



## POSITION PAPER – PUBLIC SERVICES INTERNATIONAL

### FOR A BINDING AND EQUITABLE PATHOGEN ACCESS AND BENEFIT SHARING SYSTEM

#### KEY DEMANDS

- The PABS system must be administered multilaterally by WHO under democratic Member State oversight.
- Voluntary commitments have proven ineffective. All recipients of the PABS materials and/or sequence information must undertake legally binding terms of use, including benefit sharing commitment. Countries should assume obligations to implement all components of the PABS system effectively, including traceability mechanism.
- All actors accessing pathogens or data must sign standardized contracts with clear, transparent, public and auditable terms. All agreements, transactions, access to pathogen samples or data, third party transfers of pathogen, logs of PABS Sequence databases and benefit flows must be fully transparent and subject to public audit.
- WHO IGWG should make multilateral PABS more attractive than such bilaterals bargain, by establishing meaningful benefit sharing commitments, and robust governance and accountability mechanisms that ensures sovereign rights over shared resources are well respected and safeguarded. Only this will halt bilateral agreements in this regard, which will undermine global public health. For example, U.S. contracts that condition humanitarian aid, on commitment to share pathogens and data.
- Countries have sovereign rights over their genetic resources and sequence information, as established by the Convention on Biological Diversity (CBD) and the Nagoya Protocol (NP). Indigenous peoples and local communities also have rights over genetic resources, and both countries, communities and individuals have rights over health data. All these rights must be respected while accessing, sharing, or utilizing the PABS materials and sequence information if PABS has to achieve status of specialized international abs instrument. Appropriate access is one of the indisputable objectives of CBD and NP.

#### PUBLIC SERVICES INTERNATIONAL POSITION

Public Services International is concerned given that the current text, if maintained, will perpetuate the injustices we witnessed during COVID-19. We present below our demands for a truly equitable PABS system:

Defend WHO's Multilateral System

The PABS system must be administered multilaterally by WHO under democratic Member State oversight.



- Countries must refrain from bilateral agreements that undermine global solidarity and create privileges. Recently Global South countries have been offered to sign bilateral agreements as a condition to receive humanitarian aid on non-reciprocal access to data and pathogens, constituting a form of coercion incompatible with multilateralism, solidarity and equality among peoples and nations.
- An accountable, transparent and well governed WHO-based multilateral system ensures equitable treatment for all countries, prevents powerful nations from imposing unfavorable terms through their economic influence, and promotes transparency and accountability through democratic oversight.
- WHO has proven experience in administering multilateral benefit-sharing systems, as demonstrated by the Pandemic Influenza Preparedness (PIP) Framework, one of the few multilateral systems that consistently shares benefits in exchange for access to genetic resources.

#### Require COMPULSORY Mechanisms

Voluntary commitments have proven ineffective. Benefit distribution must follow legally binding rules. An equitable and solidary system cannot depend on "promises" by the pharmaceutical industry.

- All benefit-sharing mechanisms must be legally binding and enforceable. This includes mandatory donation and sale at cost price of produced vaccines, therapeutics and diagnostics (VTDs), licensing for diversifying manufacturing into developing countries through WHO, and monetary contributions,
- As per article 12.6, 12.7 and 12.8 access to VTDs as a benefit must be made mandatory not only for pandemic emergencies, but also during PHEIC, as well as to prevent outbreaks from becoming PHEIC.

#### Standardized and Transparent Contracts

All actors accessing pathogens or data must sign standardized contracts with clear, transparent, public and auditable terms.

- We fully support the proposal for Standard Material Transfer Agreements (SMTAs) and Data Access Agreements (DAAs). These instruments already have successful precedents in other access and benefit-sharing contexts. Standardizing contracts are very much helpful for rapid sharing/access to PABS Materials and Sequence Information, and it helps protect the rights of originating labs and scientists. In this context we call for reference to the African Academy of Sciences and Public Health Alliance of Genomic Epidemiology policy briefs.
- Contracts must clearly specify: (a) conditions for use of materials and data; (b) traceability requirements; (c) concrete and measurable benefit-sharing commitments; (d) audit and accountability mechanisms; (e) penalties for non-compliance.



- Standardization ensures equal treatment, prevents opaque negotiations that favor powerful actors, and enables citizen oversight. All agreements with manufacturers must be public and subject to public scrutiny.

#### No to Scientific Data Extractivism

- Access to pathogen sequence information without benefit-sharing commitments constitutes a modern form of biopiracy. Genetic data generated and collected in the Global South cannot continue to be extracted free of charge to generate profits in the Global North.
- We support the proposal that recognized databases establish agreements with WHO, implement mandatory user registration, verified accounts, and binding agreements to allow data access, so that users share the benefits derived from accessing such data. Anonymous access to Pathogen raises biosecurity risks in contemporary and future times, where digital capacities are transformed by A.I. tools. Scientific Studies and experiments already expose such risks.
- WHO administration of its own databases is essential so that countries without technological capacities do not depend on private or foreign platforms that may impose unilateral conditions or deny access. It must be noted that having PABS-Specific WHO Database would help commercial actors to avoid confusions regarding stacking of obligations/duplication if any.

#### Defend Sovereignty over Genetic Resources

Countries have sovereign rights over their genetic resources and health data, as established by the Convention on Biological Diversity and the Nagoya Protocol.

- Member States must ensure that the text of Article 12 does not exclude the application of the Nagoya Protocol on access and benefit-sharing or national ABS (Access and Benefit Sharing) systems.
- The relationship between the PABS system and national pathogen-sharing frameworks can only be appropriately evaluated once the scope and other key aspects of the PABS system are defined. Addressing this prematurely risks undermining already established systems and legitimate national interests.

#### Link Access to Concrete and Measurable Commitments

Access to pathogens and data must be conditioned on benefit-sharing, with concrete, measurable and verifiable benefit-sharing commitments.

- **During health emergencies:** Pharmaceutical laboratories' obligation to provide WHO with at least 20% of real-time production (10% free of charge and 10% at not-for-profit prices), for distribution based on public health risk and need.
- **During PHEIC:** Legal obligation to provide WHO with at least 10-15% of real-time production, free of charge and at not-for-profit prices. At least 50% of vaccines, therapeutics and diagnostics contributed by a manufacturer must be free of charge.



- **Advance release:** Legal obligation to comply with WHO requests for advance release of vaccines, medicines and diagnostics to developing countries before PHEIC, to prevent outbreaks from becoming PHEICs, in cases where affected countries lack equitable access and/or for WHO stockpiles.
- **Diversifying production:** manufacturers must be legally bound to provide manufacturing licenses with related technology and know-how to developing country manufacturers through WHO, to address supply and access challenges during PHEIC and pandemics. This is essential given available regional capacity to manufacture and supply regional needs in case of shortages.

### Transparency

All agreements, transactions, benefit access and benefit flows must be fully transparent and subject to public audit.

- The PABS system must incorporate robust traceability mechanisms that identify all recipients of pathogen materials and sequence information.
- All agreements with pharmaceutical laboratories must be public, including financial terms, volume commitments, delivery schedules, and technology transfer clauses.
- There must be regular public reporting on compliance with commitments, with clearly defined penalties for non-compliance.
- Civil society, including health worker unions and community organizations, must have full access to information and capacity to monitor implementation.

## CONCERNS ABOUT ATTEMPTS TO STREAMLINE THE TEXT

Public Services International expresses deep concern about an approach adopted during the negotiations: to severely streamline the text of PABS Annex. Consequently, important elements have been diluted or eliminated. At the same time, countries that seek to keep such important elements suffer pressure to accept developed country positions. We are currently seeing Article 12 minus approaches in the text being proposed by the Bureau, and in solutions suggested by WHO Secretariat and Global North.

The Bureau and WHO Secretariat's approach favoring the global north, must not continue. We are concerned with WHO proposals that continue to favour the global north, even when their proposals lack backing of public health rationale, scientific reasons, evidence or noteworthy precedents,

## THE NEED OF A BINDING NATURE OF THE PABS SYSTEM

The final text must ensure that the legal nature of the PABS system is applicable to all WHO Members. Adoption under Article 21 of the WHO Constitution should be given serious consideration.

Article 21 allows the World Health Assembly to adopt regulations concerning sanitary and quarantine requirements and other procedures designed to prevent the international spread of disease. Regulations adopted under this article enter into force for all Member States that do not reserve objections within a specified time frame.

This approach would ensure:

- Universal application of the PABS system, preventing countries from "opting out" and continuing to extract resources without sharing benefits
- Binding legal force of commitments, with enforcement mechanisms and sanctions for non-compliance
- Multilateral legitimacy through adoption by the World Health Assembly, WHO's supreme decision-making body

## IN PURSUIT OF EQUITY IN FUTURE EMERGENCIES

We firmly believe that Article 12 must incorporate essential elements for an effective, accountable and transparent PABS system. Such a system must be administered by WHO under Member State oversight, with traceability mechanisms that identify recipients of pathogens, samples, genetic materials or other information, and must require all users accessing such materials and sequences to accept legally binding terms and conditions that establish clear conditions for using materials and sequence information, as well as commitments to fair and equitable benefit-sharing containing both monetary and non-monetary components.

### Public Services International calls on governments to:

- Firmly reject any further streamlining of PABS Annex text that dilutes or eliminates essential safeguards seeking to ensure equity in benefit access, undermining even the bare minimum commitments made in Article 12 of Pandemic Agreement.
- Ensure inclusion of mechanisms on non-monetary benefit-sharing obligations, including specific percentages of real-time production to be provided free of charge and at not-for-profit prices during all three stages of disease outbreak.
- Include in the text robust traceability mechanisms and legally binding standard contracts for all agents accessing pathogen materials and sequence data
- Ensure that the PABS system does not exclude or undermine the application of the Nagoya Protocol and national access and benefit-sharing systems



- Adopt the PABS system under Article 21 of the WHO Constitution to ensure its universal application and legally binding nature
- Demand total transparency in all agreements with pharmaceutical manufacturers and developers, making them public and subject to citizen audit
- Countries must refrain from exerting pressure through bilateral agreements that undermine WHO's multilateral system and perpetuate structural inequalities
- Defend the principle that health is a fundamental human right and that equitable access to health products and technologies during public health emergencies cannot be subordinated to the profit principle.

## THE URGENCY TO CORRECT VACCINE APARTHEID

The COVID-19 pandemic dramatically and incontestably revealed profound inequalities in global access to vaccines, therapeutics and diagnostics (VTDs). While high-income countries accumulated doses sufficient to vaccinate their populations multiple times, Global South nations faced critical shortages, resulting in millions of preventable deaths, including health workers. This **vaccine apartheid** was not merely a failure of international solidarity—it was the predictable result of a knowledge concentration regime that privileges profits over health.

Given the evolution of PABS annex negotiations, PSI expresses concern about the possibility that the pathogen access and benefit sharing system may not go beyond the status quo that enabled the tragedy experienced during the COVID-19 pandemic.

The Pathogen Access and Benefit Sharing System (PABS) proposed in Article 12 represents a crucial mechanism for operationalizing equity in the Pandemic Agreement. However, these mechanisms must be legally binding, transparent, and administered multilaterally by WHO under Member State oversight.

**We cannot conceive the possibility of the next pandemic repeating the injustices of COVID-19. The Pandemic Treaty represents a historic opportunity to build an equitable pandemic preparedness and response system. But this opportunity will be wasted if we lack the political courage to confront the private interests that profit from inequality. We need legally binding mechanisms that guarantee universal access to life-saving health technologies.**