



31 January 2024

Minister of Foreign Affairs
Minister of Health

For action by 7 February 2024
For action by 7 February 2024

Health Briefing Number H2024035495

Negotiating Mandate for the Amendments to the International Health Regulations 2005 and the Pandemic Treaty

BRIEFING Cabinet Paper Covering Submission

PURPOSE To recommend you seek Cabinet approval for the updated Cabinet mandate for the negotiations to amend the International Health Regulations and the Pandemic Treaty negotiations.

Recommended referrals

Prime Minister	For information by	7 February 2024
Minister of Finance	For information by	7 February 2024
Minister for Trade	For information by	7 February 2024
Minister of Science, Innovation and Technology	For information by	7 February 2024
Minister of Agriculture	For information by	7 February 2024
Associate Minister of Foreign Affairs	For information by	7 February 2024
Associate Minister of Health (Pharmac)	For information by	7 February 2024

Timing requirement

Complete consultation	By 10 am on 7 February 2024
In Cabinet Office	By 10 am on 8 February 2024
For Cabinet Business Committee (CBC) meeting	on 12 February 2024
For Cabinet meeting	on 19 February 2024

Contact details

NAME	ROLE	DIVISION	WORK PHONE
Andrew Forsyth	Manager, Public Health Strategy	Public Health Agency, Ministry of Health	s 9(2)(a)
Dr Andrew Old	Deputy Director-General	Public Health Agency, Ministry of Health	s 9(2)(a)

Andrew Williams

Unit Manager

General International Law,
Ministry of Foreign Affairs

s 9(2)(a)

s9(2)a

Key points

- The attached Cabinet paper, 'Negotiating Mandate for Amendments to the International Health Regulations 2005 and the Pandemic Treaty', has been prepared for consideration by the Cabinet Business Committee, on 12 February 2024.
- The Cabinet paper provides an updated Cabinet mandate for the negotiations to amend the International Health Regulations (IHR) and the negotiations for a new Pandemic Treaty. The paper takes account of the current stage of the negotiations and the priorities of the Coalition Government. In particular, it ensures that once the negotiations have concluded, a National Interest Analysis will be undertaken to determine whether New Zealand should become bound by either instrument.
- It also relates to the 100-day plan objective of reserving against amendments to Article 59 of the IHR to allow a 'National Interest Test' to be carried out. The paper seeks approval to carry out the National Interest Analysis for the Article 59 amendments together with further amendments to the IHR once negotiations conclude and if Cabinet decides New Zealand should become bound.
- A key objective of the paper is to preserve New Zealand's right to determine our own national health responses to public health risks.



Victoria Hallum
for Secretary of Foreign Affairs and Trade



Dr Andrew Old
Deputy Director-General
Public Health Agency, Ministry of Health

Recommendations

It is recommended that you:

- 1 **Approve** the Cabinet paper attached for consideration by the Cabinet Business Committee on 12 February. **Yes / No**
- 2 **Complete** the necessary consultation with ministerial colleagues. **Yes / No**

Rt Hon Winston Peters
Minister of Foreign Affairs

Hon Dr Shane Reti
Minister of Health

Aide-Mémoire

Negotiating mandate for amendments to the International Health Regulations and a new Pandemic Treaty

Date due to MO:	13 February 2024	Action required by:	N/A
Security level:	IN CONFIDENCE	Health Report number:	H2024035846
To:	Hon Dr Shane Reti, Minister of Health		
Consulted:	Health New Zealand: <input type="checkbox"/> Māori Health Authority: <input type="checkbox"/>		

Contact for telephone discussion

Name	Position	Telephone
Salli Davidson	Group Manager, Global Health, Public Health Agency Te Pou Hauora Tūmatanui	s 9(2)(a)
Dr Andrew Old	Deputy Director-General, Public Health Agency Te Pou Hauora Tūmatanui	s 9(2)(a)

Aide-Mémoire

Negotiating mandate for amendments to the International Health Regulations and a new Pandemic Treaty

Date due: 13 February 2024

To: Hon Dr Shane Reti, Minister of Health

Security level: IN CONFIDENCE

Health Report number: H2024035846

Details of meeting: 14 February 2024, 10:30am

Cabinet Committee: *Cabinet Social Outcomes Committee (SOU)*

Purpose of meeting/proposal: *To recommend you seek Cabinet approval for the updated Cabinet mandate for the negotiations to amend the International Health Regulations and the Pandemic Treaty negotiations.*

Comment: **Overview**

- This aide-memoire provides you with talking points for the Social Outcomes Committee meeting that will consider the draft Cabinet paper on Negotiating Mandate for the Amendments to the International Health Regulations 2005 and the Pandemic Treaty.
- This Cabinet paper proposes an updated negotiating mandate for 2 parallel negotiations currently occurring at the World Health Organisation (WHO). These are:
 1. Negotiations to amend the International Health Regulations (2005) (IHR); and
 2. Negotiations for a proposed new Pandemic Treaty.
- Cabinet previously agreed to New Zealand's negotiating mandate for both negotiations in July 2023 (CBC-23-MIN-0013). This paper updates the mandate to take account of the current stage of the negotiations, and the priorities of the Coalition Government.
- It sets out a number of objectives to guide officials' engagement in both negotiations at the WHO. It would place particular emphasis on

New Zealand's right to determine its own national health responses to public health risks.

- It would also ensure that once the negotiations have concluded, any decision to become bound by either instrument would be subject to the full treaty making process including Cabinet approval, a National Interest Analysis, and Parliamentary Treaty Examination.

Background on the negotiations

- Following the COVID-19 pandemic, Member States have come together to amend the global health framework in an effort to prevent a similar public health event from occurring again, and better manage one if it does. This involves amending the IHR and developing a new Pandemic Treaty.
- The IHR are the principal legal framework for preventing and controlling the spread of disease and other public health hazards between countries.
- The Pandemic Treaty's scope is broader and may include provisions on access to genetic information of pathogens of concern, research & development, global supply chains, and capacity building.
- Both negotiations are intended to conclude by May 2024. However, they may not be finished by this date as there are still a number of substantive issues to be worked through.



Dr Andrew Old
Deputy Director-General

Public Health Agency | Te Pou Hauora Tūmatanui

Talking points on the Negotiating mandate for amendments to the International Health Regulations and a new Pandemic Treaty

The process

- The Cabinet paper has been jointly prepared by the Ministry of Foreign Affairs and Trade and the Ministry of Health. It is submitted jointly with the Minister of Foreign Affairs.
- The paper seeks to refresh the Cabinet mandate for the negotiations to amend the International Health Regulations (IHR) and the negotiations for a new Pandemic Treaty agreed by the former government.
- The negotiations are due to conclude before the World Health Assembly in May 2024. A refreshed mandate will enable New Zealand officials to actively engage in the final stages of the process.
- The paper takes account of the current stage of the negotiations and the priorities of the Coalition Government.

Why are the IHR amendments and pandemic treaty necessary?

- The IHR and a new pandemic treaty are tools to keep individuals, communities, and health systems safe from infectious diseases. Due to the trans-border nature of infectious disease, it is necessary for countries to work together to prepare for, prevent, and respond to public health emergencies.
- There has been international recognition that while the IHR were an important tool to support the World Health Organization and country responses to the COVID-19 pandemic, there were a number of gaps in the framework, including limited national capacity to implement them.
- Amendments to the IHRs are intended to address these gaps, but not to expand their scope. The Pandemic Treaty, however, is entirely new and broader in scope, so there may be trade and intellectual property implications. The 2 instruments should be complementary.
- For example, there is a key opportunity in the negotiations to support all countries to have stronger prevention measures. This includes those countries with circumstances posing the greatest risk of new pathogens emerging that could give rise to outbreaks, epidemics, and pandemics (eg, live animal markets and research laboratories).

Will there be any financial implications?

- As negotiations are still underway, it is too early to undertake any cost implications. This will happen after decisions are taken at the World Health Assembly.
- Financial implications are a key part of undertaking a National Interest Analysis.
- s 9(2)(b)(ii)

- [REDACTED]

s 9(2)(b)(ii)

■

New Zealand will be able to decide whether to accept all or some of the amendments and the treaty

- New Zealand's domestic law holds primacy over any international agreements and preserves New Zealand's right to determine our own national health responses to public health risks. The Cabinet paper reinforces this key negotiating principle.
- Once the World Health Assembly has considered the outcomes of the 2 negotiations, countries will undertake their own national processes to determine whether to be bound by either instrument, in full or in part.
- In New Zealand, this will entail a full treaty making process which includes Cabinet approval, a National Interest Analysis, and Parliamentary Treaty Examination.
- New Zealand will consult with Tokelau (as a territory of New Zealand and part of the Pacific Realm of New Zealand) during the treaty examination process.

What is happening with the IHR amendment that was rejected in November 2023?

- A 'National Interest Test' to consider the technical amendments to Article 59 of the IHR will be incorporated into the treaty making process for the substantive IHR amendments. This will include a National Interest Analysis.
- The process will commence after the May 2024 World Health Assembly.