

What the new “pandemic emergency” concept could mean for global health security

*Members of the World Health Organization have agreed to the introduction of a new legal concept – a “pandemic emergency” – to help the world better prepare for future international health threats. **Clare Wenham, Mark Eccleston-Turner and Harry Upton** argue there is a need for greater clarity about what the new concept will mean in practice.*

The [International Health Regulations \(IHR\) 2005](#) is an international instrument, binding upon member states of the World Health Organization, which aims to “prevent, protect against, control and provide a public health response to the international spread of disease in ways that are commensurate with and restricted to public health risks, and which avoid unnecessary interference with international traffic and trade.”

Given its significant shortfalls and limitations during the COVID-19 pandemic and other health emergencies, member states agreed to targeted amendments to the IHR to try and create a better instrument for mitigating the spread of disease. A [Working Group on Amendments to the International Health Regulations](#) (WGIHR), comprised of member states of the WHO, have spent the last two years negotiating and considering new textual proposals and edits to the IHR. At the Seventy-seventh World Health Assembly in May 2024, member states reached consensus on a package of amendments to the IHR.

Public health emergencies

A key part of the IHR is a trigger mechanism that allows the Director-General of the WHO, upon the advice of an Emergency Committee of technical experts, to determine if an event constitutes a “Public Health Emergency of International Concern”. This is defined in the IHR as “an extraordinary event which is determined to constitute a public health risk to other states through the international spread of disease and potentially require a coordinated international response.”

Such emergencies have been determined eight times, for H1N1, Polio, Ebola (2014-6), Zika, Ebola (2018), COVID-19 and mpox (2022 and 2024). Yet, when this determination was made for COVID-19, it did not have the intended effect. Many states and other stakeholders did not react to mitigate disease transmission. Indeed, so limited was the reaction to the “Public Health Emergency of International Concern” determination that the WHO Director-General “declared” COVID-19 a “pandemic” – a declaration not grounded in the IHR and which has no legal force underpinning it.

A pandemic emergency

As such, the amended IHR codifies a new concept of a “pandemic emergency”. Under the new regulations, a Public Health Emergency of International Concern can be upgraded to a pandemic emergency if it is defined as caused by a communicable disease and:

“1) has, or is at high risk of having, wide geographical spread to and within multiple States; and 2) is exceeding, or is at high risk of exceeding, the capacity of health systems to respond in those States; and 3) is causing, or is at high risk of causing, substantial social and/or economic disruption, including disruption to international traffic and trade; and 4) requires rapid, equitable and enhanced coordinated international action, with whole-of-government and whole-of-society approaches.”

We believe there are a number of definitional challenges associated with the pandemic emergency, which have yet to be fully explored. First, limiting the scope to only those communicable diseases departs from the “all hazard approach” embodied in the IHR – whereby any health emergency can be declared a Public Health Emergency of International Concern, regardless of its origin.

Second, the requirement to have wide geographical spread to and within states is somewhat challenging. It seeks to overcome the limitations of the Public Health Emergency of International Concern which states that there must be a risk of international spread to be determined, but there is still ambiguity in this language as to what constitutes “wide geographical spread within a state”.

Third, the consideration of health system capacity of states *impacted* departs from the risk-based approach of determining Public Health Emergencies of International Concern.

The language here relating just to the capacity of those states affected has significant limitations and is subject to interpretation.

Finally, the criteria that a pandemic emergency has to pose a risk of substantial social and/or economic disruption including disruption to international traffic and trade is again subjective, as there is no definition offered as to what “substantial” means and/or which social or economic disruptions may be considered important when determining whether an event might be a pandemic emergency.

Given there has been much controversy around the manner in which the (much more straightforward) criteria for determining a Public Health Emergency of International Concern has been interpreted and applied by the WHO IHR Emergency Committee and the Director-General, we anticipate further controversy around the criteria for a “pandemic emergency”.

The need for clarity

More importantly, at the current time, there is no further detail on what determining a pandemic emergency might mean. It only offers the Director-General of the WHO the same options as it had for a Public Health Emergency of International Concern – to be able to make temporary or standing recommendations as to what states should be doing to prepare for, prevent and respond to the emerging threat.

As such, given the subjectivity of the legal text of the pandemic emergency, combined with the lack of clarity over what this new trigger mechanism will mean both for the Public Health Emergency of International Concern, which is also retained in the text of the IHR, and for meaningful pandemic preparedness and response, we raise these questions.

We think it is important that greater clarity is given to these trigger mechanisms, and what member states and international organisations are asked to do when one is determined. Having a trigger mechanism with no impact risks weakening the overall IHR and global health security more broadly.

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