

The WHO Pandemic Agreement and IHR(2005) : Implementation Challenges & Approaches

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01

Introduction & Background

- Legal situation before Covid-19
- The implementation problem
- The IHR Review and WHO Pandemic Agreement

02

Conceptual Approaches

- Why are there implementation problems?
- How could we improve implementation?

03

WHO Pandemic Agreement

What are the main implementation approaches in the current draft?

04

International Health Regulations (2005) Review

What are the main implementation approaches in the current discussions?

05

Legal Implementation at the National Level

Is there a need for national legal reform to implement the international agreements?

06

Going Forward

Summary

International Legal Framework Before Covid-19



International Reviews and Criticism

Response to Covid-19 was a failure!
The existing international legal frameworks are not fit for purpose

WHO Reviews

WHO IHR Review Committee on the Functioning of the IHR (2005) during the Covid-19 Response

Independent Reviews

Independent Panel on Pandemic Preparedness

Global Preparedness Monitoring Board



THE LANCET
Global Health

EDITORIAL | VOLUME 10, ISSUE 7, E927, JULY 2022

The future of the International Health Regulations

The Lancet Global Health

Open Access • Published: July, 2022 • DOI: [https://doi.org/10.1016/S2214-109X\(22\)00254-6](https://doi.org/10.1016/S2214-109X(22)00254-6)

International Organizations

G20 High Level Panel

Academia, Civil Society

Global Health Security Agenda
Legal Preparedness Action
Package



#G20ITALY 2021

A JOINT EFFORT TO IMPROVE
PANDEMIC CRISIS RESPONSE



Some of the Main Gaps Identified in the Global Health System

Prevention & Preparedness

Core Surveillance Capacities

Zoonotic Spillovers

Health Systems

Response

PHEIC declaration

Global Alert System

Equity

Data and pathogen sharing

Access to vaccines and medicines

Governance and Financing

Funding

Implementation, Compliance & Accountability

Report of the Review Committee on the Functioning of the International Health Regulations (2005) during the COVID-19 response: **Focus on Implementation**

Key messages

6. Following its deliberations, the Committee wishes to emphasize eight key messages across three critical areas of global health emergency preparedness and response.

Compliance and empowerment

(1) Lack of compliance of States Parties with certain obligations under the IHR, particularly on preparedness, contributed to the COVID-19 pandemic becoming a protracted global health emergency.

(2) Responsibility for implementing the IHR needs to be elevated to the highest level of government.

(3) A robust accountability mechanism for evaluating and improving compliance with IHR obligations would strengthen preparedness, international cooperation and timely notifications of public health events.

Early alert, notification and response

(1) Early alert is important for triggering timely action, notably to enable the WHO Secretariat to use the powers conferred to it by the IHR.

(2) Early response requires better collaboration, coordination and trust.

(3) Applying the precautionary principle in implementing travel-related measures could enable early action to be taken against an emerging pathogen with pandemic potential.

Financing and political commitment

(1) Effective IHR implementation requires predictable and sustainable financing at both the national and international levels

(2) A new era of international cooperation is required to better support IHR implementation.

What are the main barriers to implementation?

Capacity Gaps

Countries lack the necessary capacities in the technical, scientific legal, institutional, human resources and other areas

Governmental Black Box

Misalignment between those who sign (Ministry of Foreign Affairs) and those are supposed to implement (Ministry of Health, Health Agencies)

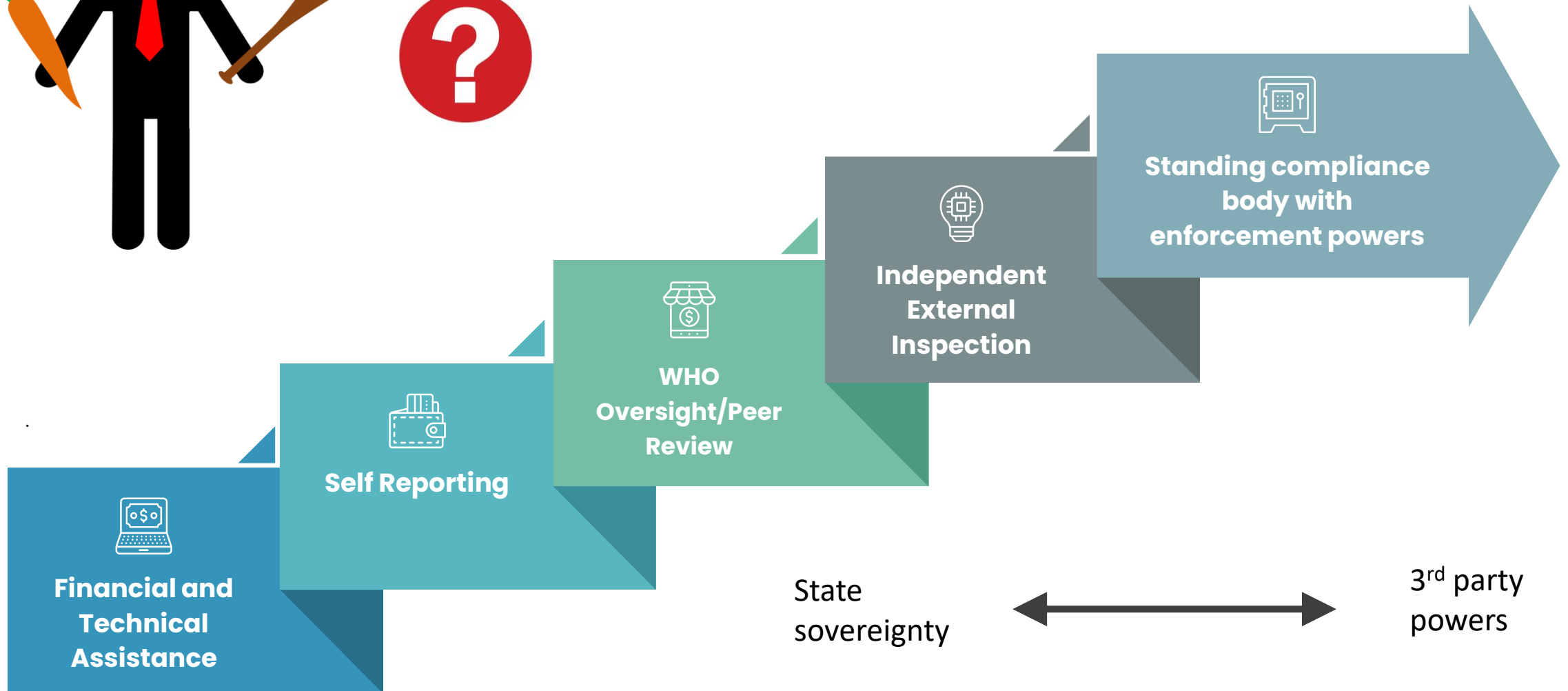
No accountability mechanisms

An absence of legal accountability for non-compliance.

Disincentives

Data-sharing might backlash or benefits might not be shared

Typology of International Monitoring Mechanisms



Legal Reform at the WHO: Target Date May 2024

DRAFT

**Negotiating Text of the WHO convention, agreement or other international instrument on pandemic prevention, preparedness and response
(WHO Pandemic Agreement)**

Advanced unedited version - 16 October 2023

**FIFTH MEETING OF THE WORKING GROUP ON
AMENDMENTS TO THE INTERNATIONAL HEALTH
REGULATIONS (2005)
Agenda item 5**

**A/WGIHR/5/3
25 October 2023**

**Report of the fifth meeting of the Working Group
on Amendments to the International Health
Regulations (2005)**

WHO Pandemic Agreement Negotiating Text

Monitoring and Oversight

Soft Oversight – “Carrots” & Reputational “sanctions”

Caveat: lack of details & negotiating text



**Self
Assessment**

Article
8(2)



**Monitoring and
Evaluation
System**

Article 8(3)



**Global Peer
Review**

Article 8(4)



**WHO PA
Secretariat**

Article 24



**Conference of
the Parties**

Article 21
Article 23 (self
reporting)

WHO Pandemic Agreement Negotiating Text

Developing Country Implementation Support

Carrots & support



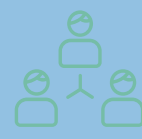
**Financing
Mechanisms**

Article 20



**Technical
Assistance**

Article 14(1)



**Support by
COP and WHO
PA Secretariat**

Article 23
and 24



**Bilateral or
International
Cooperation for
implementation
capacity**

Article 19(1)
and 16(2)



Partnerships

Article 19(4)

IHR (2005) Monitoring and Evaluation Framework



Self Assessment and
Reporting (SPAR)

annual



Joint External
Evaluation

(every 5 years)

Working Group on Amendments to the International Health Regulations (2005)

Report of the Review Committee regarding amendments to the International Health Regulations (2005); 6 February 2023

- Reviewed the 300 amendment proposals, and provided technical recommendations
- Building on the key principles that emerge from the proposals, the RC proposes a blueprint for reform.

7. Improve implementation of and compliance with the International Health Regulations (2005)

Review Committee – General Considerations:

1. Support to improve health system capacities, including financial and technical assistance

“The spirit of Article 44 is that States Parties should bear mutual responsibility to one another to meet the obligations of the International Health Regulations (2005) and provide bilateral and multilateral support in preparedness and response to public health risks and events. Thus, many proposals seek to facilitate and elaborate on the types of assistance required under the Regulations.

Several suggested amendments propose more defined and expanded responsibilities for high-income countries to support low- and middle-income countries in meeting their core capacities, including surveillance, detection and response. Many proposals were also addressed to WHO on providing technical support, its technical role under the Regulations, and more generally.

In line with the core values of equity and solidarity, the Committee strongly supports greater collaboration and assistance in support of implementation of the Regulations. Resource constraints have impeded many States in developing and maintaining core capacities.... financing should be coordinated by WHO, but sourced from other sectors of the multilateral landscape, and should aim to become sustainable in the long term...”

-

Review Committee – General Considerations:

2. Accountability, compliance and implementation

“Since the revision of the International Health Regulations in 2005, **the question of compliance and accountability has been frequently raised** by States Parties, scholars and independent expert committees, including the Review Committee on the Functioning of the International Health Regulations (2005) during the COVID-19 Response and the Independent Panel for Pandemic Preparedness and Response, cited above.

At present, other than Articles 54 and 56 there are few provisions in the Regulations that help ensure compliance and accountability for failing to live up to States’ obligations.

Three newly proposed articles introduce provisions related to strengthening compliance with the Regulations, improving their overall implementation, and holding States Parties accountable for that. Proposals include, strengthening **reporting mechanisms** to provide regular progress updates; mobilizing **technical and financial assistance** in support of implementation; and creating avenues for **Member State dialogue** to promote compliance and accountability. The Committee supports improved implementation and compliance monitoring for the Regulations, but holds divergent views as to what modality may be most effective while also aligning with **sovereignty imperatives.**”

Proposals for a new **Implementation Committee**: Function and scope still unclear.

Review Committee – General Considerations:

3. Reflections on the broader governance landscape in which the amendment process is taking place

“Several proposed amendments call for **a more empowered WHO**...Many of the proposed amendments to the Regulations follow in this vein and seek equally to strengthen the Organization and its role in the management of public health risks and events that may lead to a PHEIC. Among them are: **proposals for WHO to have an increased and supportive role in surveillance and response to PHEICs** and other events; proposals to make it **easier for WHO to perform multiple new roles**, including playing a coordinating **function** within the response phase of a PHEIC; and proposals to expand its role not only to provide technical guidance and coordination, but as part of this, **to assess the availability of medical and non-medical countermeasures** and **determine their global distribution when planning a response.**”

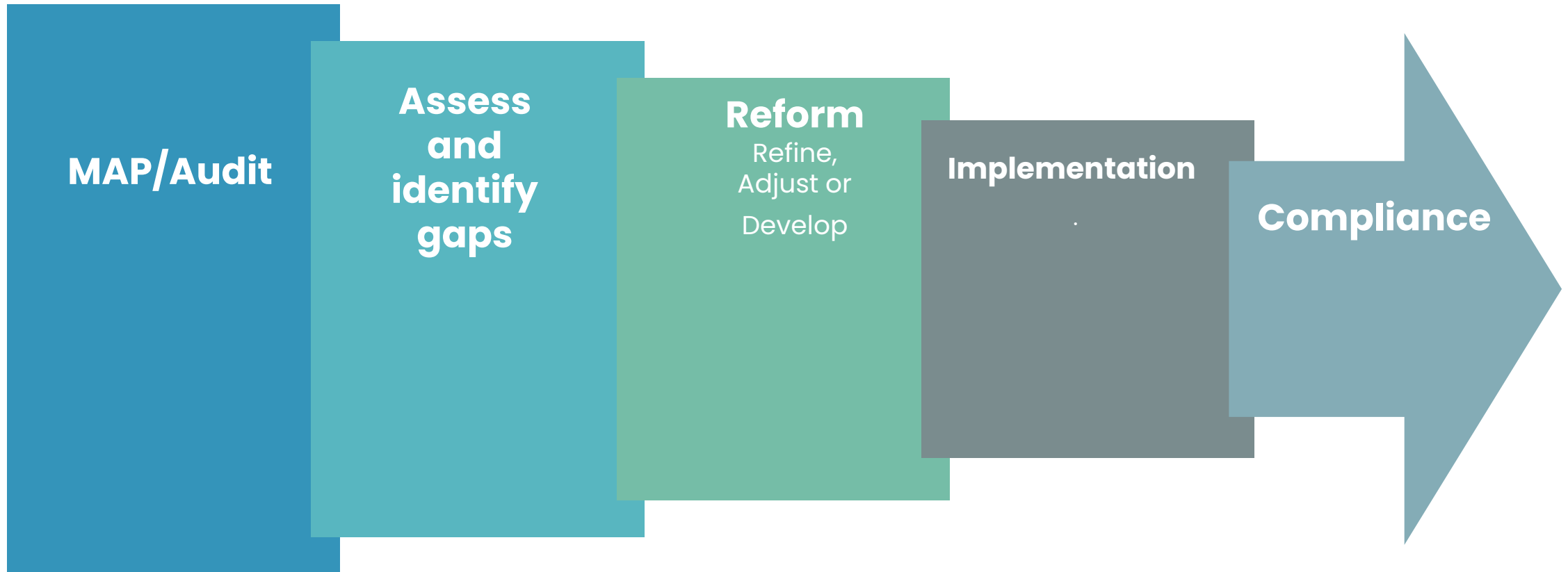


National Legal Preparedness

Implementation of the IHR and WHO Pandemic Agreement

Review of national legal preparedness/implementation

Stages of National Review



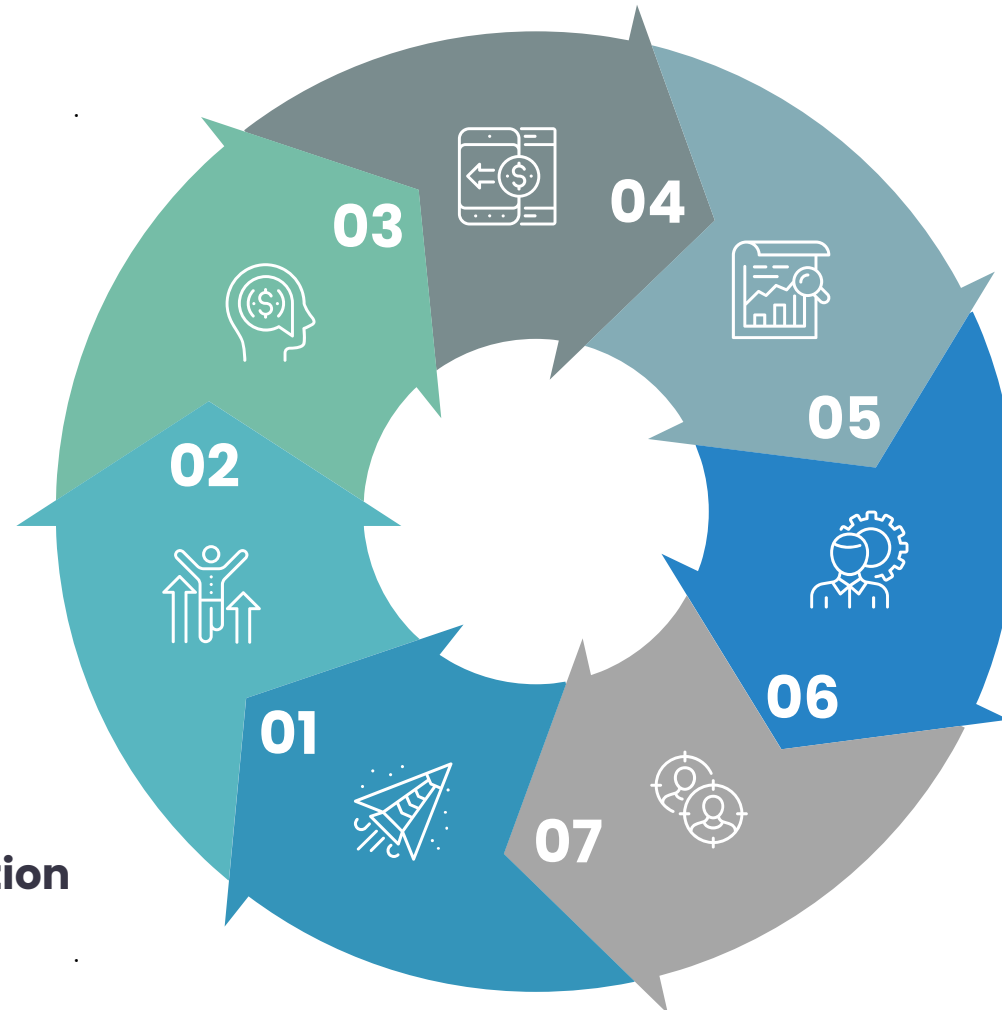
Legal instruments

**National Emergency or
Disaster Response Laws**
Liability Risk management

Public Health Laws
Communicable Disease Laws
Health systems
Surveillance
Core capacities
quarantine

Human Rights Laws

Constitution

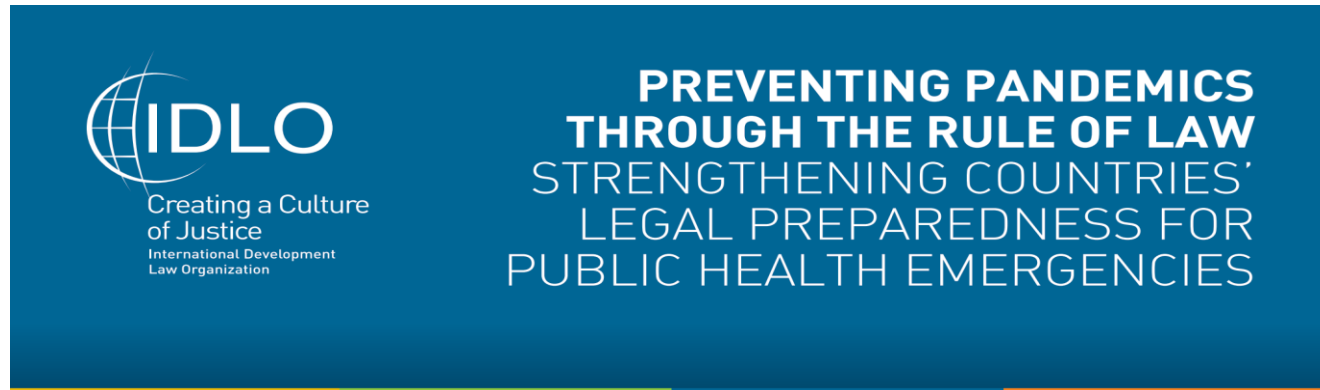
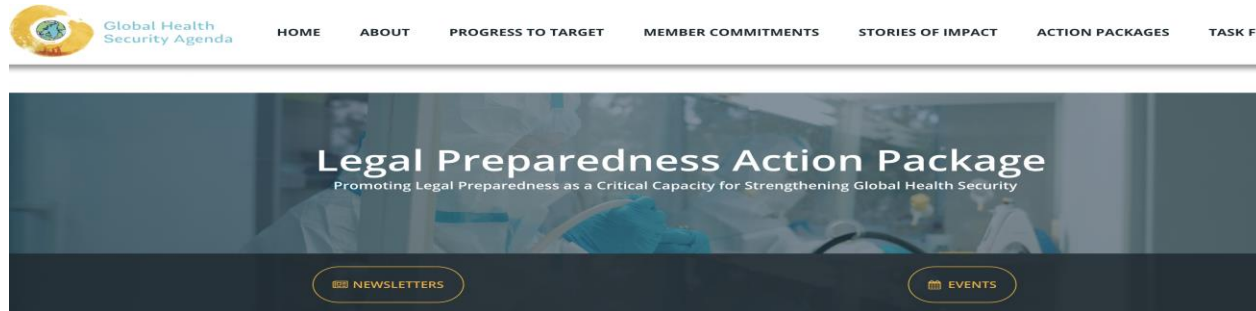


Sectoral Laws:
Biosafety/biosecurity laws
Agriculture/food
safety/animal laws (One Health)
Genomics law

Data privacy/sharing laws
R&D laws
Trade-related laws

**Laws Implementing the
IHR/PA**
National Focal Points

Initiatives & Mechanisms for National Reform



INTERNATIONAL HEALTH REGULATIONS (2005)

JOINT EXTERNAL EVALUATION TOOL

THIRD EDITION



Strengthening health security preparedness: The International Health Regulations (2005)

Summary



Implementation is a key challenge; implementation of IHR(2005) failed



Conceptually: Variety of Monitoring mechanisms – “carrot” vs “stick”. The set-off is cooperation vs. sovereignty.



WHO Pandemic Agreement Draft: Focus on “soft” mechanisms or “reputational” accountability: technical and financial assistance, reporting, peer reviews, institutional oversight/support.



IHR: Implementation mechanisms will surely be included but the extent is to be seen.



Many countries will likely need to map/assess and undertake legal adjustments or reforms to implement the new international agreements.



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THANK YOU

GET IN TOUCH

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