To require any convention, agreement, or other international instrument on pandemic prevention, preparedness, and response reached by the World Health Assembly to be subject to Senate ratification.

IN THE SENATE OF THE UNITED STATES

Mr. JOHNSON introduced the following bill; which was read twice and referred to the Committee on _____________________

A BILL

To require any convention, agreement, or other international instrument on pandemic prevention, preparedness, and response reached by the World Health Assembly to be subject to Senate ratification.

1 Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

2 SECTION 1. SHORT TITLE.

3 This Act may be cited as the “No WHO Pandemic Preparedness Treaty Without Senate Approval Act”.

4 SEC. 2. FINDINGS.

5 Congress makes the following findings:
(1) On May 18, 2020, President Donald Trump sent a letter to World Health Organization (referred to in this Act as “WHO”) Director-General Tedros Adhanom Ghebreyesus (referred to in this Act as the “Director-General”), announcing that—

(A) United States contributions to WHO would be halted due its mismanagement of the COVID–19 outbreak and its lack of independence from the People’s Republic of China; and

(B) the United States would withdraw from WHO if it did not commit to substantive improvements within 30 days.

(2) President Trump’s May 18 letter cited numerous instances of WHO mismanagement of the COVID–19 pandemic, including—

(A) unjustified delays informing member states about a potentially serious disease outbreak in Wuhan, China; and

(B) repeated grossly inaccurate or misleading claims about the transmissibility of the virus and about the Government of China’s handling of the outbreak.

(3) On June 30, 2020, Secretary of State Mike Pompeo formally notified the United Nations of the United States decision to withdraw from WHO,
which would have taken effect on July 6, 2021, under the terms of a joint resolution adopted by Congress on June 14, 1948 (Public Law 80–643; 62 Stat. 441).

(4) A Pew Research Center survey conducted in April and May 2020 indicated that 51 percent of Americans felt that WHO had done a poor or fair job in managing the COVID–19 pandemic.


(6) On December 1, 2021, at the second special session of the World Health Assembly (referred to in this Act as the “WHA”) decided—

(A) to establish an intergovernmental negotiating body (referred to in this section as the “INB”) to draft and negotiate a WHO convention (referred to in this section as the “Convention”), agreement, or other international instrument on pandemic prevention, preparedness, and response, with a view to adoption under Article 19 or any other provision of the WHO Constitution; and
(B) that the INB shall submit a progress report to the Seventy-sixth WHA and a working draft of the convention for consideration by the Seventy-seventh WHA, which is scheduled to take place beginning on March 18, 2024.

(7) On February 24, March 14 and 15, and June 6 through 8 and 15 through 17, 2022, the INB held its inaugural meeting at which the Director-General proposed the following 5 themes to guide the INB’s work in drafting the Convention:

(A) Building national, regional, and global capacities based on a whole-of-government and whole-of-society approach.

(B) Establishing global access and benefit sharing for all pathogens, and determining a global policy for the equitable production and distribution of countermeasures.

(C) Establishing robust systems and tools for pandemic preparedness and response.

(D) Establishing a long-term plan for sustainable financing to ensure support for global health threat management and response systems.

(E) Empowering WHO to fulfill its mandate as the directing and coordinating authority
on international health work, including for pandemic preparedness and response.

(8) On July 18 through 22, 2022, the INB held its second meeting at which it agreed that the Convention would be adopted under Article 19 of the WHO Constitution and legally binding on the parties.

(9) On December 5 through 7, 2022, the INB held its third meeting at which it accepted a conceptual zero draft of the Convention and agreed to prepare a zero draft for consideration at the INB’s next meeting.

(10) In early January 2023, an initial draft of the Convention was sent to WHO member states in advance of its formal introduction at the fourth meeting of the INB, which is scheduled for February 27 through March 3, 2023. The draft includes broad and binding provisions, including rules governing parties’ access to pathogen genomic sequences and how the products or benefits of such access are to be distributed.

(11) Section 723.3 of title 11 of the Department of State’s Foreign Affairs Manual states that when “determining whether any international agreement should be brought into force as a treaty or as
an international agreement other than a treaty, the
utmost care is to be exercised to avoid any invasion
or compromise of the constitutional powers of the
President, the Senate, and the Congress as a whole”
and includes the following criteria to be considered
when determining whether an international agree-
ment should take the form of a treaty or an execu-
tive agreement:

(A) “The extent to which the agreement
involves commitments or risks affecting the na-
tion as a whole”.

(B) “Whether the agreement is intended to
affect state laws”.

(C) “Whether the agreement can be given
effect without the enactment of subsequent leg-
islation by the Congress”.

(D) “Past U.S. practice as to similar
agreements”.

(E) “The preference of the Congress as to
a particular type of agreement”.

(F) “The degree of formality desired for
an agreement”.

(G) “The proposed duration of the agree-
ment, the need for prompt conclusion of an
agreement, and the desirability of concluding a routine or short-term agreement”.

(H) “The general international practice as to similar agreements”.

**SEC. 3. SENSE OF THE SENATE.**

It is the sense of the Senate that—

(1) a significant segment of the American public is deeply skeptical of the World Health Organization, its leadership, and its independence from the pernicious political influence of certain member states, including the People’s Republic of China;

(2) the Senate strongly prefers that any agreement related to pandemic prevention, preparedness, and response adopted by the World Health Assembly pursuant to the work of the INB be considered a treaty requiring the advice and consent of the Senate, with two-thirds of Senators concurring;

(3) the scope of the agreement which the INB has been tasked with drafting, as outlined by the Director-General, is so broad that any application of the factors referred to in section 2(11) will weigh strongly in favor of it being considered a treaty; and

(4) given the level of public distrust, any relevant new agreement by the World Health Assembly which cannot garner the two-thirds vote needed for
Senate ratification should not be agreed to or implemented by the United States.

SEC. 4. ANY WORLD HEALTH AGENCY CONVENTION OR AGREEMENT OR OTHER INTERNATIONAL INSTRUMENT RESULTING FROM THE INTERNATIONAL NEGOTIATING BODY'S FINAL REPORT DEEMED TO BE A TREATY SUBJECT TO ADVICE AND CONSENT OF THE SENATE.

Notwithstanding any other provision of law, any convention, agreement, or other international instrument on pandemic prevention, preparedness, and response reached by the World Health Assembly pursuant to the recommendations, report, or work of the International Negotiating Body established by the second special session of the World Health Assembly is deemed to be a treaty that is subject to the requirements of article II, section 2, clause 2 of the Constitution of the United States, which requires the advice and consent of the Senate, with two-thirds of Senators concurring.