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Rejoining the World Health Organization (WHO): Reform and Related Issues

The Biden Administration is working to restore U.S. involvement in the World Health Organization (WHO). On January 20, 2021, President Joe Biden sent a letter to United Nation (U.N.) Secretary-General António Guterres indicating that the United States would remain a member of WHO. The letter retracted a July 6, 2020, decision by the Trump Administration to withdraw the United States from WHO effective July 6, 2021. The withdrawal determination followed assertions by the Trump Administration that WHO failed "to independently investigate" reports conflicting with Chinese government's accounts of the pandemic and repeated "grossly inaccurate" or "misleading" claims made by Chinese authorities about Coronavirus Disease 2019 (COVID-19). On January 21, 2021, U.S. officials announced a resumption of regular engagement with WHO and an end to the drawdown of U.S. staff seconded to WHO. The White House also issued a directive, which among other things, directed the Assistant to the President for National Security Affairs to make recommendations for reforming and strengthening WHO.

The unprecedented attempt to withdraw the United States from WHO raised questions about congressional authority to inform the withdrawal process. It also reignited calls for reforming WHO, some of which conflated shortcomings of WHO with limitations of the International Health Regulations [IHR (2005)]—the rules governing responses by WHO and Member States to public health emergencies of international concern (PHEIC).

WHO Background and Structure

Established in 1948, WHO is a member-driven U.N. specialized agency that directs and coordinates global health efforts within the U.N. system. Duties include

- engaging international partners on global health;
- shaping the international health research agenda;
- establishing norms and standards;
- articulating evidence-based health policy;
- providing technical support to countries; and
- monitoring and assessing global health trends.

The World Health Assembly (WHA)—comprised of all U.N. Member States—authorizes funding for and implementation of WHO programs. The WHA also vote on amendments to IHR (2005). The WHO Director-General, requests funds for and leads implementation of WHO programs, which are carried out by the Secretariat. For more information on WHO, see CRS In Focus IF10289, *World Health Organization (WHO): Background and Issues*, by Tiaji Salaam-Blyther.

WHO Outbreak Response: Challenges

WHO Dual Role

Allegations by the Trump Administration that WHO's initial recommendations for and responses to COVID-19 were unduly influenced by China highlights the dual role of WHO: to be the international authority on global health and to balance relationships with and among Member States. In the early months of the pandemic, WHO seemed caught between this duality. On the one hand, for example, the organization appeared to acknowledge on January 15, 2020, findings by China that "there is no clear evidence of sustained human-to-human transmission...." On the other hand, WHO seemed to recognize contradictory information from other sources by tweeting on the same day that "we cannot exclude the possibility of limited human-to-human transmission."

Questions about possible motives shaping WHO actions were raised during past health events and led to related reforms. During the 2005 H5N1 bird flu outbreak, for example, several low- and middle-income (LMIC) countries accused WHO of enabling pharmaceutical companies to profit off virus samples they shared for free with WHO collaborating centers. The concerns ultimately led to the development of the *Pandemic Influenza Preparedness Framework* in 2011, which includes terms for sharing and using influenza virus samples, including a payment scheme for participating pharmaceutical manufacturers. The agreement only applies to influenza viruses, and not to coronaviruses like SARS-CoV-2, which causes COVID-19 illness.

In 2010, the Parliamentary Assembly of the Council of Europe (Parliamentary Assembly) asserted that the pharmaceutical industry had influenced WHO to characterize the 2009 H1N1 swine flu outbreak as a pandemic. Then-Director-General Chan convened a committee to review the functioning of IHR (2005) and WHO's response to the 2009 H1N1 pandemic flu. The committee found "no evidence of malfeasance," but identified "systemic difficulties" and "shortcomings," and issued a number of policy and program recommendations. WHO and its governing bodies instituted some reforms in response to the recommendations. For example, WHO revised its ethics rules to manage potential conflicts or concerns. It also now publishes the names and affiliations of all members of Emergency Committees, which, among other things, recommend whether to declare a PHEIC to the WHO Director-General.

Lack of Investigative Authority

Following the aforementioned 2011 complaints from the Parliamentary Assembly, a WHO special committee recommended that the World Health Assembly consider the lack of legal consequences for violating IHR (2005). Though periodically discussed at WHA meetings, Member States have yet to provide WHO authority to enforce IHR (2005). Absent such authority, China is unlikely to face repercussions from WHO if it is found to have violated IHR (2005). Additionally, no enforcement authority prevents WHO from compelling any country to take action after declaring a PHEIC. Following debate about the WHO response to the COVID-19 pandemic, WHA directed the WHO Director-General to establish an Independent Panel for Pandemic Preparedness and Response to assess the WHO and international response to the COVID-19 pandemic. The Panel concluded, among other things, that most countries failed to sufficiently prepare for the pandemic following the PHEIC declaration.

A lack of enforcement authority also inhibits WHO from investigating a possible PHEIC within a country without its consent. Article 11 of IHR (2005) requires WHO to discuss outbreak-related information it receives from non-official sources with the source country or directly collect evidence. WHO may struggle to confirm the information should a country delay or prevent WHO from conducting on-site inspections, as China did during both the SARS outbreak and COVID-19 pandemic. On the other hand, Article 9 permits the WHO to share information regarding a PHEIC with the public "if other information about the same event has already become publicly available." Some might argue that information regarding the outbreak was already "publicly available" through Chinese media sources, thereby fulfilling the aforementioned IHR (2005) condition for WHO to publicize information that contradicted assertions by China that there was no sustained human-to-human transmission of the virus.

Funding Constraints for Pandemic Response

The Independent Panel for Pandemic Preparedness and Response found that limited resources and weak incentives to cooperate with WHO has "underpowered" WHO from fulfilling expected duties. Through WHA, countries have voted over several years to authorize new implementation and coordination authorities to WHO, especially in relationship to pandemic response. For example, WHA authorized the establishment of a Contingency Fund for Emergencies (CFE) in 2015. Member States and donor contributions, however, have not reached the $100 million endowment goal. Insufficient standing funds have required WHO to seek financial support for each health emergency, impacting the timing and scope of aid provided.

Free Travel and Trade Priorities in IHR (2005)

The United States was the first country to announce that it would limit the arrival of passengers from China to control the spread of COVID-19. Several countries and WHO criticized this decision. IHR (2005) emphasizes limiting interruption to travel and trade. Article 28 obligates any country that implements measures that "significantly interfere with international traffic" to inform WHO, within 48 hours of their implementation and to provide the health rationale for such measures. Given the role international travel has played in the global spread of COVID-19, Member States may consider revising travel-related language in IHR (2005).

Outlook

Congressional views on WHO's initial responses to the COVID-19 pandemic have been mixed. Whereas there appeared to be congressional consensus around assessing the WHO response, Members seemed to disagree on whether to make an investigation of WHO's initial response a precondition for providing WHO financial support or maintaining U.S. membership. Some Members argued for withholding U.S. contributions to WHO, while others advocated for continuing financial support, particularly during the pandemic. In the 116th Congress, Members proposed a range of legislation on this issue, although none were enacted. Congressional debates regarding U.S. engagement with WHO have continued in the 117th Congress, with legislation introduced to prohibit U.S. contributions to WHO (H.R. 419 and H.R. 374). Given continued congressional interest in WHO and U.S. membership in the organization, observers debate the extent to which Congress might influence U.S. engagement with WHO.

Congressional Funding Authority

Congress generally does not appropriate funding directly to WHO; instead, it appropriates a lump sum for accounts in annual State-Foreign Operations appropriations bills, while the executive branch determines how the funds are allocated. Congressional consideration of U.S. membership in WHO included debates about whether Congress should use its funding authority to inform U.S. membership decisions. For example, some Members supported draft language that prohibited any funds from being used to withdraw from WHO. Others supported language that directed the Administration to withhold funding from WHO until the WHO Director-General resigned. Given continued debate about the WHO response to the COVID-19 pandemic, it remains to be seen whether Congress continues to provide the executive branch flexibility in allocating funding or consider more prescriptive legislative measures.

Congressional Role in the WHO Withdrawal Process

Congress authorized U.S. participation in WHO through a 1948 joint resolution, which also included terms for withdrawing from the organization (since WHO lacks withdrawal language in its constitution). That 1948 resolution does not specify whether the Administration shall consult with Congress before making a withdrawal decision. The 117th Congress might consider specifying its views on the matter. For more information on rules governing U.S. membership in WHO, see CRS Report R46575, *U.S. Withdrawal from the World Health Organization: Process and Implications*, coordinated by Tiaji Salaam-Blyther.

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