

THE PANDEMIC TREATY

WHAT'S (NOT) IN THERE FOR LRGs

For more than two years, States have been working hard at the World Health Organization (WHO) to negotiate a new treaty to prevent, prepare for, and respond to future pandemics more equitably and in a way that fosters cooperation and solidarity among States.

Given the frontline role taken by Local and Regional Governments (LRGs) during COVID-19 to respond to this unprecedented crisis, the GCH believes it is necessary to include LRGs in the State-led negotiation process and for the pandemic treaty to explicitly refer to LRGs. The GCH has advocated in favour of LRGs since the beginning of the process, putting forward specific language proposals and supporting the Mayors' Declaration for better pandemic prevention, preparedness and response.

While the first draft versions of the pandemic treaty included references to the subnational level or to the "urban", these references have been watered down over time. That said, the latest draft still includes a very important article: article 17 on "whole-of-government and whole-of-society approaches", which constitutes the main entry point for LRGs into the pandemic treaty.

This paper offers several observations on the perspective of negotiating States and the related challenges that need to be overcome if LRGs are to be more fully involved during negotiation of the pandemic treaty negotiations and beyond.

First, for most States, LRGs are considered part of the State administration. It is therefore necessary to argue in favour of explicit references to LRGs. Second, issues relevant to LRGs in the draft pandemic treaty (community engagement, information campaigns, data collection, etc.) do not belong to the core issues on which negotiating States focus, even though these are crucial to ensure effective pandemic prevention, preparedness and response on the ground. Third, States may consider that referring to "local communities" is sufficient to address the local level. However, that is not the case. Local communities should not be equated with local authorities. Fourth, multilateral negotiations do not place much emphasis on implementation, yet this is where the role of LRGs is most crucial. Finally, States often prioritize brevity in international agreements, thereby avoiding entering into too much detail on what may be perceived as "peripheral issues". Here, some work is needed by LRGs to change this perception.

The GCH has worked to mobilize LRGs and will continue to actively engage in the draft pandemic treaty process in favour of LRGs. Once adopted, the GCH will need to raise awareness about the final outcome, ensuring that LRGs understand what the treaty holds for them and how they can contribute to its implementation.

The COVID-19 hit the world in an unprecedented manner. We all remember the various lockdowns and restrictions imposed worldwide rather abruptly. These affected all of us (albeit in very different ways), our families, our health, our work, our education, our travels, and our way of living. Most of us hope that our political leaders have learnt from past mistakes and that the world will be better prepared when the next pandemic comes.

What is the pandemic treaty about?

Better Pandemic Prevention, Preparedness and Response (PPPR) have kept diplomats busy in Geneva since early 2022. For more than two years, States have been working hard to draft and negotiate a “convention, agreement or other international instrument” (we’ll call it a “treaty” here) in the framework of the World Health Organization (WHO). According to WHO Director General Dr. Tedros Adhanom Ghebreyesus, the objectives of the new treaty are to help countries drive a more equitable response to future pandemics by: ensuring that tests, treatments and vaccines to save lives are shared better; improving information sharing about pathogens with pandemic potential; and enhancing cooperation between States for a common response.

At the core of the treaty lies the concept of equity, ensuring that not only wealthy nations can protect their populations and economies from pandemics, but that the world acts collectively, fostering solidarity among all States.

Many issues have been discussed during the negotiation process to **operationalize the concept of equity**, including how to:

- Set-up a *Pathogens Access and Benefits-Sharing System* (PABS). The objective of a PABS is to ensure that developing countries that share genetic resources and pathogen samples with pandemic potential in a timely manner, can in return benefit from it, for instance through access to technologies, vaccines or diagnostics.
- Facilitate the *transfer of technology, skills and know-how for the production* of pandemic-related health products, particularly to developing countries. This raises intellectual property-related issues.
- *Finance* the efforts, especially of developing countries, required to implement the treaty and to:
 - i. strengthen *pandemic prevention and surveillance* national plans and programmes;
 - ii. follow a *One Health* approach, whereby countries are expected to acknowledge the close linkages between the health of people, animals and the environment, and to work across disciplines to prevent and address health challenges more effectively.

Why do LRGs matter to the pandemic treaty? What has been the focus of GCH advocacy?

The Global Cities Hub (GCH) has followed the State-led negotiation process with great interest since the beginning. It was obvious that the GCH should engage in this area, given the frontline role that Local and Regional Governments (LRGs) played in responding to COVID-19. LRGs implemented national policies, regulations and measures to prevent and contain the spread of the disease at sub-national level. They informed their population about the situation and restrictions, identified vulnerable communities, provided assistance, collected data, and facilitated a swift post-pandemic socio-economic recovery.

The GCH believes it would have been necessary to include LRGs in the negotiation process and for the treaty to explicitly refer to them. That is why the GCH advocated in favour of better reflecting LRGs' perspectives in the text through different means:

- **It participated in meetings of the Intergovernmental Negotiation Body** (INB, the body tasked to draft and negotiate the treaty) **and made several public statements**. In particular, the GCH reaffirmed the need to ensure equity not only *among* States (the treaty's main objective), but also *within* States, as LRGs are best placed to ensure that equity becomes a reality and that no one is left behind. The GCH encouraged States to make explicit references to the "local level" and "local governments" in the treaty. It also emphasized how important it was to include LRGs in the process, because they will have to implement many provisions of the treaty, once it has been adopted by States.
- Consistent with its INB public statements, **the GCH put forward specific language proposals** (i.e., text proposals to amend, replace or complement the draft treaty provisions negotiated by States) during the evolving negotiation process. For instance, the GCH suggested that States add treaty provisions, including:
 - A new guiding principle on the *whole-of-government approach* to be applied by States when implementing the treaty. Indeed, effective prevention, preparedness and response to pandemics require a whole-of-government approach to ensure horizontal and vertical policy coherence across all sectors and levels of government.
 - New references to the *specificities and vulnerabilities of urban settings* regarding infectious diseases and epidemics, and to *urban planning*, a key element of PPPR.
 - *Explicit reference to "local authorities"*. While the draft treaty includes references to local communities, the GCH suggested to add "local authorities", since local communities are often managed by local authorities. Explicitly referring to them would also ensure that central administrations think about engaging LRGs to implement the treaty and make a tangible impact to save lives when the next pandemic hits.

Current state of play

Negotiations have failed to conclude by the deadline set by States in May 2024 because of the lack of consensus on the core issues above (i.e., PABs, transfer of technology and funding mechanism). Consequently, the **multilateral negotiation process has been extended and should conclude at the latest in May 2025**, in time for the 78th World Health Assembly.

The draft treaty text currently on the table (available [here](#), as of September 2024) **has evolved significantly**. Initially, it included references to several points that the GCH had advocated for: the need to ensure equity *within* States, the vulnerability of urban settings, some references to the subnational level, and the need to think about PPPR at all levels. One of the first working document (July 2022) even referred to the need to delegate authority during pandemics to local government in order to better respond to the pandemic¹.

However, over time, these references were watered down or removed from the text. In the latest draft, (which might still change), only a few paragraphs and above all, article 17, remain relevant to LRGs:

- Preamble paragraph 8: *Recognizing the **critical role of whole-of-government** and whole-of-society **approaches at national and community levels**, through broad social participation, [...] in strengthening PPPR.*
- Art. 17 Whole-of-government and whole-of-society approaches:
 1. *[States] are encouraged to **apply whole-of-government** and whole-of-society **approaches at national level**, including, according to national circumstances, to empower and enable community ownership,*

and contribution to, community readiness for and resilience to PPPR.

2. *Each [State] is urged to establish or strengthen, and maintain, a **national multi-sectoral coordination mechanism for PPPR.***
3. *Each [State] shall develop, [...] comprehensive, multisectoral, and, as appropriate, regional, and national **PPPR plan(s)** [...].*
4. *Each [State] shall promote and facilitate, [...] the development and implementation of education and community engagement initiatives and programmes on pandemic and public health emergencies, [...].*

Obviously, other provisions are relevant to LRGs because they will have to be involved in the treaty's implementation. For instance:

- Art. 4 on pandemic prevention and surveillance, which requires States to strengthen comprehensive multisectoral national pandemic prevention and surveillance plans
- Art. 6 on preparedness, readiness and health system resilience, which requires States to take measures to develop and strengthen a resilient health system for PPPR.
- Art. 7 on the health and care workforce, which will have to trickle down to LRGs, so that States may endeavor to strengthen national capacities and designate national, subnational and/or regional level multidisciplinary, emergency health teams.
- Art. 18 on communication and public awareness, where the involvement of LRGs will be crucial to enable States to strengthen public health and pandemic literacy through risk communication and effective community-level engagement.

¹ See https://apps.who.int/gb/inb/pdf_files/inb2/A_INB2_3-en.pdf, point 8 d).

Challenges in including LRGs' issues in the pandemic treaty (and elsewhere)

One may ask: if LRGs are so important for effective PPPR, why have States removed so many relevant references to local or urban issues from the latest draft pandemic treaty?

Although negotiations are still ongoing, and the text of the pandemic treaty will still change, it is almost certain that there will be no explicit mention of LRGs or of the “urban” in the text. In GCH’s view, there are several explanations for this, which can certainly be extrapolated to other State-led multilateral negotiations and relevant processes for LRGs (including in the fields of migration, human rights or the environment).

First, for most States, LRGs are considered part of the State administration. While national contexts and governance structures vary widely among countries, LRGs are part of the State, even if they have varying degrees of autonomy. As such, most States find it unnecessary to explicitly refer to LRGs, since the term “States” encompasses LRGs. Moreover, it is a question of sovereignty, and some States have demonstrated great reluctance to explicitly refer to LRGs, given that these pertain to the “internal affairs” of a State. While the GCH understands this perspective, it has also observed that things work differently in practice. States might spend a lot of time coordinating between Ministries (for instance, Ministries of Foreign Affairs, Health, Finance, etc.) to achieve a coordinated position at the international level. However, States rarely include LRGs in consultations on international matters. In their defence, interministerial consultations are often very complex and cumbersome. So, adding consultations with LRGs could undoubt-

edly complicate things. But this is no excuse. While LRGs don’t need to be consulted on all international matters, explicitly referencing them in certain draft treaty provisions would remind States of the necessity to include or consult LRGs when necessary.

Second, the issues relevant to LRGs in the pandemic treaty are very important for effective PPPR (community engagement, information campaigns, data collection, implementation of restrictions, etc.), but they **are not the core issues on which negotiating States focus** (i.e., PABs, transfer of technology, One Health, financing of strengthened pandemic surveillance and prevention). Instead, these issues are considered peripheral, as evidenced by the fact that States have not spent much time on Article 17 on whole-of-government and whole-of-society approaches. They have been able to agree on it relatively quickly, with little debate. Based on its multilateral experience, the GCH observed that in other contexts, LRG-relevant issues are also considered “peripheral” by States. This is the case in human rights negotiations and the plastic treaty process, where LRG issues have either flown under the radar or were not treated as priorities by States. This links to the third point below.

Third, States may consider that the frequent references to “local communities” in the current draft are sufficient to address the local level. The GCH acknowledges the importance of highlighting “communities” to address grassroots engagement. While communities can be self-organized or supported by NGOs, local governments often collaborate with these communities to deliver

public services that meet their needs. Therefore, in GCH's view, references to local communities are insufficient to fully address the local level. The text should also explicitly refer to local governments, which are distinct entities at the subnational level with specific roles and responsibilities in PPPR.

Fourth, multilateral negotiations tend not to emphasize implementation, yet, this is where the role of LRGs is most crucial. Many international engagements made by States across various topics remain unfulfilled because of a lack of political will, resources, or lack of knowledge from those who can implement the international engagements on the ground (i.e. subnational governments). Of course, there are exceptions, such as the commitment demonstrated by many LRGs to the Paris Agreements, which is proof that international agreements can trickle down to the local level and serve as an important framework for subnational policies, programmes and actions. However, most often, States negotiate hard to reach an international agreement, and how it is implemented domestically by all national actors is considered by States as an internal matter, not deserving of explicit reference in the text. This must change.

An agreement that is not implemented has little value. For the UN to become more effective and efficient, States need to specify more explicitly the means and actors involved in implementing their international agreements and commitments. This would help create stronger links between the international level and what happens on the ground.

Finally, a key reason for omitting most references to local governments or urban issues in the draft pandemic treaty is **the need for brevity. Negotiating States often prioritize simplicity and clarity,** ensuring the text is concise and easily understood by the relevant State administrations. Therefore, most States will consider that the issue of local governments is covered by Article 17 on whole-of-government and whole-of-society approaches, and that there is no need for additional references. This need for brevity also applies to most other multilateral negotiations, where "peripheral issues", such as those concerning LRGs, may not be included in the final outcome. While Article 17 is certainly an important entry point for LRGs into the draft pandemic treaty, the lack of specificity raises concerns about implementation and the effectiveness of the agreement.

Overcoming these challenges

Overcoming the challenges outlined above will require time and effort to convince States to change the way they approach multilateral negotiations. It is crucial to make these negotiations more inclusive, particularly by involving LRGs, who are deeply connected to the everyday lives of people and communities. The first essential step is to mobilize LRGs and provide them with relevant information on selected multilateral processes.

LRGs have proven their capacity to mobilize, particularly in the field of climate change, as demonstrated by the movement led by the Mayor of Paris, Anne Hidalgo, on the margins of 2015 Climate COP (Conference of Parties) that led to the adoption of the Paris Agreement. LRG mobilization can also be seen in other areas, such as migration, where LRGs and city networks have engaged in the lead-up to the Global Refugee Forum and other migration fora to remind States of their role in welcoming and including migrants and refugees into society. More recently, the GCH has collaborated with ICLEI to support a Local and Subnational Governments Coalition to end plastic pollution

within the framework of intergovernmental negotiations on a new treaty against plastic pollution.

In the context of the draft pandemic treaty, the GCH has worked closely with the Global Parliament of Mayors to mobilize LRGs. It first organized a briefing for Mayors in July 2023 to explain the objectives of the new treaty and the related multilateral process. This resulted in the adoption by several mayors of a **Mayors' Declaration for better pandemic prevention, preparedness and response**. The Declaration emphasizes the key role of coordination between national, regional and local levels in preparing for and responding to health emergencies. It also underlines that effective PPPR is a complex undertaking that requires a multisectoral approach, with local governments well-placed to implement it at their level. To date, almost 100 mayors have signed the Declaration, making it a strong advocacy instrument to draw States' attention to the role of mayors in PPPR. The GCH presented this Declaration to the Bureau of the INB and used it as a reference in its interventions during the negotiation process.

What next?

As every multilateral negotiator knows, “nothing is agreed until everything is agreed”. Negotiations are still ongoing, and the draft pandemic treaty will continue to evolve until both developed and developing countries find common ground on how to prevent, prepare for and respond to the next pandemic in a more equitable manner. That said, the chances of seeing references to “local governments” or the “urban” are slim for the reasons outlined above. Thus, the GCH hopes that Article 17 on whole-of-government and whole-of-society approaches will be retained, as it constitutes the main entry point for LRGs into the pandemic treaty.

The GCH will continue to actively engage in the process, which is expected to conclude by May 2025, in time for the 78th World Health Assembly. However, if States can reach a consensus by the end of 2024, the process could conclude earlier.

Once the pandemic treaty is adopted, the GCH will raise awareness about the final outcome, informing LRGs about what the treaty holds for them and how they can contribute to its implementation. As mayors emphasized in the Declaration for better PPPR, this issue is a priority for their cities, and the treaty could provide valuable support in that regard.



Global Cities Hub
Villa Rigot
Avenue de la Paix 9
1202 Geneva
Switzerland

info@globalcitieshub.org
+41 (0) 22 559 46 00

www.globalcitieshub.org