PHM Comment on EU Resolution (Covid-19 Response)

PHM calls upon member states participating in WHA73 to focus on:

- strengthening international arrangements for responding to this and future pandemics more generally; and
- strengthening the accountability of nation states in relation to preparing for and responding to the pandemic in accordance with public health best practice and human rights principles.

Beyond these pandemic priorities there are broader global health objectives; action on the social determinants of health, action on equity in health and action towards strengthening health care systems in every nation to the level required for the progressive realization of the right to health and healthcare. The pursuit of these objectives is necessary for global preparedness but global preparedness planning and response must also work towards these goals.

It is against these expectations that PHM's comment on this item is prepared.

There are four strategic objectives to be served by the proposed resolution.

I. Request and/or empower the DG to take particular actions in responding to the pandemic;
II. Give direction for further action by the Assembly (in future deliberations);
III. Endorse and give weight to policy directions to be operationalized in future (by different players, at different levels, and different institutional settings) and
IV. Set out clear principles to guide Member States' (MS) responses to COVID (and against which MS ought be held accountable).

PHM structures its comment on the 'EU resolution' under these four headings.

I. Request and/or empower the DG

PHM appreciates the several provisions in the draft resolution which endorse the Secretariat's role in the COVID response. We appreciate the acknowledgement of "the key leadership role of the WHO" in OP2.

PHM endorses OP9.6 which calls for WHO to work with other organisations to "to identify the zoonotic source of the virus and the route of introduction to the human population, including the possible role of intermediate hosts, including through efforts such as scientific and collaborative field missions which will enable targeted interventions and a research

agenda to reduce the risk of similar events as well as to provide guidance on how to prevent SARS-COV2 infection in animals and humans and prevent the establishment of new zoonotic reservoirs, as well as to reduce further risks of emergence and transmission of zoonotic diseases".

The rise of pandemics from zoonosis is recurring with increasing frequency and there is also a need to assess not only the immediate outbreak, but also to explore the role of changing ecological relationships and how these need to be addressed to reduce the potential for future pandemics. Such a provision ought be included in the draft resolution.

PHM endorses OP9.10 which calls for the DG to "initiate, at the earliest appropriate moment, and in consultation with Member States, a stepwise process of impartial, independent and comprehensive evaluation, including using existing mechanisms, as appropriate, to review experience gained and lessons learnt from the WHO-coordinated international health response to COVID-19".

The lack of any explicit reference to evaluating MS policies, practices and experiences in this paragraph is striking. PHM urges an amendment to this paragraph to make it clear that "experience gained and lessons learnt" includes country actions and experience and lessons learnt.

PHM suggests including in this paragraph an explicit reference to strengthening the DG's emergency advisory powers, short of declaring a Public Health Emergency of International Concern (PHEIC), and considering the possibility that the IHR decision instrument is overly dependent on international transmission. The rules regarding mechanisms of verification also need to be reviewed so that the DG is able to be able to exercise due diligence in reporting about the outbreaks in any one country.

OP9.3 calls upon the DG to 'assist and call upon' MS to comply with the IHRs but no clear authority is given to review MS actions in complying with WHO temporary recommendations. Likewise there are no provisions in the draft for mechanisms to review MS actions in complying with information sharing obligations or complying with human rights principles including with respect to lockdowns, and the conditions of quarantine and isolation.

MSs need to be accountable for the efforts they make to address the impacts (of both the virus and the measures put in place) on vulnerable populations. However, the draft is silent on the needs of migrants, refugees and stateless people, and the conditions of work of health workers and other frontline workers. PHM calls for empowering the DG with the authority and the finances so that the WHO can, in cooperation with other concerned UN agencies, launch and sustain interventions of both medical and humanitarian nature where there are

large concentrations of refugees or stateless, failing to receive the standards of care or protection that is required, or in low and middle income nations who are unable to cope with the surge of cases or the humanitarian crisis consequent to the pandemic and state response.

II. Committing to further action by the Assembly

OP9.9 asks the DG to ensure that the Secretariat is adequately resourced to support the Member States granting of regulatory approvals for diagnostics, medicines, and vaccines. It is not clear whether this implies the need for a redistribution within the Secretariat budget or fund raising specifically for this purpose. PHM urges that the member states recognise the degree to which WHO's funding shortfall and donor dependence limits what WHO can do. Once again, PHM urges member states to lift the freeze on assessed contributions and untie donor funding.

PHM appreciates the recognition (in PP13) of the need "for all countries to have unhindered timely access to quality, safe, efficacious and affordable diagnostics, therapeutics, medicines and vaccines, and essential health technologies, and their components as well as equipment for the COVID-19 response".

PHM also appreciates the request in OP9.8 for the DG "to identify and provide options … for the consideration of governing bodies" …for " scaling up development, manufacturing and distribution capacities needed for transparent equitable and timely access to quality, safe, affordable and efficacious diagnostics, therapeutics, medicines, and vaccines for the COVID-19 response". This however is a very timid and cautious commission ("to identify and prepare options"). PHM calls on member states to request the DG to redouble his efforts to assist states in securing their entitlements and rights to safeguard their public health by developing the capacity they need to use the TRIPS flexibilities, the GSPOA, CBD, The Nagoya Protocol and other such international agreements so as to attain adequate access to these products and ensure health security.

PHM urges WHO to establish an open innovation platform for the rapid public sharing of all research outcomes, problem solving, and closing knowledge gaps and towards that end secure binding commitments from entities and individuals engaged in this R&D.

PHM notes the references to the Access to COVID-19 Tools (ACT) accelerator and pledging appeals, such as "The Coronavirus Global Response". Ad hoc 'appeals' are no substitute for ensuring adequate and flexible funding for WHO based on mandatory contributions.

PHM urges member states to recognise that both the ACT and the Covid Global Response Appeal have the effect of marginalising WHO as just one player in yet another 'multistakeholder partnership' rather than affirming and respecting its preeminent role as,

as the directing and coordinating authority on international health work. There are serious conflicts of interest in the composition of ACT, which could come in the way of implementing compulsory licenses or other uses of TRIPs flexibilities and the development of national self-reliance in essential anti-COVID technologies.

PHM notes the call in OP8.2 for international organisations and other relevant stakeholders to "work collaboratively at all levels to develop, test, and scale-up production of safe, effective, quality, affordable diagnostics, therapeutics, medicines and vaccines for the COVID-19 response, including, existing mechanisms for technology transfer, voluntary pooling and licensing of patents to facilitate timely, equitable and affordable access to them, consistent with the provisions of relevant international treaties including the provisions of the TRIPS agreement and the flexibilities as confirmed by the Doha Declaration on the TRIPS Agreement and Public Health".

Voluntary pooling and licensing is not enough. As well as ensuring countries can use to the full the flexibilities available under TRIPS PHM urges WHO to continue to explore various approaches to delinking the price of medicines and vaccines from patent derived profits, building on the work of the Consultative Expert Working Group on Research and Development under WHO (CEWG) and the High Level Panel on Access to Medicines.

III. Endorse and give weight to policy directions and principles which need to be operationalized at a later stage (by different players, working at different levels and in different settings)

PHM appreciates the several expressions of concern in the draft resolution regarding the impact of the pandemic and the expressions of solidarity. PHM appreciates the recognition of the disproportionate impact of the pandemic (including government responses) on vulnerable people, health workers and other frontline workers (PP12). However, we regret that there are no references to prisons or refugee camps or to migrant workers left stranded by the lock-down and the economic crisis.

We appreciate the recognition of the need to protect personnel, facilities and supply lines in conflict and humanitarian settings (PP14) and the emphasis on respect for international law as a condition for managing COVID in conflict settings (PP16). We appreciate also the acknowledgement of the commitment and sacrifice of health workers, other frontline worker and staff of the Secretariat (OP3) and the call (in OP5) for timely and adequate development and humanitarian assistance.

OP8.1 calls on "international organisations and other relevant stakeholders" to support countries in health system strengthening but makes no reference to their assisting in establishing IHR core capacities. IHR core capacities are intrinsically tied to health system

strengthening and should be explicitly recognized as global public health goods with an accompanying obligation for international funding.

PHM appreciates the recognition of immunization as a global public health good (in OP6) but condemns the exclusion of vaccines from this status (effectively affirming market-based production and distribution with the prohibitive pricing and failure to invest in meeting public health needs which is part of this approach).

PHM calls for a review of lock-down strategies across countries and contexts, to understand how effective, proportionate or humane these restrictions were. It is critical to assess how the benefits achieved compare with the loss of lives and suffering due to other health conditions, and due to hunger, starvation, loss of livelihoods, loss of freedoms and exposure to violence in such lock-downs. The commitment to reach and maintain a level of health systems preparedness that makes such future restrictions less essential and more selective must become a global commitment.

IV. Principles to guide MS responses to COVID (and against which MS ought to be held accountable)

PHM notes and appreciates the various references to international cooperation unity and solidarity (eg in PP19). OP1 "calls for, in the spirit of unity and solidarity, intensification of cooperation and collaboration at all levels to contain, control and mitigate the COVID-19 pandemic".

Cooperation implies mutual accountability but there are no references in this draft to member states' accountability for acting in a spirit of unity and solidarity.

PHM is not arguing for member state accountability to the Secretariat but governments' accountability to their own people. To strengthen such accountability in the case of COVID would require impartial, independent and comparative evaluation of country performance so that we can be assured that the necessary lessons are learned. This is an important role for WHO.

In OPs7.1-7.15 the draft calls on countries to put in place a comprehensive COVID action plan. The elements of the plan which are listed are broadly comprehensive but we note the lack of any references to nutrition, prisons, refugees, the stateless and large numbers of migrant workers. We also are concerned with the complete absence of mention of the economic and humanitarian consequences of the lock-down and the way lock-downs have in many nations led to abrogation of many human rights as well as labour laws and been used in strengthening state surveillance and action against political enemies. Equally

troubling is that there is no consideration of MS accountability for the implementation of such a plan.

PHM appreciates the reference in PP8 (and OP9.2 and OP9.3) to the obligations on states parties to implement and comply with the IHRs. However, there are no matching references to any accountability mechanisms for the full implementation of the range of obligations on states parties to the IHRs.

The exception is the ongoing pressure on low and middle income countries over the core capacities (see for example OP9.2). However, there is no recognition that the core capacities of MSs are intrinsically tied to health system strengthening and does not acknowledge that IHR core capacities are essentially global public health goods. A global recognition of this would strengthen the case for mobilizing international funds for core capacity development (and therefore for health system strengthening) in low and middle income countries.

OP7.10 calls upon member states to provide WHO with "timely, accurate and sufficiently detailed public health information related to the COVID-19 pandemic as required by the IHR". There is no suggestion of any accountability for not doing so, nor of the need to set data standards, and establish procedures for independent verification and comment

PHM appreciates the call (in OP7.15) for sustainable funding for WHO but this call is weakened by the lack of any reference to the freeze on assessed contributions; or to the need for flexible funding rather than the continuing donor chokehold over WHO's effective budget.

Over-riding principles

These implementation issues need to be couched within a set of broad human rights derived principles such as those set out by David McCoy in his BMJ Blog (April 29) 'We need a manifesto'.

Notes of discussion at WHA73