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Perspective

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The *International Health Regulations (2005)* and the re-establishment of international travel amidst the COVID-19 pandemic

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The first half of the year 2020 has seen all countries in the world close their borders or strictly limit international travel as a way to reduce the spread of SARS–CoV-2. After initial reactions that these restrictions were unnecessary and unlawful,[1] the reality now appears more complex.[2] Some early analyses suggest that travel restrictions—if implemented in an evidence-based and timely way—could be justifiable public health measures.[3] At the same time, serious concerns remain about the impact of these restrictions on countries' populations and economies, as well as the widespread disregard for World Health Organization (WHO) recommendations by its members.

The *International Health Regulations (2005)* [*IHR (2005)*][4] are the main international agreement that addresses this issue, with objective of preventing the spread of public health threats without unnecessary impairment of international travel and trade. Under the *IHR (2005)*, the WHO has a key role in identifying justifiable travel restrictions. It could also have an important role in loosening travel restrictions, but this has never before been tested on such a large scale. As we enter the next phase of the COVID-19 pandemic, coordinated guidance on this matter will be critical, and the WHO and the *IHR (2005)* are potential mechanisms to provide this.

Closing and Re-opening Borders

When the SARS–CoV-2 outbreak was declared to be a public health emergency of international concern (PHEIC) on 30 January 2020, the WHO did not recommend any restrictions on travel or trade (https://www.who.int/news-room/detail/30-01-2020-statement-on-the-second-meeting-of-the-international-health-regulations-(2005)-emergency-committee-regarding-the-outbreak-of-novel-coronavirus-(2019-ncov)). Only 2 months later, however, border closures and significant restrictions on international travel had become the norm, as a range of influences, including domestic political pressures, led states to implement restrictions contrary to the WHO recommendations.[5] These restrictions have had a dramatic effect: e.g., a reduction in global air passenger traffic of up to 70% is predicted for 2020, causing billions of dollars in estimated losses (https://www.icao.int/covid/cart/Documents/CART_Report_Take-Off_Document.pdf).

Despite the pandemic continuing and worsening in many parts of the world, some countries have begun to lift or modify restrictions. There is increasing pressure to allow cross-border traffic due to the impact of restrictions on supply chains and national economies. In order to accomplish this while mitigating the public health risks of increased travel, countries are exploring a range of different approaches, including one or more of:

- Selective removal of restrictions for neighbouring countries or countries with similar epidemiological profiles (sometimes referred to as a 'travel bubble' or 'air bridge');
- Broader removal of restrictions, with exceptions for countries assessed to be higher risk;
- Replacing restrictions on entry with testing, quarantine and/or mandatory contact-tracing requirements;
- Requiring quarantine for returning residents or travellers, as international arrivals increase; and
- Adding or broadening exemptions for specific categories of travellers.

The Need for International Coordination

As countries move forward with these changes, a harmonized and coordinated approach is critically important (https://www.icao.

int/covid/cart/Documents/CART_Report_Take-Off_Document.pdf). A patchwork of different approaches could impede efforts to safely restart tourism (https://www.nytimes.com/2020/06/05/travel/europe-reopening-tourism-covid.html), and variations in requirements can present practical difficulties. For example, there are different types of testing available, appropriate in different circumstances,[6] and testing may be required at different time points before departure or on arrival, depending on the destination. Consistent and appropriate testing requirements could prevent unnecessary burdens for travellers and service providers (https://www.iata.org/en/pressroom/pr/2020-06-16-02/), and a harmonized system to share test results can facilitate travel (https://www.weforum.org/agenda/2020/07/cross-border-travel-covid-commonpass-borders-reopen-safely/). As another example, the utility of digital contact-tracing apps would be enhanced if they were internationally interoperable (https://webunwto.s3.eu-west-1.amazonaws.com/s3fs-public/2020-05/UNWTO-Global-Guidelines-to-Restart-Tourism.pdf). A range of different organizations have introduced guidelines that aim to provide some consistency. As might be expected, much of this activity has occurred in Europe, aiming to restore the open borders and free movement that are the norm within the region (https://ec.europa.eu/info/sites/info/files/communication_freemovement.pdf). Industry associations have also proposed harmonized measures (https://www.iata.org/contentassets/5c8786230ff34e2da406c72a52030e95/safely-restart-aviation-joint-aci-iata-approach.pdf). In late May, the International Civil Aviation Organization released guidance for air travel, developed by its Council Aviation Recovery Taskforce (https://www.icao.int/covid/cart/Documents/CART_Report_Take-Off_Document.pdf).

As the main international body responsible for health, the WHO would be expected to take a leading role in this process. The role of the WHO is uncertain, however, given that the WHO did not recommend any restrictions in the first place, and its recommendations were widely ignored by member states. More generally, criticisms of the WHO's role in the COVID-19 pandemic, regardless of their merits, make it more challenging for the WHO to lead. Yet there is value in the WHO using the *IHR (2005)* to guide the process of re-establishing international travel, similar to how they have provided guidance on adjusting internal measures such as the criteria to lift internal movement restrictions or to reopen schools or businesses (https://apps.who.int/iris/handle/10665/331773). For compliance with the *IHR (2005)* obligations, the WHO recommendations have a special role, because the WHO member states are expected to justify departures from these recommendations. Nevertheless, it is important to recognize that there is no effective enforcement process to ensure compliance with the WHO recommendations, and the mechanisms within the *IHR (2005)* to resolve disputes over travel restrictions appear not to have been used.[7]

The *IHR (2005)* Provisions on International Travel

The *IHR (2005)* provide for several mechanisms that could be used during and after a PHEIC to establish common approaches to public health and international travel. Although their role in an emergency receives the most attention, many provisions on public health measures also apply outside of the emergency context. Together, these provisions and the WHO recommendations provide a framework for international travel during the pandemic and beyond.

Once a PHEIC is declared, the WHO Director-General must issue Temporary Recommendations, which can include measures to be applied to persons or cargo to 'reduce the international spread of disease and avoid unnecessary interference with international traffic'.[4] Temporary Recommendations automatically expire after 3 months, unless they are modified or extended (again for 3 months). In the COVID-19 pandemic, Temporary Recommendations were issued on 30 January 2020 (https://www.who.int/news-room/detail/30-01-2020-statement-on-the-second-meeting-of-the-international-health-regulations-(2005)-emergency-committee-regarding-the-outbreak-of-novel-coronavirus-(2019-ncov)) and again on 30 April 2020 (https://www.who.int/news-room/detail/01-05-2020-statement-on-the-third-meeting-of-the-international-health-regulations-(2005)-emergency-committee-regarding-the-outbreak-of-coronavirus-disease-(covid-19)). Neither recommended limiting international traffic, but in April, states were advised to implement 'appropriate travel measures', such as entry and exit screening, contact tracing and isolation or quarantine, 'incorporating evidence on the potential role of pre-symptomatic and asymptomatic transmission' (https://www.who.int/news-room/detail/01-05-2020-statement-on-the-third-meeting-of-the-international-health-regulations-(2005)-emergency-committee-regarding-the-outbreak-of-coronavirus-disease-(covid-19)).

After the 2014 declaration of a PHEIC for Ebola virus disease in West Africa, countries with Ebola transmission were advised to begin exit screening, at all international airports, land crossings and seaports, for febrile illness of unknown origin that was consistent with Ebola virus disease. The recommendation included travel restrictions for confirmed, probable, suspected or contact cases of Ebola virus disease. General bans on international travel and entry screening were not advised, but many states exceeded or disregarded these recommendations without facing clear negative consequences, even when their travel restrictions were discriminatory or lacked a valid scientific basis.[8]

As then, the widespread entry restrictions and border closures that are currently in place were implemented contrary to the WHO recommendations. Under the *IHR (2005)*, they are therefore considered 'additional measures' and carry certain specific obligations, set out in article 43. One of these is the obligation to review measures within 90 days, taking into account advice from the WHO and scientific principles and evidence. The 30 April Temporary Recommendations further state that members should '[c]ontinue to review travel and trade measures based on regular risk assessments, transmission patterns at origin and destination, cost–benefit analysis, evolution of the pandemic and new knowledge of COVID-19' (https://www.who.int/news-room/detail/01-05-2020-statement-on-the-third-meeting-of-the-international-health-regulations-(2005)-emergency-committee-regarding-the-outbreak-of-coronavirus-disease-(covid-19)). Regular review is particularly important in the context of the current, rapidly evolving pandemic. States are also obligated to use the least restrictive measure that will provide an appropriate level of health protection,[4] and this too may change over time as new evidence and control measures become available.

Given the expectation that the COVID-19 pandemic will continue in various forms for some time, one question is when the

current PHEIC will end, and how this would affect the WHO's role. Once issued, however, Temporary Recommendations can be modified or extended, even after a PHEIC has ended, although not indefinitely.[4] In addition, new Temporary Recommendations can be issued 'as necessary for the purpose of preventing or promptly detecting its recurrence'.[4] These provisions allow the WHO Director-General to provide guidance on re-establishing travel while addressing the continued risks of transmission and resurgence.

In addition, Standing Recommendations can be issued at any time on the advice of a Review Committee, for 'appropriate health measures' for 'routine or periodic application', to address a specific health risk.[4] This process could be one way of making recommendations on an ongoing basis, although formal Standing Recommendations do not appear to have been issued previously. The *IHR (2005)* also contain a number of provisions regarding public health measures that member states can use at any time. For example, specific articles deal with points of entry, public health measures applied to travellers, treatment of travellers and health documents. These could provide a framework to promote consistency in standards for testing or vaccination requirements or medical certificates.

Finally, the WHO can and does regularly issue informal technical guidance and other documents on relevant issues, developed by expert committees and advisory groups convened by the WHO or by the WHO staff with input from external experts. During the COVID-19 pandemic, guidance has been issued on detection and management of ill travellers at points of entry (https://apps.who.int/iris/bitstream/handle/10665/331512/WHO-2019-nCoV-POEmgmt-2020.2-eng.pdf) and controlling the spread of COVID-19 at ground crossings (https://www.who.int/publications/i/item/controlling-the-spread-of-covid-19-at-ground-crossings); the WHO has also contributed to the development of guidance issued by other international organizations (https://www.icao.int/covid/cart/Documents/CART_Report_Take-Off_Document.pdf). On 30 July 2020, the WHO issued advice on "Public health considerations while resuming international travel (https://www.who.int/news-room/articles-detail/public-health-considerations-while-resuming-international-travel)." These documents do not have the same legal status as formal recommendations, but nonetheless can and should be taken into account by member states.

Each of these tools could be used to provide different types of guidance at various stages. For example, while scientific evidence on relevant topics continues to evolve rapidly, informal technical guidance on issues such as protective measures, screening and testing are expected to be most useful, because they can be developed and updated relatively quickly. Relevant points can also be included in Temporary Recommendations as they are updated at regular intervals by the Emergency Committee, the diverse membership of which may help to promote harmonization. Once one or more vaccines have been approved, recommendations on standardized vaccination requirements could be provided in the short-to-medium term using these same mechanisms. A longer term strategy would be to incorporate details of permissible requirements relating to vaccination or immunity in an Annex to the *IHR (2005)*, like those that currently exist for Yellow Fever (Annex 7).[4] This approach would involve a longer process of revisions or additions to the *IHR (2005)*, which would eventually need to be adopted by the World Health Assembly.

Conclusion

Going forward, a combination of formal recommendations, informal guidance and the text of the *IHR (2005)* can provide guidance to member states on how to continue or modify travel restrictions in compliance with their international obligations. The role of the WHO and the *IHR (2005)* is important not only during the transition period as borders begin to reopen, but also in the longer term to manage the risks of re-establishing international travel.

Challenges for the WHO's role include a loss of credibility given the lack of guidance on travel restrictions in earlier stages of the pandemic, as well as widespread disregard for recommendations that were given. In the absence of a multilateral agreement, bilateral or regional arrangements may proliferate, further undermining global governance initiatives. Although some variation between regions is to be expected—particularly where, as in Europe, regional arrangements on free movement pre-existed the pandemic—the *IHR (2005)* remain the source of legal obligations applicable to all the WHO member states, enabling a balance of consistency and flexibility. Lessons learned during this period can inform ongoing discussions about how to reform the WHO and the *IHR (2005)* to make them more effective.[7]

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