The following is the text of the Amendment to the PIP Framework approved by the Seventy-Second World Health Assembly

AMENDMENTS TO FOOTNOTE 1 OF ANNEX 2 OF THE PIP FRAMEWORK

Recipients are receivers of “PIP Biological Materials” from the WHO global influenza surveillance and response system (GISRS), such as manufacturers of influenza vaccines, diagnostics, pharmaceuticals and other products relevant to pandemic preparedness and response, as well as biotechnology firms, research institutions and academic institutions. Recipients shall select from among the commitments identified in SMTA2 Article 4.1.1 (a) to (c) based on their nature and capacities; those that are not manufacturers shall only have to consider contributing to the measures set out in SMTA2 Article 4.1.1(c).

Any manufacturer that enters into any contracts or formal agreements with recipients or GISRS laboratories for the purpose of using PIP Biological Materials on the manufacturer’s behalf for commercialization, public use or regulatory approval of that manufacturer’s vaccines, diagnostics, or pharmaceuticals shall also enter into an SMTA2 and select from among the commitments identified in Article 4.1.1 (a) to (c) based on their nature and capacities.
I) Introduction

These “Questions and Answers” have been developed to assist SMTA2 stakeholders to better understand the amendment to the PIP Framework that was adopted by the Seventy-Second World Health Assembly in May 2019. The document is intended to be a living document - information will be updated as needed and new questions will be added as they come in. Should you have any questions that are not addressed in this document, kindly send them to pipframework@who.int and we will add them to the compendium.

II) Basic Overview of the Amendment

The amendment introduces a new reporting requirement for recipients of PIP Biological Materials (PIP BM) if they use the PIP BM for specific purposes. The reporting requirement is triggered when all four of the following conditions are met:

1. A recipient of PIP BM, or GISRS laboratory;
2. Enters into a contract (or formal agreement);
3. With a manufacturer;
4. To use PIP BM to support the manufacturer’s commercialization, public use or regulatory approval of its influenza vaccines, diagnostics or pharmaceuticals.

The amendment promotes fairness among manufacturers using PIP BM by ensuring that manufacturers that indirectly use PIP BM sign an SMTA2 with WHO.

III) Questions and Answers

Question 1. When and how does the Amendment Apply?

If you are:

1. a recipient of PIP BM or a GISRS laboratory and
2. you enter into a contract (or formal agreement) with a manufacturer to use PIP BM to support that manufacturer’s commercialization, public use or regulatory approval of its influenza vaccines, diagnostics or pharmaceuticals,

then you must:

a) Inform WHO of the name of the manufacturer on whose behalf you are using the PIP BM, including a contact name; and
b) Inform the manufacturer that you are going to do this.

WHO will use this information to approach the manufacturer and conclude an SMTA2 with them.

Question 2. Who does the amendment apply to?

The amendment applies to all recipients of PIP BM. These can include the following types of entities: Contract Research Organizations (CRO); public health laboratories; GISRS laboratories; university research laboratories; influenza product manufacturers; and biotechnology companies. All agreements already signed will be revised to include this new obligation and all new agreements will include a provision to capture the amendment.
Question 3. What information must I share with WHO?
WHO requires only the name of the manufacturer – and a contact person – on whose behalf you will use the PIP BM. You do not need to share any other information with WHO.

Question 4. Does the amendment create an obligation to sign an SMTA2 with WHO?
   a) All recipients of PIP BM must sign an SMTA2 with WHO – the amendment does not change this requirement.
   b) The amendment captures a broader range of manufacturers that have never received PIP BM but benefit indirectly from its use in the commercialization, public use or regulatory approval of their influenza products.
   c) WHO will use the information provided by the PIP BM recipient under the scenario described in Question 1, and contact the manufacturer in order to conclude an SMTA2.

Question 5. What types of activities are covered by the terms “commercialization, public use or regulatory approval” of an influenza product?
The amendment applies when a recipient uses the PIP BM - on behalf of a manufacturer - for any activities related to an influenza product’s:
   a) Commercialization: This includes activities required by national regulatory authorities for licensing/authorizing the product for marketing.
   b) Public use: By “public use”, Member States referred to vaccines and other products produced by Government owned and/or operated entities. In such cases, the product is not commercialized, but the same licensing activities as described in the “commercialization” bullet above would be covered.
   c) Regulatory approval: This includes any activities that require the use of PIP BM to submit a product to a regulator for regulatory approval.

Question 6. Are there contracts to which the amendment does not apply?
Yes, there is an exception where the manufacturer transfers PIP BM to an entity that is under contract to perform part of the manufacturing of its product. Generally, these are long-standing contracts that manufacturers have with laboratories or contracted entities for the execution of specific steps in the process to manufacture a product. In certain cases those steps require use of PIP BM, and the manufacturers that have such contracts in place are authorized to transfer PIP BM to these contracted entities. Several SMTA2s contain a provision stating that transfers of PIP BM to such laboratories or contracted entities do not constitute a “transfer” of PIP BM that requires signature of an SMTA2 by the recipient laboratory or contracted entity. See for example, Article 5.4 of the SMTA2 signed with the following manufacturers: CNBG, GSK, Sanofi, Serum Institute of India, and Sinovac: https://www.who.int/influenza/pip/benefit_sharing/SMTA2_catA/en/

Further background:
   a) Under the PIP Framework, Member States decided that a recipient of PIP BM could onward transfer PIP BM only if the prospective recipient had already concluded an SMTA2 with WHO. This is specified in Article 4.4 of the model SMTA2 found at Annex 2 of the PIP Framework.
   b) In its work to implement the PIP Framework and conclude SMTA2s, WHO recognized that many manufacturers, notably vaccine manufacturers, had in place well-established, long-standing arrangements with third parties (contracted entities) to conduct specific manufacturing processes and procedures that could require use of PIP BM.
   c) Manufacturers wished to ensure that these long-standing arrangements would not be impeded by the PIP Framework and that the manufacturers could transfer PIP BM to the contracted entities without requiring them to sign an SMTA2.
Thus, it was agreed that under specific circumstances, certain transfers of PIP BM by a recipient to a contractor do not trigger Article 4.4, provided that: a) the PIP BM is returned to the manufacturer or destroyed at the end of utilization; b) the PIP BM will not be utilized by the contractor for research, development or production other than as directed by the manufacturer; and c) the manufacturers is responsible for the compliance of the contractor for the handling of the PIP BM in accordance with the terms of the SMTA2.

The following section provides answers to the following Question: “How will the Amendment affect me if…”

**Question 7. … I have already received PIP BM and I have been requested to use it on behalf of a manufacturer?**
If you use the PIP BM in your possession on behalf of another company or institution for the purposes set out in Q5 *but that company has not yet signed an SMTA2*, you must:

1) inform WHO of the name of the company/institution on whose behalf you will use the PIP BM, and the contact name;
   - You do not need to provide WHO anything other than the name of the manufacturer and a contact name (see Question 3 above); and
2) inform the company/institution on whose behalf you will be using PIP BM that it will be contacted by WHO regarding conclusion of an SMTA2.
3) If you have not already signed an SMTA2, you will also be required to sign an SMTA2 with WHO.

**Question 8. … I am requesting PIP BM pursuant to a contract I have with a manufacturer?**
If you have entered into a contract with a manufacturer that has not yet signed an SMTA2, and the manufacturer has requested you to obtain PIP BM to use it for any of the purposes set out in Q5, you may proceed to request and receive PIP BM but will need to:

1) inform WHO of the name of the company/institution on whose behalf you will use the PIP BM;
   - You do not need to provide WHO anything other than the name of the manufacturer and a contact name (see Question 3 above); and
2) inform the company/institution on whose behalf you will be using PIP BM that it will be contacted by WHO regarding conclusion of an SMTA2.
3) If you have not already signed an SMTA2, you will also be required to sign an SMTA2 with WHO.

**Question 9. I am a manufacturer that has not received PIP BM or signed an SMTA2 but I am contracting with a laboratory to use PIP BM on my behalf to perform an activity as part of the process to commercialize/license my product (as described in Question 5, above)?**
You have two options:

a) You may inform WHO of this by sending an e-mail to pipframework@who.int. WHO will acknowledge the information and place your name on the list of entities that should be contacted for concluding and SMTA2.

b) If you do not wish to do this, there is nothing for you to do at this time. However, please note that the laboratory you contract with will inform WHO that they are working with you and WHO will contact you in due course to sign an SMTA2.
IV) Additional Information

Question 10. Why was the SMTA2 amended?
   a) At its October 2018 meeting, the PIP Advisory Group (PIP AG) considered the matter of “indirect use” of PIP Biological Materials (PIP BM)\(^1\) and the lack of benefit sharing arising therefrom.
   b) More specifically, the PIP AG noted that “this has occurred, and may continue to occur, where manufacturers of influenza products work with PIP BM recipients outside their organization to support development, testing or regulatory processing of their products. Such manufacturers would not appear in the IVTM, and therefore would not be contacted to sign an SMTA 2”\(^2\).
   c) To maintain fairness and equity in the benefit-sharing system, the PIP AG recommended that Footnote 1 of Annex 2 of the PIP Framework be revised to ensure that the SMTA2 mechanism covers indirect use of PIP BM.

Question 11. What was the process to amend the PIP Framework SMTA2 model agreement?
   The amendment was adopted by the 194 Member States WHO at the Seventy-Second World Health Assembly through Decision WHA72(12), at paragraph 2.\(^3\)

Question 12. When did the amendment become effective?
   The amendment became effective on 28 May 2019, the date of closure of the Seventy-Second World Health Assembly.

Question 13. Will the amendment affect my ability to request PIP BM?
   No, the amendment will not affect your ability to request or receive PIP BM. When you request PIP BM, a Shipping Notice will inform you of the conditions that will apply if you accept the PIP BM. Conclusion of an SMTA2 with WHO has always been a condition to receipt of PIP BM. If you, as recipient of PIP BM, use the PIP PM for the purposes set out in Question 5, then you will need to comply with the requirements described in Question 1.

Question 14. How is the amendment being implemented?
   WHO has taken the following steps:
   a) Revised the SMTA2 template to introduce the new provision.
   b) Revised the Shipping Notice to alert potential PIP BM recipients of the new provision.
   c) Is currently approaching all entities that have already signed SMTA2 to amend their agreements.

Question 15. What should I do if I do not agree with the terms of the amendment?
   a) If you have already received PIP BM, you must immediately cease all work on behalf of third party(ies) and inform WHO so that we can work with you to either return or destroy the PIP BM.
   b) If you have requested PIP BM from a GISRS laboratory but have not yet received the PIP BM, you must inform the GISRS laboratory from which you requested the PIP BM not to send the materials.

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\(^3\) [https://apps.who.int/gb/ebwha/pdf_files/WHA72/A72(12)-en.pdf](https://apps.who.int/gb/ebwha/pdf_files/WHA72/A72(12)-en.pdf)
Question 16. Where can I find more information about the amendment and the PIP Framework? Who can I contact if I have questions?

a) You will find more information on the amendment and the PIP Framework at the following links:
   - PIP Framework homepage: https://www.who.int/influenza/pip/
   - Standard Material Transfer Agreements 2:
     https://www.who.int/influenza/pip/smta2/en/
   - Shipping Notice for PIP Biological Materials (revised October 2019):
   - Decision WHA72(12) (full text of amendment can be found at operative paragraph 2):

Please submit further questions or inquiries to pipframework@who.int.