBodies/HRTD/Pages/TBStrengthening.aspx>.

concluding observations (on state reports) and views (on individual complaints). TBs have also made significant efforts to reduce operational costs.

The UN Committee on Enforced Disappearances (CED) is the only treaty body that provides for a flexible reporting mechanism according to which, once they have submitted an initial report, States parties are required to provide “additional information” on the implementation of the Convention over periods of 2, 4 or 8 years depending on the specific situation of the State party concerned. A non-exhaustive survey of State reports submitted under this procedure shows that the “additional information” requested by the Committee is generally submitted on time, even in cases where the deadline is at the shorter end of the spectrum (two years), and the CED is the Committee with the lowest number of overdue reports.

Another interesting new practice was trialled by the human rights treaty bodies to rationalize reporting processes when the same State party is due to be reviewed by several Treaty Bodies over the same period. In 2019 and 2021, the Human Rights Committee and the Committee on Economic, Social and Cultural Rights combined their reviews of Senegal and Finland respectively. Combined reviews present two main advantages. Firstly, the State party does not have to come to Geneva multiple times over the same period to engage with the Committees in the “constructive dialogue”. Secondly, cross-cutting issues relating to several treaties can be coordinated, thereby avoiding unnecessary duplication and overlap and ensuring consistency. In that particular instance, lists of issues and concluding observations were coordinated thanks to the Secretariat.

## **IV. TRANSPARENCY AND ENGAGEMENT OF EXPERT VIEWS**

Public sessions of the UN human rights bodies’ sessions are webcast.<sup>47</sup> These bodies communicate in real time on social media to announce the adoption and publication of outcome documents.<sup>48</sup> Their Chairpersons also hold press conferences to inform the media.

### **A. THE UN TREATY BODY SYSTEM**

The main strength of the TBs is the fact that it is an expert-driven mechanism. As such, expert views are independent, transparent and detailed.

With a view to increase the accessibility, efficiency and transparency of UN human rights mechanisms, the Office is envisaging the transition to a robust and integrated digital structure with three major components: (1) a case and document management system; (2) an input and external relation system to exchange information in both directions, (OHCHR secretariat and UN TBs experts on one hand and governments on the other hand. It is still not clear whether other stakeholders would be included); (3) and an integrated knowledge management system.

### **B. THE UNIVERSAL PERIODIC REVIEW (UPR)**

The particularity of the UPR mechanism is to be based on reports from three sets of actors. In addition to the State report, the review is also based on a compilation of UN information

<sup>47</sup> The Human Rights Council UPR sessions can be followed at <https://media.un.org/en/search/categories/meetings-events/human-rights-council/universal-periodic-review>. Treaty Bodies’ sessions are also webcast on UN Web TV: <https://media.un.org/en/webtv>.

<sup>48</sup> See the UN Human Rights Council and Treaty Bodies Twitter accounts: @UN\_HRC and @UNTreatyBodies. So also the Twitter account of the Aarhus Convention Secretariat @UNECEAarhus.

compiled by OHCHR and a Summary of Stakeholders' information prepared by OHCHR.<sup>49</sup> NHRIs and CSOs can also directly contribute to the Treaty Body reporting process by submitting "shadow reports" or "alternative reports" and by presenting written information to the Treaty Bodies at various stages of the reporting cycle. Yet, the UPR is a peer-review mechanism and, as such, lacks the strengths linked to independent expert views.

## V. NOTEWORTHY ASPECTS IN THE PROPOSALS PUT FORTH IN THE PANDEMIC ACCORD BUREAU'S TEXT AND PROPOSED AMENDMENTS TO THE IHR (2005)

The Draft Bureau's text of the WHO CA+ and the Proposed Amendments to the IHR (2005) present proposals for reporting and compliance mechanisms that share some features with the human rights mechanisms discussed so far.

As we understand that these drafts represent the early stages of the negotiation process, we will not comment on each of the proposed mechanisms but rather make general suggestions drawing lessons from the human rights compliance mechanisms.

The current Draft Bureau's text of the WHO CA+ in particular currently lists a number of Committees and compliance mechanisms, each seemingly focusing on different aspects of the proposed treaty. It appears also that each of these Committees would require states to submit reports which would then be reviewed by the relevant Committee which would then issue recommendations. The proposed setup risks reproducing the shortcomings of the UN TBs system. Excessive reporting requirements, in fact, constitute one of the main reasons for which state compliance with these mechanisms is rather low. The risks linked to the potentially different working methods of each of these Committees could also result in incoherence and subsequent lack of implementation. The shortcomings witnessed within the TBs system could be further exacerbated by the fact that, whereas TBs review different treaties (which still pertain to the same system), in the case of the Draft Bureau's text of the WHO CA+ the proposed Committees would be reviewing compliance with the same treaty. It is also unclear, from the current text, how potentially different recommendations issued by these Committees could be reconciled.

It is therefore recommended to bear in mind the challenges currently faced by the TBs and its reform process and to avoid the reproduction of these shortcomings in the current proposal.

Another aspect that should be considered going forward is the complementarity of both the Draft Bureau's text of the WHO CA+ and the Proposed Amendments to the IHR (2005) and the possibility to envisage a common compliance mechanism for both instruments. To this end, the experience of the UPR could be useful and lessons could be drawn for a similar mechanism, which already appears as an option in the Draft Bureau's text of the WHO CA+ under the name Universal Health and Preparedness Review (UHPR). Like the UPR, which applies to all States and all rights, such a mechanism could encompass different instruments. Nonetheless, since this would be a peer-review mechanism, it would lack input from experts, which is one of the main strength of treaty bodies and which is of particular relevance in the issue areas covered by these instruments. Another practice that could be considered in this context is the combination of reviews developed by the Human Rights Committee and the Committee on Economic, Social and Cultural Rights, which might be relevant to those states who have ratified the IHR and would also ratify the pandemic treaty.

*The information and analysis presented in this paper draw from or partially reproduce the extensive work the Geneva Human Rights Platform has been conducting in this area in the past years.*

49 The compilation of UN information contains the reports of treaty bodies, special procedures, including observations and comments by the State concerned, and other relevant official United Nations documents in the context of human rights in that particular country. The summary of information from stakeholders is also prepared by OHCHR on the basis of additional, credible and reliable information. These two reports should not exceed 10 pages. See UPR info website: <https://www.upr-info.org/en/upr-process/what-upr/introduction-brief-history>. See also UNHRC Resolution A/HRC/RES/5/1 establishing the UPR, adopted on 18 June 2007, para. 15.

# LESSONS FROM THE UNITED NATIONS CONVENTION AGAINST CORRUPTION

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## I. THE MECHANISM FOR THE REVIEW OF IMPLEMENTATION OF THE UNITED NATIONS CONVENTION AGAINST CORRUPTION

### A. Features and purpose of the UNCAC Implementation Review Mechanism

The United Nations Convention against Corruption (UNCAC) entered into force in 2005. As of June 2023, the Convention has 189 parties and has therefore reached almost universal adherence.

During its negotiations, Member States considered different approaches to ensuring that the Convention would be effectively implemented. As a result, article 63, paragraph 7 of the Convention stipulates that the Conference of the States Parties<sup>50</sup> shall establish, if it deems it necessary, any appropriate mechanism or body to assist in the effective implementation of the Convention.

At its first session, held in 2006, the Conference of the States Parties to the Convention decided to establish an open-ended intergovernmental expert working group to make recommendations to it on the appropriate mechanisms or bodies for reviewing the implementation of the Convention and on the terms of reference of such mechanisms or bodies (resolution 1/1). At its third session, held in 2009, the Conference adopted resolution 3/1, through which it established the Mechanism for the Review of Implementation of the United Nations Convention against Corruption, known as the **Implementation Review Mechanism**, its Terms of Reference and the Implementation Review Group to guide and oversee the Mechanism. The overall aim of the Mechanism is to assist States parties in their implementation of the Convention through the identification of good practices, challenges and technical assistance needs.

The Mechanism is divided into phases, with the first phase constituting two five-year cycles. Each State party undergoes a review once per cycle, and acts as a reviewing State at least once and a maximum of three times per cycle. The first cycle of the Review Mechanism started in 2010 and covered the Chapters of the Convention on Criminalization and Law Enforcement (Chapter III) and International Cooperation (Chapter IV). The second cycle, which was launched in November 2015, covers the chapters on Preventive Measures (Chapter II) and Asset Recovery (Chapter V). The second cycle of the first phase is ongoing. The second phase of the Mechanism is under consideration.

In accordance with the **Terms of Reference of the Mechanism for the Review of Implementation of the Convention**, each State party is reviewed by two peers, with one from the same regional group, which are selected by a drawing of lots at the beginning of each year of the review

<sup>50</sup> As provided by article 63, paragraph 1, the Conference of the States Parties to the Convention was established to improve the capacity of and cooperation between States Parties to achieve the objectives set forth in the Convention and to promote and review its implementation. Article 63, paragraph 4, subparagraph (e), provides that the periodic review of the implementation of the Convention by its States parties shall be one of the activities of the Conference. The bodies established by the Conference, known as subsidiary bodies, are: the Implementation Review Group, the Open-ended Intergovernmental Working Group on Asset Recovery, the Open-ended Intergovernmental Working Group on Prevention, and the Open-ended intergovernmental expert meetings to enhance international cooperation under the United Nations Convention against Corruption.



cycle. UNODC acts as the secretariat to the Conference of the States Parties and supports and coordinates the Mechanism.

### Guiding principles of the Mechanism

- Transparent, efficient, non-intrusive, inclusive and impartial;
- Non-adversarial and non-punitive, without any form of ranking;
- Opportunities to share good practices and challenges;
- Technical, promoting constructive collaboration; and
- Complements existing international and regional review mechanisms.

### Stages of the review process

As a very first step, each State party involved in a review designates (by note verbale from the Permanent Mission or the Ministry of Foreign Affairs) the persons who will be working on the review. For a State party under review, (a) focal point(s) is/are designated to coordinate all aspects of the review among the relevant authorities of the State party under review, whereas reviewing States parties designate governmental experts to carry out the review. From the secretariat, two staff members are assigned per review.

A review can be broken down into five different stages according to the Terms of Reference: 1) self-assessment; 2) desk review; 3) dialogue between State under review and reviewing States; 4) direct dialogue (country visit or joint meeting); 5) final review report and executive summary.

For the self-assessment stage, the State party under review compiles and prepares answers to the self-assessment checklist on the Chapters of the Convention under review, which should be submitted within two months of the start of the review.

Once the focal point submits the responses to the self-assessment checklist, UNODC, if required, translates them and shares them with the reviewing experts. During the desk review stage, the reviewing experts examine the information provided by the State party under review by asking questions, sharing preliminary observations and requesting additional information. Governmental experts are granted one month to carry out the desk review. The secretariat consolidates the outcome of the desk review, translates it if necessary, and transmits it to all three States parties involved in the review in a single document that contains the answers to the self-assessment checklist as well as the desk reviews. This document subsequently becomes the basis for all the next steps of the review.

The desk review is followed by a dialogue, during which the three States parties involved in the review discuss any outstanding questions on the information provided. This dialogue can be complemented by a direct dialogue, in the form of a country visit or a joint meeting, if the State party under review so decides. A country visit entails the reviewing experts and the secretariat traveling to the State party under review and, for three days, discussing the implementation of the Convention to clarify all remaining questions and gather additional information. A joint meeting serves the same purpose, with the review team traveling to Vienna, the seat of the secretariat, instead of the capital of the State party under review.

After the country visit, the final stage of the review involves the drafting of the outcome documents of the review, which are the country review report and its executive summary. These documents are considered final once the three States parties agree on their content. The adoption of both documents follows the same principle: they are first agreed upon among the reviewing States and subsequently shared with the State party under review for comments,



and additions. Both documents contain narrative information on the implementation of the Chapters of the Convention under review, the good practices that were identified in the course of the review, the observations or recommendations made as to how to further strengthen the implementation of the Convention, and any needs for technical assistance identified in the course of the review. Both documents provide a snapshot of the implementation of the Convention at the end of the country visit. Any later developments can be reflected in footnotes but will not form part of the review.

### **B. What induces States to comply with the mechanism and evidence of positive effects on compliance, and notable successes or challenges that have arisen in the implementation of the mechanism?**

The United Nations Convention against Corruption was adopted by the General Assembly by consensus. This is representative of the global political support behind it. Also resolution 3/1, by which the Conference of the States Parties established the Implementation Review Mechanism, was adopted by consensus.

The guiding principles of the Mechanism listed above, in particular, its technical, non-adversarial, non-punitive and constructive nature, may have contributed to States parties' broad participation in it.

The impact of the Mechanism can be inferred from the data below, based on **information that was available from 145 States parties in 2019**:

- (a) as a result of a country review, 90% of States parties reported legislative reform efforts by outlining the adoption of new laws or the amendment of current laws to bring them into line with the requirements of the Convention;
- (b) 71 per cent found that the Mechanism and its peer review process had helped identify gaps and shortcomings in their frameworks and systems for fighting corruption and/or expressly noted the overall positive impact of the Mechanism on their national efforts to fight corruption, including by leading to improvements in their national institutional structure and cooperation.

### **C. How has the compliance mechanism evolved over time, and are there any current or proposed changes that are being discussed to improve the mechanism's effectiveness?**

The Terms of Reference of the Mechanism have not undergone any modification since their adoption in November 2009. To support the upcoming preparatory process and negotiations for its second phase, the secretariat has initiated the collection of views of States parties on the performance of the Mechanism and on its next phase. Document [CAC/COSP/IRG/2023/3](#) prepared for the 14th session of the Implementation Review Group provides preliminary views received from 46 States parties. The secretariat is also consulting with six other major international review mechanisms, which have shared lessons learned in the transition from an initial evaluation to a follow-up phase.

### **D. Transparency and the engagement of expert views**

**Confidentiality:** In line with the confidentiality requirements of the Mechanism (paragraph 31 of the Terms of Reference), all communication on the review is made through the secretariat and is directed to the focal points and reviewing experts.

**Participation of civil society:** According to paragraph 28 of the Terms of Reference, the State party under review must endeavour to prepare its responses to the comprehensive self-assessment checklist through broad consultations at the national level with “all relevant stakeholders, including the private sector, individuals and groups outside the public sector”. Paragraph 30 provides that States parties are encouraged to facilitate engagement with all relevant national stakeholders in the course of a country visit. The latter typically takes the form of a one-hour session, during which non-governmental stakeholders may share with the reviewing experts their views and experiences regarding the implementation of the provisions under review. By June 2023, 89 per cent of the States parties have involved other stakeholders in country visits for their first cycle reviews, and 97 per cent in country visits for their second cycle reviews.

**Publication of the outcome documents:** Once agreed and final, the executive summary becomes an official document of the United Nations and is published in all six official languages of the United Nations. The country review report remains confidential unless the State party under review decides to publish it. By June 2023, 55 per cent of the States parties have chosen to publish the country review reports of their first cycle reviews, and 48 per cent for those of their second cycle reviews. In addition, over 30 States parties have signed a civil society-initiated **transparency pledge**, whereby they agree to several measures of transparency in the review process, including the publication to the full country review report.

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# LESSONS FROM MULTILATERAL ENVIRONMENTAL AGREEMENTS: MECHANISMS FOR IMPLEMENTATION, COMPLIANCE AND DISPUTES RESOLUTION

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Multilateral Environmental Agreements (MEAs) incorporate a diverse range of implementation and compliance mechanisms, each exhibiting unique characteristics tailored to their respective purposes.<sup>51</sup> Nonetheless, the main components of these mechanisms can be described and categorized as follows:

- **Self-Reporting:** a significant component of contemporary MEAs regards information requirements imposed on States Parties, including the collection, reporting, and publication of data. Parties are frequently obligated to report regularly on the measures, laws, and policies they have undertaken to implement a specific agreement. They may also be required to report specific events and/or incidents which may affect specific other states. A designated recipient receives the report. This recipient may be a governing body, a treaty secretariat, or a directly affected state.
- **Verification:** Certain MEAs incorporate verification processes wherein a treaty body assumes a more proactive role in evaluating treaty compliance. These verification procedures involve analyzing pertinent information to verify the credibility and consistency of the data provided by the Party. While almost all MEAs include self-reporting obligations, the inclusion of verification procedures is relatively less common.<sup>52</sup>
- **Monitoring Effectiveness:** Certain agreements include provisions aiming at reviewing the regime's performance overall, rather than exclusively individual Party performance. The aim is to assess whether targets have been met and to identify future priorities.<sup>53</sup>
- **Non-compliance procedures:** Most MEAs have established non-compliance procedures (NCP). These are institutional mechanisms set up to examine performance review information and make determinations as to a Party's compliance status. These procedures may be formal, entailing a special committee to investigate allegations of non-compliance and make recommendations. Others, however, are informal and ad hoc. The purpose of such NCPs is to identify Parties' compliance difficulties and to facilitate better compliance in a non-adversarial manner. It is worth noting that certain MEAs employ the term "non-compliance" as a means to address instances of failure to meet obligations, while other agreements adopt a more affirmative stance by emphasizing the promotion of "compliance" (such as observed in the Cartagena Protocol on Biosafety<sup>54</sup>). Notwithstanding the distinct terminological choices, both formulations pertain to the same underlying mechanism.

51 UNEP, Compliance Mechanisms Under Selected Multilateral Environmental Agreements (Nairobi, 2007); Ronald B Mitchell, "Compliance, Implementation, and Effectiveness, Ch 51 Compliance Theory," in *The Oxford Handbook of International Environmental Law*, ed. Lavanya Rajamani and Jacqueline Peel, 2nd ed. (Oxford: Oxford University Press, 2021).

52 Some MEAs have verification requirements. For example, the Ramsar Convention on Wetlands of International Importance especially as Waterfowl Habitat (1971) and the United Nations Framework Convention on Climate Change (1992).

53 See, for example, art. 14 of the Paris Agreement: "The Conference of the Parties serving as the meeting of the Parties to this Agreement shall periodically take stock of the implementation of this Agreement to assess the collective progress towards achieving the purpose of this Agreement and its long-term goals (referred to as the "global stocktake").[...]"

54 See, for example, art. 34 of the Cartagena Protocol on Biosafety: "The Conference of the Parties serving as the meeting of the Parties to this Protocol shall, at its first meeting, consider and approve cooperative procedures and institutional mechanisms to promote compliance with the provisions of this Protocol and to address cases of non-compliance. These procedures and mechanisms shall include provisions to offer advice or assistance, where appropriate. [...]"

- **Implementation or Compliance Committees:** Most of NCPs established set up an elected Implementation Committee or Compliance Committee to make recommendations. A MEA secretariat, a third Party, or, in select cases, a third-party monitoring body, can all notify a NCP administering body about non-compliant behaviors or situations. In some instances, a party can self-trigger the procedure, bringing itself before the committee seeking help with a particular issue of implementation or compliance. In some such cases, a request by a party concerning its own compliance generates a consultation procedure rather than a formal compliance procedure.<sup>55</sup> In the majority of instances, the outcome culminates in a decision made by the COP.
- **Non-compliance response measures:** Once non-compliance is identified, various response measures can be implemented. These response measures vary depending on the particular agreement in question. It is essential to consider the specific provisions and mechanisms established within each MEA to determine the available response measures applicable to a given situation. Nonetheless, certain general components are identifiable. Firstly, many MEAs incorporate specific incentives, such as technical and/or financial assistance, to support improved compliance and foster international cooperation with the non-compliant party.<sup>56</sup> It is important to distinguish these incentives from implementation assistance, which is typically provided at earlier stages of the implementation process rather than as a response to non-compliance. Furthermore, disincentives can be employed as response measures. These may include penalties, stricter requirements for performance review information, or the issuance of warnings or penalties to encourage compliance and deter future violations.
- **Dispute resolution:** dispute resolution methods for disputes arising from the application of international environmental law can vary depending on the specific circumstances and agreements involved. Some common approaches used to resolving disputes in this field include negotiations and diplomacy, mediation, conciliation, arbitration and adjudication. It's important to note that the availability and applicability of these methods may depend on the provisions outlined in the relevant agreement(s), as well as the consent of the disputing parties to participate in a specific process.

## I. THE MONTREAL PROTOCOL ON SUBSTANCES THAT DEplete THE OZONE LAYER (1987)

The Montreal Protocol is widely considered a successful case of implementation of and compliance with an environmental agreement.<sup>57</sup> Initially signed by 46 countries, the protocol now enjoys universal ratification by UN Member States. Both developing and developed countries have committed to the phasing-out of controlled ozone-depleting substances (ODSs) and have been almost continuously in compliance with the phase-out schedule.<sup>58</sup>

Drawing on the reports of the Scientific, Environmental Effects and the Technology and Economic Assessment panels, the Protocol was amended multiple times to accelerate the phase-out schedules, add new ODS to its control provisions, and introduce new institutional features.<sup>59</sup>

<sup>55</sup> This is the case of the Protocol on Water and Health to the 1992 Convention on the Protection and Use of Transboundary Watercourses and International Lakes.

<sup>56</sup> Laurence Boisson de Chazournes, "Compliance, Implementation, and Effectiveness, Ch.54 Financial Assistance," in *The Oxford Handbook of International Environmental Law*, ed. Lavanya Rajamani and Jacqueline Peel, 2nd ed. (Oxford: Oxford University Press, 2021).

<sup>57</sup> Meinhard Doelle, "Compliance, Implementation, and Effectiveness, Ch.56 Non-Compliance Procedures," in *The Oxford Handbook of International Environmental Law*, ed. Lavanya Rajamani and Jacqueline Peel, 2nd ed. (Oxford: Oxford University Press, 2021).

<sup>58</sup> Marco Gonzalez, Kristen N. Taddonio, and Nancy J. Sherman, "The Montreal Protocol: How Today's Successes Offer a Pathway to the Future," *Journal of Environmental Studies and Sciences* 5, no. 2 (June 1, 2015): 122–29, <https://doi.org/10.1007/s13412-014-0208-6>.

<sup>59</sup> S.O. Andersen, K.M. Sarma, and K.N. Taddonio, *Technology Transfer for the Ozone Layer: Lessons for Climate Change* (London: Routledge, 2007); Gonzalez, Taddonio, and Sherman, "The Montreal Protocol: How Today's Successes Offer a Pathway to the Future."

The Montreal Protocol features a range of compliance tools:

- **Self-reporting:** Art. 7 obliges parties to report statistical data to the secretariat. The first round of reporting on production, imports and exports of ODS is conducted within three months of becoming a party to the Protocol and is done for the base year for each category of ODS. This initial data constitutes a reference point against which production and consumption targets are calculated.<sup>60</sup> Developing countries benefit from longer phase-out periods and later initial reference points for the data (Art. 5). The secretariat provides forms and written guidance to countries for the data reporting. Reports are produced initially for the Implementation Committee and then for the Meeting of the Parties (MOP) and the public.
- **Peer review and non-compliance procedure:** under Art. 8, the non-compliance procedure revolves around the Implementation Committee – composed by State Parties' representatives, with distributed geographical representation. The committee issues recommendations, which must be approved through decisions of the MOP. The Implementation Committee meets biannually to review matters brought to it by State Parties' self-reporting, party-to-party reporting, and through the secretariat's review of implementation reports.<sup>61</sup> In practice, most cases of non-compliance have resulted from data reports of the secretariat to the Implementation Committee.<sup>62</sup> The Committee works with the party to discover reasons behind non-compliance and can recommend ways of satisfying the obligations. The non-compliant party can be asked to draw up an action plan to return to compliance. Once approved by the MOP, the Implementation Committee monitors compliance with the action plans.
- **Financial assistance:** the Multilateral Fund (MLF), established by a decision of a MOP, helps developing countries with the technological transition. The Multilateral Fund is managed by the Executive Committee with equal membership from developed and developing countries. The developed countries are required to contribute to the fund. The MLF's activities are implemented with the support of the World Bank, UNDP, UNIDO and UNEP.<sup>63</sup>

## II. PARIS AGREEMENT (2015)

The goal of the Paris Agreement is to combat climate change by limiting global warming to well below 2 degrees Celsius above pre-industrial levels and to pursue efforts to limit the temperature increase to 1.5 degrees Celsius. It also aims to enhance the ability of countries to adapt to the impacts of climate change and foster climate resilience.<sup>64</sup>

The Paris Agreement adopted a flexible bottom-up approach to mitigation, allowing Parties to determine their own pledges through Nationally Determined Contributions (NDCs). To secure states' effective implementation of their NDC commitments, the Paris Agreement established an accountability mechanism. It includes an enhanced transparency framework (ETF) to review implementation and an 'implementation and compliance mechanism' to review compliance by engaging in a dialogue with an independent, standing, expert committee (the "Article 15 Committee"). In addition, the agreement establishes a 'global stocktaking' process to assess

60 Duncan Brack, "Monitoring the Montreal Protocol," in *Verification Yearbook*, ed. Trevor Findlay (London: VERTIC, 2003).

61 UNEP, *Handbook for the International Treaties for the Protection of the Ozone Layer*, 6th ed. (Nairobi, Kenya: Ozone Secretariat, 2003).

62 Brack, "Monitoring the Montreal Protocol," 217.

63 Gonzalez, Taddonio, and Sherman, "The Montreal Protocol: How Today's Successes Offer a Pathway to the Future."

64 Pierre-Marie Dupuy, Jorge E. Vinuales, *International Environmental Law*, 2nd edition, Cambridge University Press, 2018, p. 188.

the collective progress of the implementation of NDCs at regular intervals.<sup>65</sup> Their main characteristics follows:

- **Self reporting (Transparency Framework, Article 13):** Article 13 of the Paris Agreement established the ETF. It sets forth a self-reporting system for all countries under which each country is required to submit national reports on greenhouse gases (GHGs) inventory and information necessary to track the progress towards implementing and achieving NDCs targets. Information submitted by each party undergoes a technical expert review. It has '*built-in flexibility which takes into account Parties' different capacities.*'
- **Monitoring Effectiveness (Global stocktake, Article 14):** The transparency framework is complemented by a global stocktaking. According to Article 14, the global stocktake shall take place every five years, with the first one occurring in 2023, in a facilitative and comprehensive manner. It will assess the collective progress towards achieving the purpose of the Agreement and its long-term goals by considering '*mitigation actions, adaptation, and means of implementation and support.*' It is also aimed at catalyzing increased ambition.
- **Implementation and Compliance Committee (the "Article 15 Committee").** The Paris Agreement created a new compliance mechanism that addresses issues related to implementation and compliance with the Paris Agreement. Like most MEAs, the Paris Agreement focuses on facilitating compliance instead of enforcement. This phase is led by a committee that is '*expert-based and facilitative in nature and functions in a manner that is transparent, non-adversarial and non-punitive.*' Similarly to other MEAs, the committee is tasked with giving special consideration to the individual national capacities and circumstances of each Party to the agreement.

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<sup>65</sup> Christina Voigt and Xiang Gao, *Accountability in the Paris Agreement: the interplay between transparency and compliance* (2020), 1 *Nordic Environmental LJ*.



# SYNTHESIS: IMPLEMENTATION AND COMPLIANCE TOOLS IN INTERNATIONAL LAW AND PANDEMIC RULEMAKING

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The importance of robust implementation and compliance mechanisms in global health instruments has been consistently emphasized in assessments of the global response to the COVID-19 pandemic.<sup>66</sup> In this policy paper, we presented examples of implementation and compliance tools found in various international legal regimes. Their interaction could be likened to that of a set of ingredients that can be combined using different recipes to bake a cake. There is no one-size-fits-all solution, but the range of available ingredients is known (with of course room for new ingredients). Building an implementation and compliance mechanism that aligns with the unique circumstances of PPR can be understood as bringing the ingredients together in an appropriate manner so that the overall cake turns out well. In the tables below, we present a synthesized “list of ingredients” from different international legal regimes and compare them with the provisions of the **Bureau’s Text of WHO CA+** and **proposed amendments of the IHR**.

Before proceeding to the comparison, we also flag a few cross-cutting themes for consideration, which concern transparency, capacity of state parties to comply with treaty obligations, coherence across the IHR and Pandemic Accord compliance arrangements, and gradual evolution of compliance mechanisms.

Transparency is widely acknowledged as a fundamental principle for fostering trust among parties, facilitating the exchange of reliable information, and ultimately establishing effective compliance mechanisms. However, as highlighted in this policy paper, different treaties adopt varying approaches to achieve transparency. The level and degree of transparency in the IHR and/or Pandemic Accord is a critical issue for Member States to address in the negotiations.

Another question concerns the capacity of states to comply with obligations in a situation of scarcity of resources. There are many examples from the above cases that demonstrate how capacity constraints can be addressed through non-punitive, supportive implementation arrangements, such as the provision of funding, technical support or differential targets. The issue can also be addressed “upstream” through inclusion of capacity building provisions in the text of the pandemic instrument and amended IHR.

Third, coherence and continuity in the compliance mechanisms established for the pandemic instrument and IHR can mitigate potential redundancies and duplications in monitoring and reporting. This can be accomplished through the implementation of an integrated assessment mechanism, which would streamline the evaluation process for both instruments, avoid fragmentation and duplication and address reporting fatigue. Ultimately, such an approach would facilitate the comprehensive and coherent evaluation of the overall effectiveness of the new global architecture for PPR.

66 IPPPR, ‘COVID-19: Make it the Last Pandemic’ (2021); GPMB, ‘From Worlds Apart to a World Prepared’ (2021); IHR Review Committee, ‘Report of the Review Committee regarding amendments to the International Health Regulations’ (2023)

Last but not least, the examples presented highlight that compliance mechanisms often take time to mature. They may be gradually developed and adapted over time to address evolving needs and circumstances and to address potential deficiencies in institutional design. Ultimately, State Parties to an international instrument hold the primary authority and responsibility to design and manage effective mechanisms for implementation and compliance with the commitments they have taken on.

## COMPARISON OF COMPLIANCE AND IMPLEMENTATION MECHANISMS IN INTERNATIONAL INSTRUMENTS AND PANDEMIC RULEMAKING

<b>1. Parties agree to create a compliance mechanism in the future</b>	
Examples from other regimes:	Anti-corruption, MEAs
WHO CA+ Bureau's Text	
<p><b>Article 21. Periodic Reports to the Conference of the Parties</b></p> <p>2. The frequency, conditions and format of the periodic reports submitted by the Parties shall be determined by the Conference of the Parties at its first session, with the aim to facilitate reporting by the Parties and avoid duplications. These reports shall be drawn up in a clear, transparent and exhaustive manner, without prejudice to respect for applicable rules on confidentiality, privacy and data protection.</p> <p><b>Article 22. Implementation and Compliance Committee</b></p> <p>7. The Implementation and Compliance Committee shall elaborate its rules of procedure, which shall be subject to approval by the second session of the Conference of the Parties. The Conference of the Parties may supplement or clarify the mandate of the Implementation and Compliance Committee.</p>	
IHR proposed amendments	
n/a	

<b>2. Self-reporting</b>	
Examples from other regimes:	Human rights, anti-corruption, MEAs
WHO CA+ Bureau's Text	
<p><b>Article 8. Preparedness monitoring and functional reviews</b></p> <p>4. Each Party shall provide regular reporting, building on existing relevant reporting where possible, on its pandemic prevention, preparedness, response and health systems recovery capacities.</p> <p><b>Article 21. Periodic Reports to the Conference of the Parties</b></p> <p>1. Each Party shall submit to the Conference of the Parties periodic reports on its implementation of the WHO CA+, which shall include the following:</p>	

- (a) information on legislative, executive and administrative measures, good practices or other measures taken to implement the WHO CA+;
- (b) information on any constraints or difficulties encountered in the implementation of the WHO CA+ and on the measures taken or under consideration to overcome them;
- (c) information on implementation support received under the WHO CA+; and
- (d) other information as required by specific provisions of the WHO CA+.

2. The frequency, conditions and format of the periodic reports submitted by the Parties shall be determined by the Conference of the Parties at its first session, with the aim to facilitate reporting by the Parties and avoid duplications. These reports shall be drawn up in a clear, transparent and exhaustive manner, without prejudice to respect for applicable rules on confidentiality, privacy and data protection.

3. The Conference of the Parties shall adopt appropriate measures to assist Parties, upon request, in meeting their obligations under this Article, with particular attention to the needs of Parties which are developing countries.

4. The periodic reports submitted by the Parties shall be made publicly available online by the Secretariat.

#### **Article 26. Secretariat**

Option 26.B:

2. Secretariat functions shall be:

[...]

(b) to transmit reports and other relevant information regarding implementation of this agreement received by it pursuant to the WHO CA+;

(c) to provide support to the Parties, [on request,] particularly developing country Parties and Parties with economies in transition, in implementing the WHO CA+, including the compilation and communication of information required in accordance with the provisions of the WHO CA+, or otherwise as pursuant to requests made by the Conference of the Parties.

#### **IHR proposed amendments**

##### **Article 54 Reporting and review**

1. States Parties and the Director-General shall report to the Health Assembly on the implementation of these Regulations as decided by the Health Assembly.

2. The Health Assembly shall periodically review the functioning of these Regulations. To that end it may request the advice of the Review Committee, through the Director-General. The first such review shall take place no later than five years after the entry into force of these Regulations.

3. WHO shall periodically conduct studies to review and evaluate the functioning of Annex 2. The first such review shall commence no later than one year after the entry into force of these Regulations. The results of such reviews shall be submitted to the Health Assembly for its consideration, as appropriate.

**New 4. Apart from providing information to the State Parties and reporting to the Health Assembly in this Article, WHO shall maintain a webpage/ dashboard to provide the details of the activities carried out under the various provisions of these Regulations including Articles 5(3), 12, 13(5), 14, 15, 16, 18, 43, 44, 46, and 49**

### 3. Peer review mechanisms

Examples from other regimes:

Human rights, anti-corruption, MEAs

WHO CA+ Bureau's Text

#### Article 8. Preparedness monitoring and functional reviews

[...]

Option 8.B:

7. The Parties shall establish, regularly update and broaden implementation of a universal preparedness peer review mechanism that leverages the use of existing monitoring and evaluation tools, to assess national, regional and global preparedness capacities and gaps, through whole-of-government and whole-of-society approaches to strengthen capacities for pandemic prevention, preparedness, response and health systems recovery, through technical and financial cooperation, mindful of the need to integrate available data and to engage national leadership at the highest level.

Option 8.C:

Parties propose to establish a UHPR mechanism

7. The Parties agree to establish a Universal Health and Preparedness Review (UHPR) mechanism, a regular intergovernmental dialogue among Member States which aims to promote collective global action and accountability for preparedness, by bringing them together with stakeholders at the national, regional and global levels to comprehensively review their national health emergency preparedness capacities. 8. Each Party shall conduct a national review and participate in a global peer-review between Parties, to share national practices, gaps in preparedness and opportunities for improving health capacities and emergency preparedness.

IHR proposed amendments

#### Article 5 Surveillance

1. Each State Party shall develop, strengthen and maintain, as soon as possible but no later than five years from the entry into force of these Regulations for that State Party, the capacity to detect, assess, notify and report events in accordance with these Regulations, as specified in Annex 1. **Developed State Parties and WHO shall offer assistance to developing State Parties depending on the availability of finance, technology and know-how for the full implementation of this article, in pursuance of the Article 44. This capacity will be periodically reviewed through the Universal Health Periodic Review mechanism, in replacement of the Joint External Evaluation that began in 2016. Such review shall / ALT Should such review identify resource constraints and other challenges in attaining these capacities, WHO and its Regional Offices shall, upon the request of a State Party, provide or facilitate technical support and assist in mobilization of financial resources to develop, strengthen and maintain such capacities.**

#### 4. Implementation & Compliance Committees/Expert Committees

Examples from other regimes:

Human rights, anti-corruption, MEAs

##### WHO CA+ Bureau's Text

#### **Article 22. Implementation and Compliance Committee**

1. An Implementation and Compliance Committee to facilitate and consider the implementation of, and promote compliance with, the provisions of the WHO CA+ is hereby established as a subsidiary body of the Conference of the Parties.

2. The Implementation and Compliance Committee is mandated to promote the implementation of, and review compliance with, the provisions of the WHO CA+, including by addressing matters related to possible non-compliance.

3. The Implementation and Compliance Committee shall be facilitative in nature and function in a manner that is transparent, non-adversarial and non-punitive, and shall pay particular attention to the respective national and regional capabilities and circumstances of Parties, in particular the needs of Parties that are developing countries. The Implementation and Compliance Committee shall provide notification in writing with respect to the actions of any Party that it may be considering.

4. The Implementation and Compliance Committee shall consider issues of implementation and compliance at the individual and systemic levels, inter alia, and shall report periodically and make recommendations, as appropriate, while cognizant of the respective national circumstances, to the Conference of the Parties. Such recommendations may include proposals for the consideration of the Conference of the Parties aimed at facilitating and providing support for the implementation of the WHO CA+, paying particular attention to the needs of Parties that are developing countries.

5. The Committee shall consist of [...] members, [which are independent experts,] [possessing appropriate qualifications and experience,] nominated by Parties and elected by the Conference of the Parties, with due consideration to gender equality and equitable geographical representation. The first members of the Implementation and Compliance Committee shall be elected at the first session of the Conference of the Parties. Thereafter, the members shall be elected in accordance with the rules of procedure approved by the Conference of the Parties pursuant to Article 20. The members of the Implementation and Compliance Committee shall have recognized competence in fields relevant to the WHO CA+ and shall reflect an appropriate balance of expertise.

6. The Implementation and Compliance Committee shall consider: (a) written submissions from any Party with respect to compliance with the provisions of the WHO CA+; (b) periodic reports by the Parties submitted in accordance with Article 21; (c) any issue submitted to it by the Conference of the Parties; and (d) other relevant information.

7. The Implementation and Compliance Committee shall elaborate its rules of procedure, which shall be subject to approval by the second session of the Conference of the Parties. The Conference of the Parties may supplement or clarify the mandate of the Implementation and Compliance Committee.

8. The Implementation and Compliance Committee shall make every effort to adopt its recommendations by consensus. In the absence of consensus, the recommendations shall be adopted by a three-fourths majority vote of the members present and voting, based on a quorum of two thirds of the members.

9. The Implementation and Compliance Committee shall collaborate with relevant monitoring and review bodies and mechanisms that may be established by the World Health Assembly or by States Parties to the International Health Regulations (2005), including by providing for joint sessions.

10. In the course of its work, the Implementation and Compliance Committee may draw on appropriate information from any bodies established under the WHO CA+ or the World Health Organization, as well as from any information submitted to the WHO by Parties through other mechanisms.

### **Article 23. Panel of Experts to provide scientific advice**

1. An expert body to provide scientific advice is hereby established as a subsidiary body of the Conference of the Parties to provide the Conference of the Parties with information, science-based and other technical advice on matters relating to the WHO CA+. The Panel of Experts shall comprise independent experts competent in the relevant fields of expertise and sitting in their individual expert capacity. It shall be multidisciplinary, in line with the One Health approach. It shall report regularly to the Conference of the Parties on all aspects of its work. The body shall:

[...]

2. The Panel of Experts shall take due account of relevant work by, and allow for the participation in its proceedings of, relevant international and regional intergovernmental organizations, governmental and nongovernmental organizations and bodies, and academic experts.

3. The Panel of Experts shall consist of [...] independent experts selected by common accord by the Heads of the Quadripartite organizations, on the basis of the criteria of competence, independence, multidisciplinary, gender equality and equitable geographical representation. Its composition may be modified by the Conference of the Parties.

4. The Panel of Experts shall elaborate its rules of procedure, which shall be approved by the Conference of the Parties at its second session.

5. The Conference of the Parties shall ensure the availability of the resources necessary to enable the Panel of Experts to achieve its objectives and perform its tasks.

### **Article 24. Pandemic-Related Products Expert Committee**

1. A Pandemic-Related Products Expert Committee is hereby established as a subsidiary body of the Conference of the Parties.

[...]

### **Article 25. Benefit-Sharing Expert Committee**

1. A Benefit-Sharing Expert Committee is hereby established as a subsidiary body of the Conference of the Parties.

[...]



### Article 53A - Establishment of an Implementation Committee

The State Parties shall establish an Implementation Committee, comprising of all States Parties meeting annually, that shall be responsible for: (a) Considering information submitted to it by WHO and States Parties relating to their respective obligations under these Regulations, including under Article 54 and through the IHR monitoring and Evaluation framework; (b) Monitoring, advising on, and/or facilitating provision of technical assistance, logistical support and mobilization of financial resources for matters relating to implementation of the regulations with a view to assisting States Parties to comply with obligations under these Regulations, with regards to (1) development and maintenance of IHR core capacities; (2) cooperation with WHO and State Parties in responding to outbreaks or events. (c) Promote international cooperation and assistance to address concerns raised by WHO and States Parties regarding implementation of, and compliance with, obligations under these Regulations in accordance with Article 44; (d) Submit an annual report to each Health Assembly

### NEW Chapter IV (Article 53 bis-quater):

#### The Compliance Committee 53 bis Terms of reference and composition

1. The State Parties shall establish a Compliance Committee that shall be responsible for: (a) Considering information submitted to it by WHO and States Parties relating to compliance with obligations under these Regulations; (b) Monitoring, advising on, and/or facilitating assistance on matters relating to compliance with a view to assisting States Parties to comply with obligations under these Regulations; (c) Promoting compliance by addressing concerns raised by States Parties regarding implementation of, and compliance with, obligations under these Regulations; and (d) Submitting an annual report to each Health Assembly describing: (i) The work of the Compliance Committee during the reporting period; (ii) The concerns regarding non-compliance during the reporting period; and (iii) Any conclusions and recommendations of the Committee.

2. The Compliance Committee shall be authorized to: (a) Request further information on matters under its consideration; (b) Undertake, with the consent of any State Party concerned, information gathering in the territory of that State Party; (c) Consider any relevant information submitted to it; (d) Seek the services of experts and advisers, including representatives of NGOs or members of the public, as appropriate; and (e) Make recommendations to a State Party concerned and/or WHO regarding how the State Party may improve compliance and any recommended technical assistance and financial support.

3. The Members of the Compliance Committee shall be appointed by States Parties from each Region, comprising six government experts from each Region. The Compliance Committee shall be appointed for four-year terms and meet three times per year.

### 53 ter. Conduct of business

1. The Compliance Committee shall strive to make its recommendations on the basis of consensus. 2. The Compliance Committee may request the Director-General to invite representatives of the United Nations and its specialized agencies and other relevant intergovernmental organizations or nongovernmental organizations in official relations with WHO to designate representatives to attend the Committee sessions, where appropriate to address a specific issue under consideration. Such representatives, with the consent of the Chairperson, make statements on the subjects under discussion.

### 53 quater Reports

1. For each session, the Compliance Committee shall prepare a report setting forth the Committee's views and advice. This report shall be approved by the Compliance Committee before the end of the 29 session. Its views and advice shall not commit WHO, States Parties, or other entities and shall be formulated as advice to the relevant State Party. 2. If the Compliance Committee is not unanimous in its findings, any member shall be entitled to express his or her dissenting professional views in an individual or group report, which shall state the reasons why a divergent opinion is held and shall form part of the Committee's report. 3. The Compliance Committee's report shall be submitted to all States Parties and to the Director-General, who shall submit reports and advice of the Compliance Committee, to the Health Assembly or the Executive Board, as well as any relevant committees, for consideration, as appropriate.

### New Article 54 bis – Implementation

1. The Health Assembly shall be responsible to oversee and promote the effective implementation of these Regulations. For that purpose, Parties shall meet every two years, in a dedicated segment during the regular annual session of the Health Assembly.

2. The Health Assembly shall take the decisions and recommendations necessary to promote the effective implementation of these Regulations. To this effect, it shall:

(i) consider, at the request of any Party or the Director-General, any matter related to the effective implementation of these Regulations and adopt recommendations and decisions as appropriate on the strengthening of the implementation of these Regulations and improvement of compliance with their obligations;

(ii) consider the reports submitted by Parties and the Director-General pursuant to Article 54 and adopt any recommendation of a general nature concerning the improvement of compliance with these Regulations;

(iii) regularly assess the implementation of the Regulation by Parties and establish a strengthened review mechanism to that effect, with the aim of continuously improving the implementation of the Regulations by all Parties. In particular, the WHO and its Regional offices, upon request of a Party, which is a low or lower-middle income country, shall provide or facilitate technical support and assist in the mobilization of resources aimed to implement the recommendations of such a review mechanism to that Party;

(iv) promote, as appropriate, the development, implementation and evaluation of strategies, plans, and programmes, as well as policies, legislation and other measures by Parties;

(v) cooperate as appropriate with relevant WHO bodies, in particular those dealing with health emergency prevention, preparedness and response;

(vi) 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 referred to in Article 14, as a means of strengthening the implementation of these Regulations;

(vii) oversee the implementation by the Secretariat of its functions under these Regulations, without prejudice to the authority of the Director-General under Articles 12, 15 to 17 and 47 to 53;

(viii) consider other action, as appropriate, for the achievement of the objective of the Regulations in the light of experience gained in its implementation.

3. A Special Committee on the IHR is hereby established, as an expert committee. The Special Committee shall have (...) members, appointed in a manner to ensure equitable regional representation and gender balance. The Special Committee shall assist the Health Assembly in discharging the functions set out in this Article and report to the Assembly.

4. The Special Committee shall meet at least (once a year/ twice a year/ every two years/...).

### 5. Verification, inspection and/or country visit

Examples from other regimes:

International Atomic Energy Agency (IAEA),  
The Convention on the Prohibition of the  
Development, Production, Stockpiling and  
Use of Chemical Weapons and on their  
Destruction (CWC) (1993). MEAs

WHO CA+ Bureau's Text

n/a

**Article 10. Verification**

1. **Within 24 hours of receiving the information**, WHO shall request, in accordance with Article 9 **as soon as possible or within a specific time** verification from a State Party of reports from sources other than notifications or consultations of events which may constitute a public health emergency of international concern allegedly occurring in the State's territory. In such cases, WHO shall inform the State Party concerned regarding the reports it is seeking to verify.

2. Pursuant to the foregoing paragraph and to Article 9, each State Party, when requested by WHO, shall verify and provide:

- (a) within 24 hours, an initial reply to, or acknowledgement of, the request from WHO;
- (b) within 24 hours, available public health information on the status of events referred to in WHO's request; and
- (c) information to WHO in the context of an assessment under Article 6, including relevant information as described **in paragraphs 1 and 2** of that Article.

3. When WHO receives information of an event that may constitute a public health emergency of international concern, it shall, **as soon as possible or within a specific time** offer **within 24 hours** to collaborate with the State Party concerned in assessing the potential for international disease spread, possible interference with international traffic and the adequacy of control measures. Such activities may include collaboration with other standard-setting organizations and the offer to mobilize international assistance in order to support the national authorities in conducting and coordinating on-site assessments. When requested by the State Party, WHO shall provide information supporting such an offer.

**3bis. Within 24 hours of receiving a WHO offer of collaboration, the State Party may request additional information supporting the offer. WHO shall provide such information within 24 hours. When 48 hours have elapsed since the initial WHO offer of collaboration, failure by the State Party to accept the offer of collaboration shall constitute rejection for the purposes of sharing available information with States Parties under Paragraph 4 of this section.**

4. If the State Party does not accept the offer of collaboration **within 48 hours**, WHO may **shall**, when justified by the magnitude of the public health risk, **immediately** share with other States Parties the information available to it, whilst encouraging the State Party to accept the offer of collaboration by WHO, taking into account the views of the State Party concerned.

**Article 11 Provision of information by WHO Exchange of information**

1. Subject to paragraph 2 of this Article, WHO shall send to all States Parties and, as appropriate, to relevant **UN and** intergovernmental **international and regional** organizations, as soon as possible and by the most efficient means available, in confidence, such public health information which it has received under Articles 5 to 10 inclusive **or which is available in the public domain**, / **ALT or which is otherwise available and whose validity is appropriately assessed by WHO** and which is necessary to enable States Parties to respond to a public health risk. WHO ~~should~~ **shall** communicate information to other States Parties that might help them in preventing the occurrence of similar incidents. **For this purpose, WHO shall facilitate the exchange of information between States Parties and ensure that the Event Information Site For National IHR Focal Points offers a secure and reliable platform for information exchange among the WHO and States Parties and allows for interoperability with relevant data information systems.**

2. WHO shall use information received under Articles 6, and 8 and paragraph 2 of Article 9 for verification, assessment and assistance purposes under these Regulations and, unless otherwise agreed with the States Parties referred to in those provisions, shall not make this information generally to other States Parties, until such time as **when**:

(a) the event is determined to constitute a public health emergency of international concern, **a public health emergency of regional concern, or warrants an intermediate public health alert**, in accordance with Article 12; or

(b) information evidencing the international spread of the infection or contamination has been confirmed by WHO in accordance with established epidemiological principles; or

(c) there is evidence that:

(i) control measures against the international spread are unlikely to succeed because of the nature of the contamination, disease agent, vector or reservoir; or

(ii) the State Party lacks sufficient operational capacity to carry out necessary measures to prevent further spread of disease; or

(d) the nature and scope of the international movement of travellers, baggage, cargo, containers, conveyances, goods or postal parcels that may be affected by the infection or contamination requires the immediate application of international control measures.

**(e) WHO determines it is necessary that such information be made available to other States Parties to make informed, timely risk assessments.**

3. WHO shall ~~consult with~~ **inform** the State Party in whose territory the event is occurring as to its intent to make information available under this Article.

**New 3 bis: State Parties receiving information from WHO pursuant to this provision shall not use it for conflict and violence purposes. State Parties shall also handle the information in a manner designed to avoid establishments, personals, non-state actors or any recipient whatsoever engaging directly or indirectly with conflict and violence elements, from accessing such information, directly or indirectly.**

4. When information received by WHO under paragraph 2 of this Article is made available to States Parties in accordance with these Regulations, WHO ~~may also~~ **shall** make it available to the public if other information about the same event has already become publicly available and there is a need for the dissemination of authoritative and independent information.

**New 5. WHO shall annually report to the Health Assembly on all activities under this Article, including instances of sharing information that has not been verified by a State Party on whose territory an event that may constitute a public health emergency of international concern is or is allegedly occurring with States Parties through alerts systems.**  
**New para 5 – The Director-General shall report to the World Health Assembly on all activities under this article as part of their report pursuant to Article 54, including instances of information that has not been verified by a State Party in accordance with article 10.**

#### **Article 53 bis**

**2. The Compliance Committee shall be authorized to: (a) Request further information on matters under its consideration; (b) Undertake, with the consent of any State Party concerned, information gathering in the territory of that State Party;**

## 6. Implementation support (e.g. financing, technology, knowledge/expertise)

Examples from other regimes:

MEAs

### WHO CA+ Bureau's Text

#### Article 19. Financing

1. The Parties recognize the important role that sustainable financial resources play in achieving the objective of the WHO CA+ and the primary financial responsibility of national governments in protecting and promoting the health of their populations. In that regard, each Party shall:

(a) cooperate with other Parties, as appropriate and within the means and resources at its disposal, to raise sustainable financial resources for effective implementation of the WHO CA+ through bilateral and multilateral, regional or sub-regional funding mechanisms;

(b) plan and provide adequate financial support, in line with its national fiscal capacities for:

(i) strengthening and sustaining capacities for pandemic prevention, preparedness, response and recovery of health systems;

(ii) implementing its national plans, programmes and priorities; and

(iii) strengthening health systems and progressive realization of universal health coverage for pandemic prevention, preparedness, response;

(c) prioritize and increase or maintain, including through greater collaboration between the health, finance and private sectors, as appropriate, domestic funding for pandemic prevention, preparedness, response and health systems recovery, notably for improving and sustaining relevant capacities and working to achieve universal health coverage;

(d) mobilize financial resources, for international cooperation and assistance on pandemic prevention, preparedness, response and health systems recovery, in accordance with its respective capacities and based on the principle of solidarity, particularly for developing countries, including through international organizations and existing and new mechanisms; and

(e) provide, within the means and resources at its disposal, support and assistance to other Parties, at their or at WHO's request, in emergencies to facilitate containment at the source.

2. The Parties shall endeavor to ensure, through innovative existing and/or new mechanisms, sustainable and predictable financing of global, regional and national systems, capacities, tools and global public goods, while avoiding duplication, promoting synergies and enhancing transparent and accountable governance of these mechanisms, to support strengthening pandemic prevention, preparedness, response and recovery of health systems, based on public health risk and need, particularly in developing countries.

3. The Parties agree to establish funding mechanisms to support implementation of this WHO CA+. The mechanisms should avoid duplication and ensure complementarity and coherence among the utilization of the funds within the mechanisms and other existing funds. The mechanisms shall ensure provision of adequate, accessible, new and additional and predictable financial resources and shall include:



(a) A fund that shall be funded, inter alia, through the following sources: i. Annual contributions by Parties to the CA+, within their respective means and resources; ii. Contributions from pandemic-related product manufacturers; iii. Voluntary contribution by Parties and other stakeholders.

(b) A voluntary fund for pandemic prevention, preparedness, response and recovery of health systems with contribution from all relevant sectors that benefit from good public health (travel, trade, tourism, transport)

(c) The aforementioned fund will provide resources to assist Parties, in particular developing countries, in meeting their obligations under the CA+, in particular with regards to capacity building, strengthening of health systems and laboratory capacities for pandemic prevention, preparedness response and recovery of health systems, R&D for pandemic related-products and technology transfer. The fund will also finance the WHO allocation mechanism, as well as the Secretariat of the CA+.

(d) The Parties shall promote, as appropriate, the use of bilateral, regional, subregional and other appropriate and relevant channels to provide funding for the development and strengthening of pandemic prevention, preparedness, response and health system recovery programmes of developing country Parties.

4. The Parties will [mobilize] / [facilitate] additional financial resources, including from international financing facilities, to affected countries, based on public health risk and need, to maintain and restore routine public health functions and other essential health services during and in the aftermath of a pandemic response.

5. The Parties represented in relevant regional and international intergovernmental organizations and financial and development institutions shall encourage, as appropriate, these entities to provide additional financial assistance for developing country Parties to support them in meeting their obligations under the WHO CA+, without limiting their participation in or membership of these organizations.

## IHR proposed amendments

### Article 13 Public health response

1. WHO shall publish, in consultation with Member States, guidelines to support States Parties in the development of public health response capacities. **Developed State Parties and WHO shall offer assistance to developing State Parties depending on the availability of finance, technology and know-how for the full implementation of this article, in pursuance of the Article 44.**

### Article 44 Collaboration and assistance

1. States Parties shall ~~undertake to~~ collaborate with **and assist** each other, **in particular developing countries States Parties, upon request**, to the extent possible, in:

(c) the mobilization of financial resources to facilitate implementation of their obligations under these Regulations; and **to establish an international financial mechanism for providing financial assistance to developing countries in the development, strengthening and maintenance of core capacities required under these Regulation sand functioning health systems resilient to the public health emergencies.**

2. WHO shall collaborate with **and promptly assist** States Parties, **in particular developing countries** upon request, to the extent possible, in:

(f)(c) the mobilization of financial resources to support developing countries in building, strengthening and maintaining the capacities provided for in Annex 1 **and Annex 6 through the financial mechanism established under Article 44A and to establish an international financial mechanism for providing financial assistance to developing countries State Parties for the said purpose ;**

**New Article 44A - Financial Mechanism for Equity in Health Emergency Preparedness and Response**

**1. A mechanism shall be established for providing the financial resources on a grant or concessional basis to developing countries. Such financial mechanism shall provide the financial assistance to achieve the following purposes:**

**(i) building, developing, strengthening, and maintaining of core capacities mentioned in Annex 1;**

**(ii) strengthening of Health Systems including its functioning capacities and resilience;**

**(iii) building, developing and maintaining research, development, adaptation, production and distribution capacities for health care products and technologies, in the local or regional levels as appropriate. (iv) addressing the health inequities existing both within and between States Parties such that health emergency preparedness and response is not compromised;**

**2. The WHA shall make arrangements to implement the above-mentioned provisions, within 24 months of the adoption of this provision, reviewing and taking into existing availability of funds and WHO arrangements for health emergency preparedness and response and whether they shall be maintained. Every four years thereafter, the WHA shall review the financial mechanism and take appropriate measures to improve the functioning of the mechanism. WHA shall also ensure that the financial mechanism functions under the guidance of and be accountable to States Parties, which shall decide on its policies, programme priorities and eligibility criteria.**

**7. Complaints mechanism**

Examples from other regimes:

Chemical Weapons Convention (1993),  
Human Rights (optional)

WHO CA+ Bureau's Text

n/a

IHR proposed amendments

n/a

## 8. Monitoring overall performance of regime

Examples from other regimes:

MEAs

WHO CA+ Bureau's Text

### Article 20. Conference of the Parties

[...]

6. The Conference of the Parties shall keep under regular review the implementation of the WHO CA+ and take the decisions necessary to promote its effective implementation and may adopt protocols, annexes and amendments to the WHO CA+, in accordance with Articles 32, 33 and 34. Towards this end, it shall:

- (a) consider reports submitted by the Parties in accordance with Article 21 and adopt regular reports on the implementation of the WHO CA+;
- (b) oversee the bodies referred to in paragraph 9 of this Article, including establishing their rules of procedure and working modalities and, if so decided, establish other subsidiary bodies as are necessary to achieve the objective of the WHO CA+;
- (c) promote and facilitate the mobilization of financial resources for the implementation of the WHO CA+, in accordance with Article 19;
- (d) 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 WHO CA+; and
- (e) consider other action, as appropriate, for the achievement of the objective of the WHO CA+, in the light of experience gained in its implementation.

7. The Conference of the Parties shall keep under regular review, every three years, the implementation and outcome of the WHO CA+ and any related legal instruments that the Conference of the Parties may adopt, and shall make the decisions necessary to promote the effective implementation of the WHO CA+.

IHR proposed amendments

### Article 54 Reporting and review

1. States Parties and the Director-General shall report to the Health Assembly on the implementation of these Regulations as decided by the Health Assembly.

2. The Health Assembly shall periodically review the functioning of these Regulations. To that end it may request the advice of the Review Committee, through the Director-General. The first such review shall take place no later than five years after the entry into force of these Regulations.

3. WHO shall periodically conduct studies to review and evaluate the functioning of Annex 2. The first such review shall commence no later than one year after the entry into force of these Regulations. The results of such reviews shall be submitted to the Health Assembly for its consideration, as appropriate.

New 4. Apart from providing information to the State Parties and reporting to the Health Assembly in this Article, WHO shall maintain a webpage/ dashboard to provide the details of the activities carried out under the various provisions of these Regulations including Articles 5(3), 12, 13(5), 14, 15, 16, 18, 43, 44, 46, and 49.

#### New Article 54 bis – Implementation

1. The Health Assembly shall be responsible to oversee and promote the effective implementation of these Regulations. For that purpose, Parties shall meet every two years, in a dedicated segment during the regular annual session of the Health Assembly.

2. The Health Assembly shall take the decisions and recommendations necessary to promote the effective implementation of these Regulations. To this effect, it shall:

(i) consider, at the request of any Party or the Director-General, any matter related to the effective implementation of these Regulations and adopt recommendations and decisions as appropriate on the strengthening of the implementation of these Regulations and improvement of compliance with their obligations;

(ii) consider the reports submitted by Parties and the Director-General pursuant to Article 54 and adopt any recommendation of a general nature concerning the improvement of compliance with these Regulations;

(iv) promote, as appropriate, the development, implementation and evaluation of strategies, plans, and programmes, as well as policies, legislation and other measures by Parties;

(v) cooperate as appropriate with relevant WHO bodies, in particular those dealing with health emergency prevention, preparedness and response;

(vi) 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 referred to in Article 14, as a means of strengthening the implementation of these Regulations;

(vii) oversee the implementation by the Secretariat of its functions under these Regulations, without prejudice to the authority of the Director-General under Articles 12, 15 to 17 and 47 to 53; (viii) consider other action, as appropriate, for the achievement of the objective of the Regulations in the light of experience gained in its implementation.

## 9. Involvement of non-state actors (e.g. civil society, private sector, independent experts)

Examples from other regimes:

Human Rights, MEAs

WHO CA+ Bureau's Text

### Article 20. Conference of the Parties

1. (...) The Conference of the Parties shall also include observers from:

(a) 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+; and  
(b) Representatives of any body or organization, whether national or international, governmental or non-governmental, private sector or public sector, which is qualified in matters covered by the WHO CA+, provided that observers pursuant to this subparagraph may be admitted as an observer, upon formal application, in accordance with terms and conditions to be adopted by the Conference of the Parties, renewable every three years, unless at least one third of the Parties object

(...)

6. The Conference of the Parties shall keep under regular review the implementation of the WHO CA+ and take the decisions necessary to promote its effective implementation and may adopt protocols, annexes and amendments to the WHO CA+, in accordance with Articles 32, 33 and 34. Towards this end, it shall:

[...]

(d) 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 WHO CA+; and

IHR proposed amendments

### Article 48. Terms of reference and composition

1. The Director-General shall establish an Emergency Committee that at the request of the Director-General shall provide its views on:

(a) whether an event constitutes a public health emergency of international concern, **based on Articles 1, 2 and 12.4.**;  
(b) the termination of a public health emergency of international concern; and  
(c) the proposed issuance, modification, extension or termination of temporary recommendations.

2. The Emergency Committee shall be composed of experts **free from the conflict of interests selected by** the Director-General from the IHR Expert Roster and, when appropriate, other expert advisory panels of the Organization, **as well as Regional Directors from any impacted region.** The Director-General shall determine the duration of membership with a view to ensuring its continuity in the consideration of a specific event and its consequences. The Director-General shall select the members of the Emergency Committee on the basis of the expertise and experience required for any particular session and with due regard to the principles of equitable **age, gender, and** geographical representation **and gender balance and require training in these Regulations before participation.**

**The WHO, including through the WHO Academy, shall provide them with support as appropriate.** At least one member **Members** of the Emergency Committee should be an **include at least one** expert nominated by a **the** State Party within whose territory the event arises, **as well as experts nominated by other affected States Parties.** For the purposes of Articles 48 and 49, an “affected State Party” refers to a State Party **either geographically proximate or otherwise impacted by the event in question.**

3. The Director-General may, on his or her own initiative or at the request of the Emergency Committee, appoint one or more technical experts **free from the conflict of interests** to advise the Committee.

#### **Article 53 bis. Terms of reference and composition**

**2. The Compliance Committee shall be authorized to: (d) Seek the services of experts and advisers, including representatives of NGOs or members of the public, as appropriate;**

#### **Article 53 ter. Conduct of business**

**2. The Compliance Committee may request the Director-General to invite representatives of the United Nations and its specialized agencies and other relevant intergovernmental organizations or nongovernmental organizations in official relations with WHO to designate representatives to attend the Committee sessions, where appropriate to address a specific issue under consideration. Such representatives, with the consent of the Chairperson, make statements on the subjects under discussion.**

### **10. Dispute resolution, e.g. negotiation, court, arbitration**

Examples from other regimes:

Human Rights, Anti-corruption, MEAs

WHO CA+ Bureau's Text

#### **Article 39. Settlement of disputes**

1. In the event of a dispute between two or more Parties concerning the interpretation or application of the WHO CA+, the Parties concerned shall seek through diplomatic channels a settlement of the dispute through negotiation or any other peaceful means of their own choice, including good offices, mediation or conciliation. Failure to reach a solution by good offices, mediation or conciliation shall not absolve Parties to the dispute from the responsibility of continuing to seek to resolve it.

2. When ratifying, accepting, approving, formally confirming or acceding to the WHO CA+, or at any time thereafter, a State or regional economic integration organization may declare in writing to the Depositary that, for a dispute not resolved in accordance with paragraph 1 of this Article, it accepts, as compulsory ipso facto and without special agreement, in relation to any Party accepting the same obligation: (i) submission of the dispute to the International Court of Justice; and/or (ii) ad hoc arbitration in accordance with procedures to be adopted by consensus by the Conference of the Parties.

3. The provisions of this Article shall apply with respect to any protocol as between the Parties to the protocol, unless otherwise provided therein



## Article 56 Settlement of disputes

1. In the event of a dispute between two or more States Parties concerning the interpretation or application of these Regulations, the States Parties concerned shall seek in the first instance to settle the dispute through negotiation or any other peaceful means of their own choice, including good offices, mediation or conciliation. Failure to reach agreement shall not absolve the parties to the dispute from the responsibility of continuing to seek to resolve it.

2. In the event that the dispute is not settled by the means described under paragraph 1 of this Article, the States Parties concerned may agree to refer the dispute to the Director-General, who shall make every effort to settle it.

3. A State Party may at any time declare in writing to the Director-General that it accepts arbitration as compulsory with regard to all disputes concerning the interpretation or application of these Regulations to which it is a party or with regard to a specific dispute in relation to any other State Party accepting the same obligation. The arbitration shall be conducted in accordance with the Permanent Court of Arbitration Optional Rules for Arbitrating Disputes between Two States applicable at the time a request for arbitration is made. The States Parties that have agreed to accept arbitration as compulsory shall accept the arbitral award as binding and final. The Director-General shall inform the Health Assembly regarding such action as appropriate.

4. Nothing in these Regulations shall impair the rights of States Parties under any international agreement to which they may be parties to resort to the dispute settlement mechanisms of other intergovernmental organizations or established under any international agreement.

5. In the event of a dispute between WHO and one or more States Parties concerning the interpretation or application of these Regulations, the matter shall be submitted to the Health Assembly.

**6. WHO must communicate all complaints by Member States regarding additional measures that have not been notified by any of them or recommended by the Organization;**

**7. Member States that apply the measures referred to in the preceding paragraph must inform WHO in a timely manner of the scientific justification for their establishment and maintenance and WHO must disseminate this information;**

**8. The World Health Assembly must have the opportunity to study the reports of the Review Committee on the relevance and duration of the measures and other data referred to in (a) and (b) included in this paragraph 6 and make recommendations regarding the relevance and continuity of the additional health measures.**



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