

Framework of engagement with non-State actors
(Document EB136/5 of 15 December 2014)

Contributions by France

Pursuant to Executive Board decision EB136/CONF /5 Rev.1 (OP) 1, France hereby submits the following proposals on the « Draft overarching framework of engagement with non-State actors » currently under discussion.

The following are essentially requests for clarification, given that, in the event of general agreement, France could go along with the Secretariat's proposal as it stands.

Introduction

§1, Footnote on page 1 –

Clarification.

In line with the remarks in § 33 of the Report by the Secretariat (Document EB 136/5), it would be useful to expand the list of « levels of the Organization » (see also the amendment to § 22) to which the framework would apply: Headquarters, regional offices and country offices, as well as hosted partnerships and entities set up under WHO. These entities (for example the International Agency for Research on Cancer, etc.) could usefully be listed in parentheses for greater clarity and precision.

Non-State actors :

Linguistic clarification.

§ 11 : we agree on the substance but there is a language issue:

The current French translation of « *business associations* » by « associations professionnelles » creates a difficulty, because the text is talking about organizations that, in actual fact, protect industrial, commercial or financial interests as embodied by enterprises, whereas the French term refers to a different concept (for example, a grouping of midwives, dentists or students). We therefore suggest the formulation « associations d'entreprises », in keeping with the spirit of the text.

Participation :

Editorial clarifications are needed.

§ 16 : subparagraph « **(b) Consultations** » : some editing required.

- If the idea of consultations includes *consultations in electronic or written form*, this should be stated *explicitly* and, in fact, there is no limit to the systematic participation of non-State actors in consultations of this type.

- If it means *physical presence at meetings*, it cannot be categorically stated that: « *There are no limits imposed on non-State actors' participation at such meetings* » because there are cases, for example, in which Member States decide to meet alone, among themselves, for intermediate consultations outside meetings of the governing bodies covered by subparagraph (a). This scenario appears to be envisaged later on, and quite rightly, in the section entitled « Participation » for each of the specific policies (cf « *The format of such consultations is decided on a case-by-case basis ...* ») and contradicts the general principle stated in 16 b (« *There are no limits ...* »).

Management of conflict of interest and other risks of engagement:

No reservations on the substance but some editing is required.

§ 22 - 3rd bullet point: for greater clarity, we propose the following wording: « Risks of engagement need to be managed and communicated coherently in each of the three levels of the Organization and throughout the Organization » in order to bring out the *vertical* and the *horizontal* aspects of collaboration between WHO and non-State actors.

§ 22 - 4th bullet point: we wish to retain the wording *in its present version*, to make clear that the issue is one of oversight, i.e. overall *ex post facto* oversight, vesting in the WHO governing bodies and relying on transparency, rather than co-management and micromanagement of decisions on a case-by-case basis.

Conflict of interest:

§ 26 : the concept of « *WHO's interests* » is not very precisely defined; moreover, the concept seems to vary slightly depending on the § of the text, and § 36 which refers to the Organization's « *mandate* ». It would therefore be preferable to provide a **clear definition** in the future **glossary** and then to ensure concordance with § 23 which identifies the « primary interests » (of WHO) exclusively with WHO's *work*.

Due diligence and risk assessment:

No reservations on the substance but some editing is required.

§ 30 2nd bullet point + § 31

It would be preferable to define more precisely the notion of the « status » of entities (in the *glossary*, if necessary), in order to guard against the subsequent interpretation, throughout § 31, that solely the entity's status sometimes suffices to categorize each non-State actor in relation to one of the four groups (§ 31).

Risk management:

No reservations on the substance but some editing is required.

§ 33 : « The management decision is usually taken by the management of the unit engaging with the non-State actor » ; for greater clarity, the following phrase could be added to the beginning of the sentence: « Subject to paragraphs 34 and 35, the decision is usually taken...» because the full procedure is described further down, in the following §§.

§ 36 : A precise definition of the « risk management framework » referred to here would be very helpful: is it the framework of engagement as a whole? Or some other framework ? Depending on the response, the § might need to be redrafted.

Transparency:

No reservations on the substance but some editing is required.

§ 38 and 39 : these 2§ should be aligned more closely, because:

§ 39 clearly states that only « a summary is made public ».

§ 38 could be interpreted more broadly (potentially *all* the data).

Proposal: in § 38 replace « *the main standard information provided* » with « *main standard information* » and place the last 2 sentences of § 38 in a separate paragraph, in order to distinguish more clearly between the summary and the register.

Engagement with particular industries:

§ 44 : we wish to retain the wording *in its present version*; the important thing is to have a clear and fixed definition of the excluded sectors, leaving no room for multiple interpretations that would have to be decided upon on a case-by-case basis.

Official relations:

Some editing is required.

§ 49 -52 – 55 / *coordination between definitions*:

- § 49 refers exclusively to **already existing** organizations (cf : « *that have had and continue to have a sustained and systematic engagement in the interests of the Organization.* »
- § 52 envisages the possibility admitting **new organizations** (cf : « *The Executive Board shall be responsible for deciding on the admission of organizations into official relations with WHO* »), which, strictly interpreted, contradicts § 49. Moreover, § 52 does not clarify on *what criteria* this decision will be taken.
- 55 stipulates that: « *Non-State actors in official relations are international in membership and/or scope.* », whereas § 52 limits the list to « *international nongovernmental organizations, philanthropic foundations and international business associations* » : what is the link between these §§ ?
- If § 53 lays down the *principle* that : « *Non-State actors in official relations with WHO are invited to participate in sessions of WHO's governing bodies* », (i.e. in *all cases*), what then is the specific scope of the general provisions contained in § 16 : « *Non-State actors' participation is determined by the governing bodies' respective rules of procedure, policies and practices* » ?

Final comment:

We endorse the preparation by the Secretariat of a **glossary or terminological annex** containing a series of fixed definitions. These will facilitate interpretation of the document which, in its current version, contains occasionally contradictory or not entirely consistent definitions in its various paragraphs.

Geneva, 16 February 2015