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23 January 2024

s 9(2)(a)

By email: s 9(2)(a)
Ref: H2023033366

Tēnā koe s 9(2)(a)

Response to your request for official information

Thank you for your request under the Official Information Act 1982 (the Act) to the Ministry of Health - Manatū Hauora (the Ministry) on 4 December 2023 for information regarding the World Health Organization's (WHO) International Health Regulation Amendments. You requested:

"Any information relating to the Government's reservation on the WHO International Health Regulation amendments, between November 24, 2023 and December 4, 2023. Where any document falls under the scope of this request, please release it in full, including sections which might otherwise be considered out of scope."

On Wednesday 29 November 2023, Cabinet reserved New Zealand's position as to whether the 2022 technical amendments to the International Health Regulations 2005 (IHR) (in their entirety) should enter into force for New Zealand. They did this until the Government can conduct a 'national interest test' on the amendments.

The only way to give effect to this was to formally reject the amendments. Rejections may be withdrawn by New Zealand at any time, after which the amendments would come into force, in accordance with Article 63 of the IHR.

The Ministry has identified 8 documents within scope of this part of your request. All documents are itemised in Appendix 1 and copies of the documents are enclosed. Where information is withheld under section 9 of the Act, I have considered the countervailing public interest in release in making this decision and consider that it does not outweigh the need to withhold at this time.

Please note, the spreadsheet and report referenced in Document 5 are withheld in full under section 9(2)(j) of the Act, as withholding is necessary to enable the agency to carry on negotiations without prejudice or disadvantage.

I trust this information fulfils your request. If you wish to discuss any aspect of your request with us, including this decision, please feel free to contact the OIA Services Team on: oiagr@health.govt.nz.

Under section 28(3) of the Act, you have the right to ask the Ombudsman to review any decisions made under this request. The Ombudsman may be contacted by email at: info@ombudsman.parliament.nz or by calling 0800 802 602.

Please note that this response, with your personal details removed, may be published on the Manatū Hauora website at: www.health.govt.nz/about-ministry/information-releases/responses-official-information-act-requests.

Nāku noa, nā

A handwritten signature in black ink, appearing to be 'A. Old', written in a cursive style.

Dr Andrew Old
Deputy Director-General
Public Health Agency | Te Pou Hauora Tūmatanui

Appendix 1: List of documents for release

#	Date	Document details	Decision on release
1	28 November 2023	Aide-Memoire: Technical Amendments to the International Health Regulations 2005: Context to Approval to 'opt out' (H2023033221)	Some information withheld under the following sections of the Act: <ul style="list-style-type: none"> • Section 6(a) – as its release would likely prejudice the international relations of the Government of New Zealand; • Section 9(2)(a) - to protect the privacy of natural persons. • Section 9(2)(h) – to maintain legal. professional privilege.
2	30 November 2023	Email correspondence: Notification of New Zealand's rejection of 2022 Amendments to the International Health Regulations 2005	Some information withheld under section 9(2)(a) of the Act.
2A		2023 Notice of rejection article 59	Released in full.
3		Communications for: International Health Regulations	Some information withheld under section 9(2)(a) of the Act.
4	1-3 December 2023	Email correspondence: Responses to decision on rejection of IHR amendment	Some information withheld under the following sections of the Act: <ul style="list-style-type: none"> • Section 6(a) and; • Section 6(b)(i) - as its release would prejudice information entrusted to the Government of New Zealand from another Government or agency.
5	December 2023	Briefing Overview: Sixth Session of the Working Group on Amendments to the IHR (2005)	Some information withheld under section 9(2)(j) of the Act, to enable a Minister of any public service agency to carry on negotiations without prejudice or disadvantage.
6		Update as of 2 December – Responses to the decision to opt-out of Article 59	Some information withheld under the following sections of the Act: <ul style="list-style-type: none"> • Section 6(a) and;

#	Date	Document details	Decision on release
		amendments to the International Health Regulations	<ul style="list-style-type: none"> Section 6(b)(i)
7		Excerpt of the Government's 100-day plan as part of CAB-23-MIN-0468	Excerpt released under section 16(1)(e) of the Act, with some information being deemed out of scope of your request.

Aide-Mémoire

Technical Amendments to the International Health Regulations 2005: Context to Approval to 'opt out'

Date due to MO:	28 November 2023	Action required by:	N/A
Security level:	IN CONFIDENCE	Health Report number:	H2023033221
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
Dr Andrew Old	Deputy Director-General, Public Health Agency Te Pou Hauora Tūmatanui	S9(2)(a)
Salli Davidson	Group Manager, Global Health, Public Health Agency Te Pou Hauora Tūmatanui	S9(2)(a)

RELEASED UNDER THE OFFICIAL INFORMATION ACT 1982

Aide-Mémoire

Technical Amendments to the International Health Regulations 2005: Context to Approval to 'opt out'

Date due: 28 November 2023

To: Hon Dr Shane Reti, Minister of Health

Security level: IN CONFIDENCE

Health Report number: H2023033221

National / New Zealand First agreement

1. The coalition agreement between the New Zealand National Party and New Zealand First contained the following provisions:
 - a. "Ensure a 'National Interest Test' is undertaken before New Zealand accepts any agreements from the UN and its agencies that limit national decision-making and reconfirm that New Zealand's domestic law holds primacy over any international agreements."
 - b. "As part of the above, by 1 December 2023 reserve against proposed amendments to WHO health regulations to allow the incoming government to consider these against a 'National Interest Test'."

International Health Regulations

2. The International Health Regulations (2005) (IHR) are the principal legal framework for preventing and controlling the spread of disease and other public health hazards between countries. While not technically a treaty, the IHR have the same status under international law and are binding on World Health Organization (WHO) Member States.
3. Officials understand that the intent of the coalition agreement is to put a halt to New Zealand's agreement to Amendments to Article 59 of the IHR, as adopted in 2022. The required deadline to do this is 30 November 2023. This will enable a 'National Interest Test' to be completed. Officials further interpret the reference to a 'National Interest Test' to mean New Zealand's standard treaty examination process which includes a 'National Interest Analysis'.
4. New Zealand has not rejected ('opted out') or placed any reservations on the IHRs since they were first adopted in 1951.
5. It is rare for any country to opt out of the IHRs. There have only been 2 prior notified reservations in 2006. The IHRs contain provisions for States Parties to opt back in at a later point.

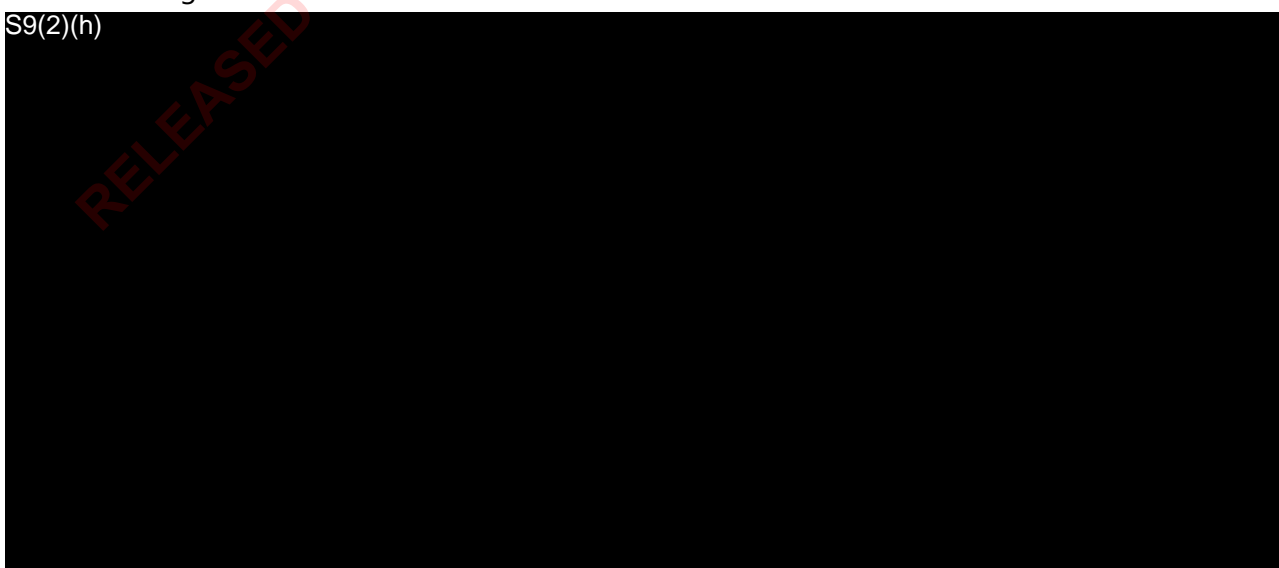
Technical Amendments to Article 59 of the IHR 2005

6. The technical amendments to Article 59 (with consequential amendments to other Articles) of the IHR 2005 were unanimously adopted by the World Health Assembly in May 2022, and they are due to come into effect in May 2024.
7. These amendments, first proposed by the United States of America (US), reduce the timeframe within which any future amendments to the IHR would enter into force. This period is halved from 24 months to 12 months. As a consequence, the amendments also reduce the timeframe for parties to decide to 'opt out' of future amendments from 18 months to 10 months.
8. New Zealand, along with other Member States, was consulted in drafting of the amendments.
9. The coalition agreement indicates reserving against proposed amendments. A reservation is a partial 'opt out' and cannot be readily applied to the administrative Article 59 amendments. Therefore, officials understand the intent of the coalition agreement to be to reject or opt-out of the amendments in their entirety, until such a time as further scrutiny can be applied (via a 'National Interest Analysis' – or 'test').
10. We have not been informed by WHO (as is required under Article 65) of any other Member States opting out of the technical amendments. Notification to do so at the very end of the required 18-month period would be unexpected. Of note, New Zealand would very likely be the only WHO Member State to do so.

Working Group on International Health Regulations

11. New Zealand is actively engaged in the Working Group on International Health Regulations (WGIHR) which is the process of negotiating further, substantive amendments.
12. The Ministry of Foreign Affairs and Trade (MFAT) and the Ministry of Health have jointly contracted Sir Ashley Bloomfield to co-chair the WGIHR process as the WHO Western Pacific Region's representative.
13. The US was highly supportive of New Zealand, and Sir Ashley, assuming this role given our enduring commitment to the IHRs and our moderate and constructive reputation amongst Member States.

S9(2)(h)



S6(a)

Next Steps

21. Should Cabinet decide to 'opt out' of the Article 59 Amendments, officials will formally notify the WHO Director-General. The WHO Director-General is then required to notify all States Parties of New Zealand's decision.
22. Plans to undertake public consultation on the draft pandemic treaty and the proposed amendments to the IHR are underway. This will take place once a comprehensive package of relevant documents is made publicly available by the WHO, potentially before the end of 2023.
23. The next round of WGIHR and pandemic treaty negotiations will take place in Geneva between 4-8 December 2023. Member States will not be making commitments at this relatively early stage of negotiations. Ministry of Health and MFAT officials will be in attendance.
24. During upcoming negotiations, officials will be cognisant of commitments in coalition party agreements, including that:
 - a. New Zealand's law holds primacy over international agreements
 - b. our ability to agree to the outcome of the negotiations will depend on whether the overall outcome is in our national interest
 - c. the IHRs must retain their 'opt out' rejection mechanism
 - d. both the Pandemic Treaty and the Amendments to IHRs must provide explicit 'reservation' provisions allowing countries to not accept particular provisions.
25. Officials propose to prepare a Cabinet paper seeking a new negotiating mandate in February 2024, prior to the next series of negotiating rounds.

26. New Zealand will not need to take a formal position on whether to accept the outcomes of either negotiation until May 2024 at the earliest. Any decision to do so will be subject to the treaty-making process which requires Cabinet approval and the presentation of a 'National Interest Analysis' to Parliament before binding action is taken.



Dr Diana Sarfati

Director-General of Health

Te Tumu Whakarae mō te Hauora

RELEASED UNDER THE OFFICIAL INFORMATION ACT 1982

From: Andrew Forsyth
Sent: Thursday, 30 November 2023 7:23 am
To: Office of the Director-General
Cc: ihradmin; Global Health; IHR-National Focal Point Distribution List; WP RO IHR
Subject: NOTIFICATION OF NEW ZEALAND'S REJECTION OF 2022 AMENDMENTS TO THE INTERNATIONAL HEALTH REGULATIONS 2005
Attachments: 2023 Notice of rejection art 59.pdf
Categories: Reference

Dear Dr Tedros Ghebreyesus,

On behalf of the New Zealand National IHR Focal Point, I wish to convey the attached document to you pursuant to Article 61 of the International Health Regulations 2005.

This document notifies New Zealand's rejection of the amendments to Article 59 of the Regulations, as adopted by the World Health Assembly in May 2022.

Following New Zealand's General Election on 14 October 2023, this step is being taken to give the incoming Government the opportunity to consider the amendments. It may not be the Government's final decision.

Please be advised that New Zealand will remain a constructive participant in the current, substantive WGIHR negotiations.

Kind regards

Andrew Forsyth
Manager, Public Health Strategy
Public Health Agency, Ministry of Health
Mob: S9(2)(a)



MINISTRY OF HEALTH





NEW ZEALAND
Permanent Mission
TE AKA AORERE

Note Number: 2023/76

The Permanent Mission of New Zealand to the United Nations and other International Organisations in Geneva presents its compliments to the Director-General of the World Health Organization and has the honour to refer to resolution WHA75.12 of 28 May 2022, by which the Seventy-fifth World Health Assembly adopted amendments to Articles 55, 59, 61, 62, and 63 of the International Health Regulations (2005), and the notification of these amendments by the Director-General on 31 May 2022 (C.L.26.2022).

The Permanent Mission of New Zealand wishes to notify the Director-General that the Government of New Zealand requires further time to consider the amendments, and for that purpose, hereby notifies the Director-General of New Zealand's rejection of the amendments, in accordance with Article 61 of the International Health Regulations (2005).

The Permanent Mission of New Zealand to the United Nations and other International Organisations in Geneva takes this opportunity to renew to the Director-General of the World Health Organization the assurances of its highest consideration.

Permanent Mission of New Zealand to the United Nations and other
International Organisations
GENEVA

29 November 2023



Communications for: International Health Regulations

Sign off process

Who	Role	What	Status
S9(2)(a)	Principal Communications Advisor	Drafting plan	Final as at 10am 30/11/23
Peter Abernethy Nicole Salmon	Manager Media Mgr Ext Comms & Engagement	Peer reviewers	29/11/23 29/11/23
Annie Coughlan	GM Comms & Engagement	Comms approver	30/11/23 Via email 7.40am
S9(2)(a)	Senior Advisor, Global Health, PHA	Subject matter reviewer	Consulted through out
Andrew Forsyth	Manager, Public Health Strategy, PHA	Subject matter reviewer	30/11/23 Via email 7.31am
Salli Davidson	GM, Global Health, PHA	Subject matter approver	30/11/23 Via email 6.20am
Andrew Old	DDG, PHA	Final sign off	30/11/23 Via email 6.38am
Charlotte Gendall	Press Sec, office of Minister Reti	Provided for reactives	30/11/23 Sent at 10.02am

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Background

The International Health Regulations 2005 (IHR) are the principal legal framework under the World Health Organization (WHO) for the international management of acute public health threats. The IHR have served the world well during multiple events, including influenza A H1N1 in 2009-10 and MERS, and more recently COVID-19 and Mpox (formerly Monkeypox).

The International Health Regulations 2005 are the principal international legal framework for preventing and controlling the spread of disease and other public health hazards between countries.

The COVID-19 pandemic has identified shortcomings in the global health security architecture as well as opportunities to enhance the effectiveness of the IHR 2005. The impacts of the pandemic have been felt unequally across communities and countries. Around the world and in New Zealand, older people, disabled people, people already in poorer health and indigenous communities have been disproportionately affected by the pandemic.

Following the COVID-19 pandemic, the United States proposed minor technical amendments to Article 59 (which resulted in amendments to Articles 55, 61, 62 and 63) to reduce the timeframe within which future amendments will come into force from the current 24 months down to 12 months. These amendments were adopted unanimously by the World Health Assembly in May 2022 and will come effect in May 2024.

New Zealand, along with other Member States, was consulted in drafting of the amendments.

These amendments, first proposed by the United States of America (US), reduce the timeframe within which any future amendments to the IHR would enter into force. This period is halved from 24 months to 12 months. Therefore, the amendments also reduce the timeframe for parties to decide to 'opt out' of future amendments from 18 months to 10 months.

The New Zealand National Party – New Zealand First Coalition Agreement contains the following provisions:

- a) "Ensure a 'National Interest Test' is undertaken before New Zealand accepts any agreements from the UN and its agencies that limit national decision-making and reconfirm that New Zealand's domestic law holds primacy over any international agreements."
- b) "As part of the above, by 1 December 2023 reserve against proposed amendments to WHO health regulations to allow the incoming government to consider these against a 'National Interest Test'."

Officials understand that the intent of the coalition agreement is to put a halt to New Zealand's agreement to Amendments to Article 59 of the IHR, as adopted in 2022. The required deadline to do this is 30 November 2023. This will enable a 'National Interest Test' to be completed. Officials further interpret the reference to a 'National Interest Test' to mean New Zealand's standard treaty examination process which includes a 'National Interest Analysis'.

The coalition agreement indicates reserving against proposed amendments. A reservation is a partial 'opt out' and cannot be readily applied to the administrative Article 59 amendments. Therefore, officials understand the intent of the coalition agreement to be to reject or opt-out of the

amendments in their entirety, until such a time as further scrutiny can be applied (via a 'National Interest Analysis' – or 'test').

We have not been informed by WHO (as is required under Article 65) of any other Member States opting out of the technical amendments. Notification to do so at the very end of the required 18-month period would be unexpected. Of note, New Zealand would very likely be the only WHO Member State to do so.

New Zealand's action also applies to Tokelau.

Existing media coverage

Prime Minister asked by Jenna Lynch on Wednesday 29 November at post-Cab press conference.

Jenna Lynch:

Why is it a priority for you to lodge a reservation against the WHO health amendments?

PM response:

Because of the 1 December deadline - we want to make a pause and make sure we understand it meets the national interest test.

New Zealand media has already started to cover the potential of this change in a Stuff story, 28 Nov <https://www.stuff.co.nz/national/politics/133355039/repeal-and-reserve-the-5-things-the-government-has-promised-to-do-by-christmas>

1 – 'Reserve against' updates to International Health Regulations.

In a nutshell, this means Cabinet will tell officials not to agree to any policy changes suggested by the World Health Organisation (WHO) in the first instance.

This is one of the most urgent issues the new Government must address, according to the coalition deal with NZ First. While most policies have a Christmas, or "as soon as practicable" deadline, the promise to "reserve against" updates that are underway at the WHO must be done this week.

The NZ First coalition agreement stated: "By 1 December 2023 reserve against proposed amendments to WHO health regulations".

International Health Regulations are longstanding rules and norms for managing disease outbreaks. The World Health Organisation (WHO) is currently working to refresh these rules. As it happens, New Zealand's former director-general of health, Sir Ashley Bloomfield, is on the working group to help upgrade the pandemic protocols.

University of Otago epidemiologist Dr Michael Baker said the International Health Regulations, which were formed in 2005, had formed around the time of concern about an Avian Flu outbreak and SARS. But the rules themselves weren't new.

"Its predecessor had been around for decades, to provide a basis for countries to report if they had infectious disease outbreaks which could be a risk to international travel and trade," Baker explained.

He said the rules first formed about a century ago, as part of the law of sea. Ships would be required to report on the health of their crew and passengers before docking.

When the rules were updated in 2005, Baker said all WHO members accepted the regulations.

The updates, which WHO doesn't expect to be ready until mid-next year, looked to update the regulations following the Covid-19 pandemic.

Potential Media Q&A

It is likely that media will continue to cover this. If Cabinet does instruct officials to reserve against or reject the amendments, then these could be topics media will be interested in:

Why did Cabinet only just decide to make this decision?

Cabinet couldn't make the decision any earlier as the 54th Parliament was only sworn in on Monday 27 November and met for the first time on 28 November.

The decision taken on the 29 November will provide more time for the government to assess whether the amendments are in New Zealand's national interest.

New Zealand remains committed to working with other Member States to ensure the WHO is best able to fulfil its mandate.

Background information: the previous govt was briefed on this issue in a CAB paper prepared in April 2023 and which went to SWC in Sept. This was consulted with relevant depts and Tokelau. The CAB decision was to tacitly accept – i.e. to not opt out of the amendments.

What's the difference between reserving and rejecting the amendments?

These are technical terms defined in the IHR 2005. In short, a reservation is a partial rejection, and a rejection is a complete rejection, see Articles 59 to 63 of the IHR for details.

It is possible to opt back into the amendment later if this is deemed to be in New Zealand's interests.

Background information: The coalition agreement indicates reserving against proposed amendments. A reservation is a partial 'opt out' and cannot be readily applied to the administrative Article 59 amendments. Therefore, officials understand the intent of the agreement to be to reject or opt-out of the amendments in their entirety.

What are the implications for New Zealand of reserving against/rejecting the amendments?

The implications are that New Zealand will adhere to the former provisions, which give us 24 months to prepare for future amendments, and 18 months to decide whether to opt out. Other countries will have 12 months and 10 months respectively.

What is a National Interest Analysis (NIA)?

A 'National Interest Analysis' (or 'test') is a standard requirement of any treaty that is, has or will be subject to ratification, accession, acceptance, or approval by New Zealand, as provided for in Parliamentary Standing Orders 405 and 406 and the Cabinet Manual (paragraphs 578 to 582).

An NIA summarises the provisions in an international agreement, describes the expected social economic, environmental and cultural impacts on New Zealand, the costs and benefits of agreeing to the agreement and provides a conclusion about the overall net balance of advantages and disadvantages.

Every time the New Zealand government signs a new, significant international treaty, a National Interest Analysis (NIA) is produced by the lead government agency. The NIA is then presented to

Parliament, together with the text of the treaty, for consideration. Parliament provides a report to Cabinet, which then takes the final decision. The requirements of the NIA are set out in Parliament's Standing Orders and the Cabinet Manual.

Does the Cabinet decision apply to ongoing negotiations or future amendments to the International Health Regulations.

No. The decision applies to an amendment agreed at the World Health Assembly in 2022. Countries had until 30 November to inform WHO if they wished to reject or reserve against this amendment.

More substantive IHR negotiations are ongoing. No additional amendments have been finalised. If there are any further amendments to the IHRs, New Zealand will have the opportunity to consider these before they become binding.

New Zealand's decision affects Tokelau

Was Tokelau consulted on this decision?

The new government had a very short timeframe to make this decision, however, Tokelau was informed on 29 November.

Background information: Tokelau was briefed on the amendments in March 2023, and agreed with officials advice which was to tacitly accept the 2022 amendments.

What is Tokelau's position on the reservation/rejection to the amendments?

Tokelau has noted the decision and has not raised any questions (as at 29 November).

Talking points

General

On Wednesday 29 November, Cabinet reserved New Zealand's position as to whether the International Health Regulations (IHR) amendments (in their entirety) should enter into force for New Zealand.

They did this until the Government can conduct a National Interest Test.

The only way to give effect to this is to formally reject the amendments. Rejections may be withdrawn by New Zealand at any time, after which the amendments would come into force, in accordance with Article 63 of the IHRs.

New Zealand has formally notified the World Health Organisation that it requires further time to consider the amendments, and for that purpose, rejects the amendments.

In May 2022 the 75th World Health Assembly adopted minor technical amendments to Article 59 (which resulted in amendments to Articles 55, 61, 62 and 63) of the International Health Regulations (IHR) 2005.

These amendments reduce the timeframe within which any later amendments to the IHR will come into effect from the current 24-months to 12 months.

The amendments also reduce the period provided for Member States to decide whether to reject, or reserve against, any future amendments. This period is currently 18 months and will reduce to 10 months.

These amendments come into effect in May 2024 automatically for World Health Organisation Member States that do not reject the amendments before 1 December 2023.

In line with the coalition agreement between the New Zealand National Party and New Zealand First, New Zealand sought to 'opt out' of the Article 59 Amendments - to shorten the timeframe for any future amendments from 24 months to 12 months.

Following the notification from New Zealand to the World Health Organization's Director-General, the WHO will then notify all States Parties of New Zealand's decision.

This is an interim position to give the Government the opportunity to receive advice and consider the amendments.

New Zealand remains committed to working with other Member States to ensure the WHO is best able to fulfil its mandate and confirms New Zealand remains a constructive participant in negotiations on substantive amendments to the International Health Regulations and on a pandemic treaty.

Substantive negotiations

New Zealand has been selected as a Bureau Member for the Western Pacific Regional as part of the Working Group on the International Health Regulations (WGIHR) to develop a package of targeted amendments to the IHR.

The IHR Working Group's role is to develop a package of more substantive amendments to the IHR that address gaps, issues and challenges to ensure the universal application of the IHR for the global protection from the international spread of disease in an equitable manner.

Former Director-General of Health, Sir Ashley Bloomfield, is co-chairing this negotiation alongside Dr Abdullah Asiri of Saudi Arabia.

A coordinated effort is underway make substantive improvements to the WHO legal framework, including:

- Substantive amendments to the IHRs
- Negotiations towards a new convention, agreement or other international instrument to strengthen pandemic prevention, preparedness and response taking place in an Intergovernmental Negotiating Body (INB) of WHO Member States (often referred to as the "pandemic treaty").

Both the Working Group and Intergovernmental Negotiating Body (INB) processes are expected to conclude with the consideration of specific proposals at the 77th World Health Assembly (WHA77) in May 2024. If adopted, any decision for New Zealand to become bound by the substantive amendments to the IHRs or a new pandemic treaty would be subject to New Zealand's fully treaty making process set out in the Cabinet Manual and Standing Orders, including the completion of a National Interest Analysis and presentation to Parliament.

Intergovernmental negotiating body for a 'pandemic treaty'

At the same time as the IHR review, WHO Member States established an Intergovernmental Negotiating Body (INB) to negotiate and draft a convention, agreement or other international instrument to strengthen pandemic prevention, preparedness and response. WHO Member States are considering the draft text.

The intention is to present the outcome of the INB at the same time the IRH Working Group result is considered by the 77th World Health Assembly in May 2024.

Ministry of Health and the Ministry of Foreign Affairs and Trade are actively contributing to both the INB and IHR Working Group processes to ensure that New Zealand's domestic, Pacific regional and international priorities are considered as part of what may be a 'once in a generation' reform of global health security architecture.

Once finalised, the 'pandemic treaty' will also be the subject of a National Interest Analysis and parliamentary treaty examination process before Cabinet considers binding treaty action.

Back pocket

As part of the advice, New Zealand intends to undertake a 'National Interest Analysis' (or 'test').

A 'National Interest Analysis' is already a standard requirement of any treaty that is, has or will be subject to ratification, accession, acceptance or approval by New Zealand.

The amendments do not create any new or additional costs to New Zealand. They do not create any additional legal obligations for New Zealand. Nor do they require amendments to domestic legislation to allow implementation.

New Zealand has never 'opted out' (ie, rejected or placed any reservations on) the International Health Regulations since they were first adopted in 1951.

The Ministry of Health has not been informed by WHO (as is required under Article 65) of any other Member State choosing to opt out of the technical amendments

Source documents

Aide-Mémoire: H2023033221: Technical Amendments to the International Health Regulations 2005: Context to Approval to 'opt out'

MFAT FM (restricted) to Geneva (and all posts): NOTIFICATION OF NEW ZEALAND'S REJECTION OF INTERNATIONAL HEALTH REGULATION AMENDMENTS

DRAFT 2023 Nov CAB paper of IHRs – MFAT comment (in DRAFT and in-confidence)

Amending the International Health Regulations (2005) - Ministry of Health website

<https://www.health.govt.nz/our-work/emergency-management/pandemics/strengthening-global-pandemic-prevention-preparedness-and-response/amending-international-health-regulations-2005>

Amendments to the International Health Regulations (2005)

https://apps.who.int/gb/ebwha/pdf_files/WHA75/A75_R12-en.pdf

Member States of the World Health Organisation here <https://www.who.int/countries>

Coalition agreement between New Zealand National Party and New Zealand First

<https://s3.documentcloud.org/documents/24174654/nzfirst-agreement-2.pdf>

Refer to: *Strengthening Democracy and Freedoms* final bullet points

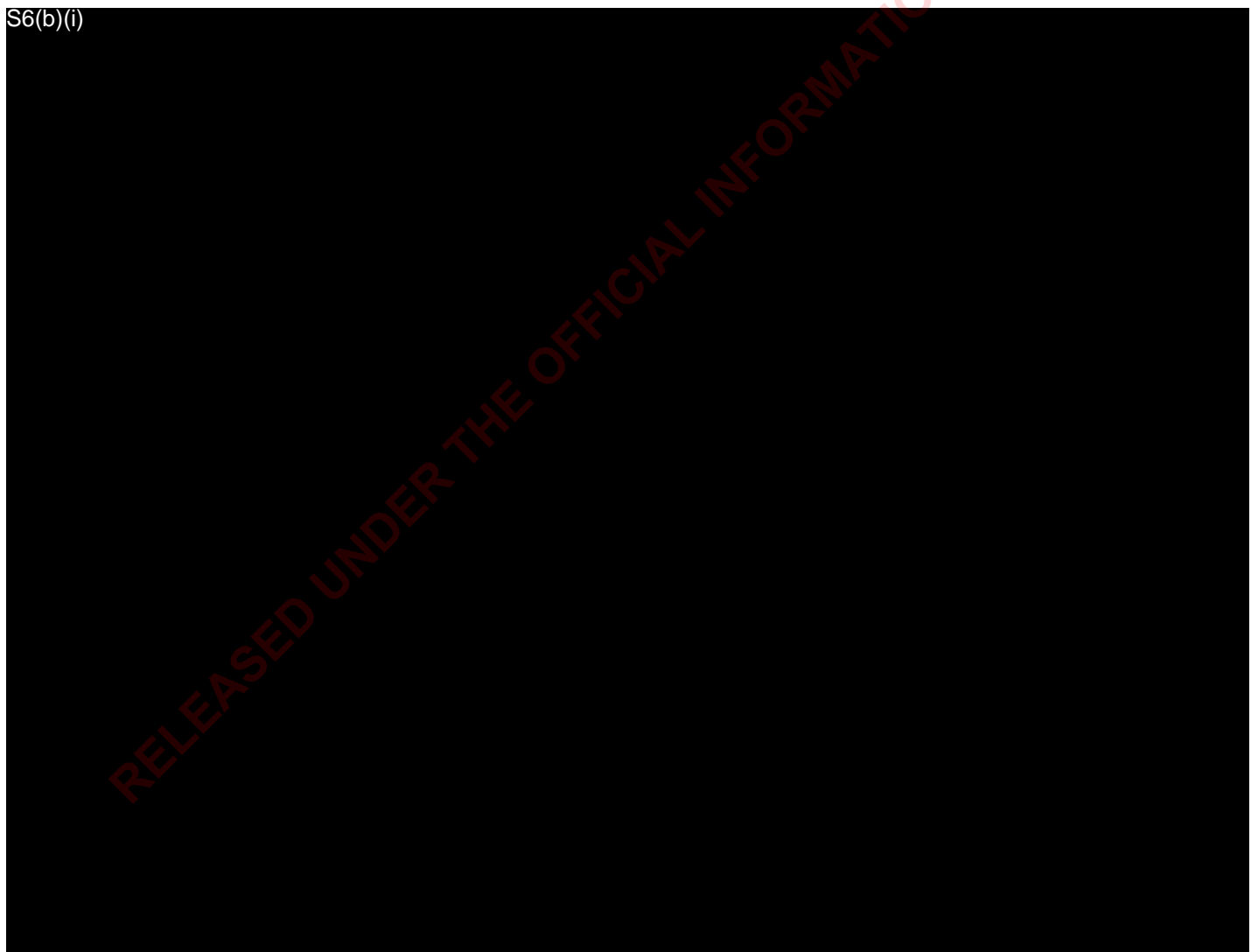
From: Salli Davidson
Sent: Sunday, 3 December 2023 9:19 am
To: Diana Sarfati <Diana.Sarfati@health.govt.nz>
Cc: Andrew Old <Andrew.Old@health.govt.nz>; Maree Roberts <Maree.Roberts@health.govt.nz>
Subject: UPDATED @ 2/12 Responses to decision on rejection of IHR amendment

Kia ora anō Di

We've received further information on reactions to the NZ decision S6(a) [REDACTED] I've added the key points to the earlier report in the attached document but have also pasted them below.

The general theme seems to be – context understood, but concern about what it means for NZ's position in ongoing negotiations on IHR and the pandemic treaty (both our national position and the co-chair role undertaken by Sir Ashley). Some countries have also expressed concern about the knock-on effect it may have for countries not well disposed to amending the international pandemic prevention, preparedness and response frameworks.

S6(b)(i)



Mauri ora
Salli

From: Salli Davidson
Sent: Friday, 1 December 2023 2:40 pm
To: Diana Sarfati <Diana.Sarfati@health.govt.nz>
Cc: Andrew Old <Andrew.Old@health.govt.nz>; Maree Roberts <Maree.Roberts@health.govt.nz>
Subject: Responses to decision on rejection of IHR amendment

Kia ora Di

As Andrew requested, this email provides an update on responses to the government's decision to opt-out of Article 59 amendments to the International Health Regulations.

The NZ Permanent Mission in Geneva has contacted the local diplomatic missions of S6(a)
Further conversations are scheduled in coming days with S6(a)

Global Health has spoken to close counterparts in S6(a)
Contact has also been made with S6(a)

Responses are pending.

Responses

The countries noted above expressed appreciation for the outreach and will ensure that delegations to the pandemic treaty (INB) and International Health Regulations (IHR) negotiations next week are briefed.

S6(b)(i)

Other countries responses have been more general to date - noting the explanation and a sense of relief that the decision might not be final, and that it is confined to the 2022 Article 59 amendment.

Other countries rejecting or reserving against Article 59

We have heard informally that S6(a) have placed notifications with the WHO prior to the deadline. A scan of social media suggests that S6(a) were considering a similar action.

We expect WHO to inform States Parties of all notifications shortly after 1 December.

Public discussion as at 30 November

- The Communications and Engagement team undertook a search for publicly available content relating to the World Health Organization's IHR. 773 posts were identified with a predicted social media reach of 3.72m, and an average reach of 100,000 people through news outlets in NZ.
- Questions posted online following the NZ decision were focused on whether the reservation will exclude NZ from negotiations, and whether NZ would make the 1 December deadline to reject the IHR amendment.
- A sentiment analysis based on publicly available content on 30/11 reflects that:
 - the majority of content was positively disposed to the government's decision.
 - Negative comments were mainly about other countries not rejecting the IHR amendments.
 - A smaller portion of the negative sentiment (around 20%) was directed towards the NZ government's decision to opt out of the IHR amendment and the potential impact on our international standing."

I hope this is useful at this point and happy to provide further detail, as needed. We will continue to receive information over the next week, particularly as countries gather in Geneva for the next round of negotiations.

Please let me know if you'd like to receive another update, by email or memo, on Friday 8th (or earlier, as appropriate).

Aku manaakitanga
Salli

Salli Davidson (she/her)
Group Manager
Global Health
S9(2)(a)

Public Health Agency / Te Pou Hauora Tūmatanui
Manatū Hauora, 133 Molesworth Street
Thorndon, Wellington 6011



Briefing Overview: Sixth Session of the Working Group on Amendments to the IHR (2005)

7-8 December 2023

WGIHR 6 will be held on 7 and 8 December in Geneva. The Working Group proposed the following working hours for each day (CET):

Thursday 7 December

- 09:30 – 13:00
- 14:00 – 17:30
- 18:00 – 20:00

Friday 8 December

- 09:30 – 13:00
- 14:00 – 17:30

Draft agenda and work programme are available at:

https://apps.who.int/gb/wgihhr/e/e_wgihhr-6.html

New Zealand Approach

1. In this round of IHR negotiations, New Zealand will take an active watching stance in the official sessions. As a burden sharing approach to this round of INB and IHR negotiations, MFAT's Chief International Legal Adviser, will attend the sessions to represent New Zealand.
2. In the margins of the sessions, the MFAT official may utilise the following key points regarding New Zealand's decision to reject the Article 59 amendments to the IHR on 29 November 2023, as needed and noting that the Geneva mission may have already transacted these points with some countries:
 - This step was taken to give the incoming government the opportunity to consider the amendments; it may not be the final decision.
 - New Zealand remains committed to working with other states to ensure the WHO is best able to fulfil its mandate.
 - New Zealand will remain a constructive participant in current substantive negotiations at the WHO.
3. MoH will appreciate receiving reporting on Member States responses to the recent decision on Article 59, as conveyed on the ground at WGIHR and the INB.

Tracking IHR proposals

4. The attached document is provided for information purposes only and is not intended to be utilised for interventions during WGIHR6.

5. The spreadsheet reflects a preliminary review of the tranches of WGIHR Bureau text proposals provided to Member States (MS). These were provided by the Secretariat on 17 and 23 November. We understand there might be a third tranches of proposals, but this has not yet been shared with MS.
6. In column F, **changes and/or additions** proposed by the Bureau to the original text are highlighted in **bold**. In column H, links to the respective articles are embedded to view the Bureau's text proposal, including the original text, on screen text from the last meeting and a rationale section to explain how the Bureau came up with the new proposals.

7. S9(2)(j)



Report on October Negotiations

8. The attached report from the last round of negotiations (WGIHR 5; 2-6 October 2023) provides a summary of the progress made, New Zealand's approach and alignment with like-minded countries, as well as highlights into key issues of interest and the diversity of Member States' positions.

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Update as of 2 December - Responses to the decision to opt-out of Article 59 amendments to the International Health Regulations.

The NZ Permanent Mission in Geneva has contacted the local diplomatic missions of S6(a)
Further conversations are scheduled in coming days with S6(a)

Global Health has spoken to close counterparts S6(a)
Contact has also been made with S6(a)
Responses from S6(a) are pending.

Responses

The countries noted above expressed appreciation for the outreach and will ensure that delegations to the pandemic treaty (INB) and International Health Regulations (IHR) negotiations next week are briefed.

S6(b)(i)



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Other countries responses have been more general to date - noting the explanation and a sense of relief that the decision might not be final, and that it is confined to the 2022 Article 59 amendment.

S6(b)(i)

Other countries rejecting or reserving against Article 59

We have heard informally that S6(a) have placed notifications with the WHO prior to the deadline. A scan of social media suggests that S6(a) were considering a similar action (noting the above read-out from S6(a) this action seems unlikely).

We expect WHO to inform States Parties of all notifications shortly after 1 December.

Public discussion as of 30 November

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3. DELIVER BETTER PUBLIC SERVICES

COMMITMENT	LEAD PORTFOLIO	ACTION
Out of Scope		
By 1 December 2023, lodge a reservation against adopting amendments to WHO health regulations to allow the government to consider these against a “national interest test”.	Health	Agree that New Zealand exercise its right to reserve against adopting amendments to Article 59 of the International Health Regulations (IHR) by 30 November 2023 to preserve the government’s position until it considers the amendments against a national interest test.
Out of Scope		

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