

# ***The Shortcomings of International Organizations in Addressing the Challenge of COVID-19***

## ***- The Cases of WHO and WTO***

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**Abstract:** Under the influence of COVID-19, the shortcomings of some international organizations were exposed. This paper focused on the problems of the WHO and WTO in responding to COVID-19 and made suggestions. Lack of power and funding was a major reason for the WHO's failure in responding to COVID-19. Accordingly, we believed that the WHO should establish powerful authority and reform its funding mechanism as soon as possible. In the case of the WTO, although the WTO took some action in response to COVID-19, the shortcomings of the existing treaties, the Trade Policy Review Mechanism, and the Agreement on Trade-related Aspects of Intellectual Property limited the role of it. In addition, Looseness among members was also an issue that the WTO needed to address. Therefore, the WTO needed to do the following: first, clarify the ambiguous concepts in the existing treaties; second, develop new treaties; third, reform the TPRM; and fourth, solve the problems in the TRIPS agreement.

**Keywords:** international organizations, WHO, WTO, COVID-19

## **1. Introduction**

Undoubtedly, international organizations are an important force in addressing collective global issues. Since 2020, international organizations with different responsibilities have responded to COVID-19 in their ways, but the results were unsatisfactory. Thus, the outbreak of COVID-19 was considered an opportunity for international organizations to be developed and reformed, especially for World Health Organization (WHO) and World Trade Organization (WTO).

Over the past 70 years, WHO has undergone several reforms and reform attempts to respond to the changing international environment and make up for the organization's shortcomings. During the COVID-19 pandemic, WHO exposed its flaws, especially the lack of powers and financial resources, leading to the failure of global health governance. Therefore, the WHO should be reformed as soon as possible.

At the same time, global trade and the economy shrunk dramatically. What the pandemic further

caused was that increasing numbers of countries adopted trade restriction measures on medical products export, which had far-reaching negative impacts on the trade of medical supplies and essential life-ensuring goods. As the only global international organization dealing with trade rules between nations, WTO was required to monitor the work. However, it did not function enough.

Thus, this report analyzed the shortcomings of the WHO and WTO in addressing the challenges of COVID-19 and proposed proposals.

The COVID-19 pandemic has highlighted the shortcomings of global health governance and the urgent need for reform. The World Health Organization has been at the forefront of these discussions, having undergone several reforms and reform attempts in the past 70 years to adapt to the changing international environment. However, the pandemic has exposed that past reforms failed to address WHO's lack of powers and financial resources of the organization. With those flaws, the WHO was unable to promote vaccine access equality. This part of the research aims to show the reasons for the failure of the WHO in responding to COVID-19, the proposal to reform the WHO, and the reform process.

## **2. WHO**

### **2.1. The Reasons for the Failure of the WHO in Responding to COVID-19**

#### **2.1.1. Lack of Powers**

All the time, the WHO's collective capacity was limited. The main reason for it was that the WHO was not conducted through a power beyond states but through the cross-border transformation and networking of national administrations [1]. Meanwhile, the International Health Regulations (2005) and the WHO constitution lacked an effective enforcement mechanism, so it was difficult for the WHO to manage and discipline member states effectively, which was disappointing [2]. In addition, WHO's ability to govern global health was increasingly weakened with the increase in multilateral agreements, public-private partnerships, and non-governmental organizations. Therefore, WHO's intermittent interventions became less and less effective.

The first investigation noted that WHO was overly cautious in communicating the risks of COVID-19, while some countries did not heed WHO's guidance [3]. During the COVID-19 outbreak, WHO failed to collect extensive information from around the world, leading to misjudgment of the severity of the virus in the early stages of the pandemic. The lack of coordination and organization capacity put the WHO's credibility in crisis.

In addition to the shortcomings of the WHO in communicating the risk of COVID-19, the WHO's attempt to promote vaccine access through the COVID-19 Vaccines Global Access (COVAX) plan failed. Despite the efforts of the COVAX program to ensure that low-income countries have access to COVID-19 vaccines, many wealthy developed countries have struck separate, unilateral deals with pharmaceutical companies [4]. As a result, poor developing countries lacking the financial ability to make such agreements have been left behind in the race for vaccines. This has rendered COVAX's effort to promote equal vaccine access in vain. Seeing those failures, people recognized the need to reform the WHO.

#### **2.1.2. Lack of Financial Resources**

WHO was severely constrained in initiating action because it lacked the mandatory legal authority to require countries to implement recommendations and relied heavily on contributions from member states. It was said that WHO had to bow down when facing major funder. WHO's budget was cut year by year, and WHO had to depend on its significant funder, so its capacity and independence were limited.

WHO's currently approved 2022-2023 biennium program budget was \$6.725 billion, and only \$1.25 billion was for health emergencies [5]. The WHO had a broad mandate to focus on all aspects of human health. Therefore, the amount allocated to respond to COVID-19 was even more limited. The limited budget was considered the culprit for the failure of the response to the COVID-19 pandemic and greatly limited the WHO's ability to do its work. Thus, the WHO should appropriately narrow its jurisdiction and devote more of its budget to responding to health emergencies.

In addressing COVID-19, most member states remained largely dependent on their resources to deal with pandemics because WHO had too limited funds to provide adequate financial support to its members. Poor states had difficulty effectively responding to pandemic diseases due to the lack of financial aid, so the situation of these states was getting worse, affecting the effectiveness of world epidemic management. Also, the WHO's attempt to help the poor conditions was impeded by the need to balance the interest of the rich states.

Although the COVAX plan was designed to help the poor states, it has to balance the interest of the rich states to achieve their financial support. In its first phase, the plan distributes vaccines evenly among all participating countries, including those rich countries not in great need of vaccines but the financial contributor to the project [6]. The balance of interest hurts the countries that need vaccines the most. In the first half of 2021, African countries received only 18.2 million out of the 66 million doses they had anticipated through COVAX, which resulted in most of these countries being unable to vaccinate even 10% of their populations by the end of 2021 [7].

## **2.2. The Proposals to Reform the WHO**

### **2.2.1. Powerful Authority**

WHO needed more visionary leadership and effectively helped many countries with more capacity to respond to infectious diseases. WHO was expected to step up to the plate in the event of significant health emergencies, acting as a leader in managing global health systems and allocating resources to countries to deal with diseases. WHO needed more power from countries to achieve effective global health and hygiene governance, especially the ability to punish those countries that did not follow directions.

The most straightforward approach would be to revise the IHR to make it a binding measure that guarantees its effectiveness in protecting global public health [8]. While the IHR obliged governments to report public health emergencies to the WHO and take action in cooperation with the WHO, no provision was enforceable [9]. To increase the authority of the WHO and the effectiveness of the IHR, the WHO constitution must be reformed to include enforceable sanction powers for states that do not comply with its mandate.

In addition, strengthening WHO's normative role and establishing a strong and sustainable governance structure would also be very effective.

### **2.2.2. Adequate Funding**

WHO's budget showed a declining trend year by year, and the approach of relying solely on appeals to member states for funding became obsolete, so WHO should accelerate its reform of the funding mechanism to increase untied financing.

The Lancet Commission recommended that the WHO increase funding for transformation and step up its vaccine-plus strategy to provide more help to developing countries [10]. A general increase in assessed contributions would effectively fund the WHO adequately. In this way, the WHO could reduce its dependence on the original major funder and become more rigorous and equitable in its global health governance.

WHO might increase taxes on trade involving global health fields and environmental protection to expand its funding sources. In addition, WHO should actively work with social organizations, businesses, and private entrepreneurs to encourage them to donate charitable funds to WHO for the budget.

### **2.3. The Process of Reforming the WHO**

#### **2.3.1. New Treaties**

The main reason for the many criticisms of the WHO was that it relied solely on soft power strategies to work with countries and could not maintain its authority. Just as the international community gave the WTO the power to impose economic sanctions on its member states, the WHO should be given the power to sanction member states that do not comply with its rules [11]. The WHO constitution should be revised as soon as possible to include sanctions provisions in a future pandemic, which should enforce sanctions to prevent countries from hoarding vaccines. However, special attention must be paid to how sanctions should be designed because pandemic outbreaks are often uncontrollable. The WHO can sanction countries that do not cooperate in response to the epidemic but should not sanction countries with disease outbreaks. The WHO should give more help than punishment to regions with severe pandemic diseases.

In addition to sanctions, the WHO needed an adequate budget to achieve its work goals. On May 24, 2022, the World Health Assembly adopted a document that provided for an increase in the portion of the WHO's budget funded by member states from 16% to 50% by 2028, which should allow the WHO to regain some independence [12]. This was a historic step in funding reform for the WHO, and it should be the beginning, not the end. In the future, the WHO may develop more new treaties to expand the sources of funding through private funding in addition to increasing mandatory contributions from member states, and funding reform of the WHO could free the WHO from dependence on individual voluntary contributors and reduce undue political influence by powerful countries.

#### **2.3.2. Organizational Reform**

WHO's three-tier structure (headquarters, regions, countries) made it challenging to coordinate international cooperation, and the lack of coordination capacity put WHO's credibility in crisis. Thus, the discussion of the three-tier structure of WHO and its distribution of power should be revisited. In response to the COVID-19 pandemic, the game between the regional offices increased the pressure and difficulty of decision-making at headquarters. It was well known that the directors of regional offices were elected in the regions under their jurisdiction. Hence, the interests of individual country health ministries were more favored than those of the headquarters by the regional offices. Therefore, the direct appointment of regional office directors by seat could be an effective way to address the lack of objectivity in the roles and responsibilities of regional offices.

The WHO's focus was comprehensive and included all worldwide activities that can improve human health. The responsibilities of the WHO should be narrowed and clarified. WHO could only intervene if a disease meets the global scope, high mortality risk, and weakness of government action alone. At the same time, WHO might establish dedicated epidemic emergency management and separate the functions of public health and pandemic response.

#### **2.3.3. Example of the Emergency Management**

In light of the failure of COVAX, two potential approaches to emergency management would ensure fair and equitable distribution of vaccines during future pandemics. During a pandemic,

states prioritize their interests, often hoarding vaccines through unilateral deals with manufacturers to protect their citizens. However, such actions contradict the global claim of eradicating the pandemic. Given that the WHO acts in the worldwide community's interest, it should prevent any hoarding of vaccines. One possible strategy is the implementation of emergency bills that prevent countries from making unilateral deals with vaccine manufacturers.

In addition, the WHO should establish a supervised global vaccine market, with a rationing system based on the current percentage of the population vaccinated in each country. This system would prioritize countries with lower vaccination rates by providing more vaccines to ensure fair distribution. By establishing such a system, the WHO could ensure that vaccines are distributed fairly during future global health crises and that countries with the greatest need receive priority access.

### **3. WTO**

#### **3.1. Role**

Typically, the WTO operates the global system of trade rules and helps developing countries build their trade capacity. It also provides a forum for its members to negotiate trade agreements and resolve the trade problems they face with each other. [13] During the pandemic, one of the most urgent tasks to be solved for WTO was ensuring smooth trade between nations, especially medical goods.

#### **3.2. Actions**

It is needless to say that WTO did take a lot of actions to cope with the awkward situation that the cross-countries delivery of medical goods was restricted. WTO reacted to the obstacles that global trade encountered from the following aspects.

##### **3.2.1. Existing Treaties**

First, the existing treaties were essential in maintaining cross-state trade during the pandemic. Article XI of General Agreement on Tariffs and Trade announced the General Elimination of Quantitative Restrictions that states shall hold no prohibitions or restrictions. However, it will not extend to some conditions, like the state temporarily suffering from a domestic shortage of essential products [14]. Other treaties like Technical Barriers to Trade Agreement (TBT) and Sanitary and Phytosanitary (SPS) Agreement were also related to the pandemic context. Those agreements not only maintained trade of critical goods to some extent but also provided restrictions to stop the spread of COVID-19.

##### **3.2.2. Transparency Principle**

Basic principles of WTO were also vital to guaranteeing access to essential goods to all Members during a pandemic: transparency, non-discrimination, the prohibition against border restrictions, and so on, among which the transparency principle was highly crucial. Transparency ensures sharing of information and generating agreed interpretations of the information. It leads to better decision-making by alerting the public of trade policies' potential costs and benefits. On April 7th, 2020, WTO published a document to stress the importance of transparency and explain why it matters in times of crisis [15]. WTO Trade Policy Review Mechanism (TPRM) helps to maintain the transparency principle.

### 3.2.3. Global Forum

Moreover, WTO provided a platform to hold global forums to solve challenging problems during the pandemic. A technical symposium was born on 29 June 2021 to address the main challenges to the vaccine supply chain and regulatory transparency in the context of COVID-19 [16]. The public forum of 2021 was entitled “Trade Beyond COVID-19: Building Resilience”, which looked at the effects of the pandemic on trade and how the multilateral trading system can help build resilience to COVID-19 and future crises [17].

### 3.3. Problems

The actions of WTO did make progress in maintaining smooth trade across countries. However, there were still restrictions on exporting medical products in many states, including members of the WTO. By examining what it had done, deficiencies can be found, which require improvements.

#### 3.3.1. Existing Treaties

First, the existing treaties have deficiencies to clarify further. The premises of specific rules are ambiguous, and some other conditions lack time validity. For example, In Article 2.2 of the SPS Agreement provides that “Members shall ensure that any sanitary or phytosanitary measure is applied only to the extent necessary to protect human, animal or plant life or health, is based on scientific principles and is not maintained without sufficient scientific evidence, except as provided for in paragraph 7 of Article 5.” [18] Nevertheless, the term “sufficient scientific evidence” is vague and hard to define.

#### 3.3.2. TPRM

Second, WTO Trade Policy Review Mechanism (TPRM) has deficits. TPRM concentrates more on the analysis of global trade policy issues while overlooking the impact on the domestic economy, which may sharpen the domestic conflict and deep-seated problems of the countries under review when trade policies are made. As a result, TPRM’s analysis of the reports may successfully point out the direct influence on the global economy but inadequately neglect the difficulties of the domestic economy, making it hard to properly assess the potential impact on international trade caused by the trade policies of different Members. Therefore, expecting it to become a reliable Trade Policy Review Mechanism during PHEIC or in a post-pandemic world would be hard.

#### 3.3.3. Problems of the TRIPS Agreement During a Pandemic

During the pandemic, there was a significant problem that has occurred, which is the patent on Intellectual Property (IP). The global institutions had hoped that with the help of the Agreement on Trade-related Aspects of Intellectual Property (TRIPS), the IP would drive the innovation of different vaccines. However, it greatly restricted and delayed the world’s vaccine access, causing death and problems in developing countries.

#### 3.3.4. Looseness among Members

Third, to cope with the epidemic’s impact on their public health and economy, member countries of the WTO implemented export prohibition measures, hoarding maliciously of medical supplies and intercepting medical supplies transiting from other countries. Looseness among WTO members in response to the organization’s policies and the low efficiency of global forums show the disadvantages of WTO in maintaining cross-country trade.



### 3.4. Improvements

Viewing the deficits of WTO in a pandemic, there is some advice for it to enhance itself. Illustrations of some are elaborated on below.

#### 3.4.1. Further Clarification of Existing Treaties

WTO is expected to modify some ambiguous points in the existing agreements. WTO should further clarify the vague concepts in the treaties. For instance, to set the concrete standard for “sufficient scientific evidence” in Article 2.2 of the SPS Agreement.

#### 3.4.2. New Treaties Formulation

In addition, new treaties should be explicitly made to cope with global challenges like the pandemic. The reform content of trade measures should be set to deal with epidemic prevention and control. For instance, online forums and conferences can be normalized.

#### 3.4.3. TPRM Reform

WTO should also reform itself, especially mechanisms with deficiencies, of which TPRM is in urgent need. For one thing, in the operation of the TPRM, both government and Secretariat reports are filled with too much descriptive content. Therefore, there should be more analysis of the phenomena and the materials in the future. Moreover, the gap between the status of the developing and developed states is quite prominent within the TPRM system. Thus, the participation of developing countries in the Trade Policy Review Mechanism needs to be enhanced and ensured.

#### 3.4.4. Solutions to TRIPS Agreement

Some countries have responded to the problem above, and one of them is the flaws that the TRIPS agreement has inside, which limited options during the pandemic. The countries have given a solution to create a waiver for the TRIPS agreement during the pandemic. There has been a proposal during the covid-19 in 2020 provided by South Africa and India. The proposal talked about the needs and health problems developing countries face. This led to a flaw in the licensing agreement, which restricts the countries since they lack the framework. With the deal, other manufacturing companies need licensing arrangements before producing vaccines. As a result, many developing countries cannot manufacture vaccines for their citizens, and most of the vaccines they purchase are outdated [19].

However, countries inside the EU disagree with this proposal by claiming the advantages of the agreements applied during the pandemic. In reality, it is probably the vaccine manufacturing companies that want to save their benefits. An article from nature.com talked about the theoretical advantages vaccines get from the agreements/patent protection since it claims that the production(vaccine) is developed much faster with patent protection. Patent protection is also needed for the company's income since many intellectual companies claim they have used large sums of money to produce vaccines. However, the article says that with resources and data collected, a company could research and develop a vaccine without getting money from patents.

After all the arguments made, the final response given by the WTO was that the developing countries could detach/go against the TRIPS agreement and manufacture vaccines without the agreement of the license rights holder during the pandemic. In 5 years, the developing countries can produce and manufacture patented items.

Compulsory licenses are another solution to the TRIPS agreement during a pandemic. Compulsory licenses allow the owner to use patents; for example, if India had a compulsory license

during the pandemic, it would be able to manufacture the vaccines.

This solution of compulsory license just means a temporary permit for developing countries during times of pandemic and disasters, which gives these countries the ability to produce life-saving products such as vaccines.

The last solution is to reset/alter the TRIPS agreement in which countries can have an exception during pandemics. This means countries like South Africa could produce patents like vaccines during times like covid-19. This solution is perfect since it restricts nations' time, provides a good option for many countries, and enables them to manufacture health products.

#### 4. Conclusion

To summarize, the failure of the response to the COVID-19 pandemic exposed the lack of leadership, power, and financial resources that the WHO can provide. Therefore, the WHO should be reformed to give it sufficient powers and financial resources to address pandemic diseases, develop new treaties to amend the WHO constitution, and pay more attention to organizational reform to improve its authority and efficiency. To make the changes effective, the WHO should be given more power by all the countries, especially energy that allows the WHO to issue sanctions to offending countries. Changes should also be made to enable WHO to become more independent and more equitable in global health governance by reforming how WHO is funded. Other solutions provided by this argument can be the redesign of WHO's vaccine technology transfer plan, new international facilities that support the research on disease and viruses, prioritization of health by urgent needs, a platform to promote global health, etc.

Due to the break out of the pandemic, the global economy has been deeply affected by it, as well as global health. The paper has talked about and analyzed the WTO's actions during a pandemic and gives suggestions for improvements that can be made, advice to modify existing treaties, and come up with new agreements specifically dealing with global health challenges, as well as propose to reform WTO Trade Policy Review Mechanism (TPRM) would urge WTO to enhance itself better and maintain smooth trade across nations during possible future pandemics. The paper has also analyzed the actions WTO has done to help out global health during a pandemic. There is WTO has created an agreement called the TRIPS agreement. The patents that are part of the TRIPS agreement hurt developing countries; three solutions are available for WTO to change. A waiver during pandemics, a temporary compulsory license provided for developing countries during pandemics, or an alteration in the TRIPS agreement. These changes applied would significantly improve the situations of countries during a pandemic.

The object of this study was limited to WHO and WTO; in fact, many international organizations played a role and exposed their shortcomings in responding to COVID-19. Therefore, this paper had limitations in the research object. This paper mainly adopted the literature analysis method. We discussed and analyzed the shortcomings of WHO and WTO based on some results already available in the academic community, so this paper's research content and method had limitations. In the future, we hope to quantitatively analyze the first-hand information and conduct more outstanding research through qualitative and quantitative methods.

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