

Implementation of the Framework of engagement with non-State actors (FENSA)

Respondents: Regional offices, Country offices and Headquarter clusters assessing its implications

Introduction:

1. The 138th Executive requested the Secretariat to provide a balanced and objective report of the implications of the implementation of the Framework of engagement with non-State actors (FENSA) well in advance of the resumed session of the Open-ended intergovernmental meeting of 25-27 April 2016.

2. To this end, all WHO Regional Offices and Clusters in Headquarters and a selection of Country Offices are invited to provide their inputs through this questionnaire. In addition a more detailed matrix of analysis will be sent for comments to FENSA focal points in regions and clusters.

3. In order to assure that we can present a balanced and objective report to Member States, the External Auditor has kindly agreed to validate and comment this questionnaire, the more detailed analysis matrix and write the final report.

4. The adoption and implementation of FENSA will modify the way WHO manages its engagement with non-State actors (NGO's, private sector entities, philanthropic foundations and academic institutions). The main changes concern the following points

- a. FENSA is covering all engagements within with all non-State actors, while the current policies covered engagement with private sector entities and NGOs in official relations only
- b. Transparency will be increased through the Register of non-State actors (including information on objectives, governance and funding of non-State actors and description of engagements)
- c. FENSA calls for a consistent implementation at all 3 levels of the Organization and all regions and hosted partnerships through an electronic workflow, due diligence by central unit for, a guide for staff, clear decision making
- d. FENSA will increase accountability towards Members States by strengthened oversight of the Executive Board
- e. The Director General will report annually on engagement with non-State actors

5. Some of the proposals made during the negotiation process have not been included in the text and are no longer under consideration. They should therefore also be excluded from the analysis of implications of FENSA implementation. Such issues include in particular:

- a. FENSA applies only to engagement with non-State actors as institutions and not to engagements with individual experts.
- b. There will not be a defined ceiling for contributions received from non-State actors

- c. Due diligence and risk assessment is a process conducted by the Secretariat with no direct involvement of Member States
 - d. Free services provided by non-State actors are an in-kind contribution, but not covered by the not yet agreed provisions on secondments.
6. Several current policies are confirmed by the draft Framework and often made more explicit:
- a. WHO does not engage with the tobacco and arms industries
 - b. Official relations (while currently all entities are called NGO's, non-State actors in official relations will in the future be distinguished in NGOs, International Business Associations and Philanthropic foundations)
 - c. Several specific paragraphs on private sector engagement (such as clinical trials) are transposed from the current guidelines into the private sector policy.
 - d. The CPSC (Committee on Private Sector Cooperation) will be replaced by an engagement coordination group ECG
7. For information here are the elements which would likely be covered in the report on implications of implementation of FENSA:
- a. Changes to the work of WHO governing bodies
 - b. Costs of implementation
 - i. Direct financial costs of implementation
 - ii. Direct human resource costs
 - iii. Indirect human resource costs
 - iv. Regular training costs
 - v. Startup costs
 - GEM build up to provide the IT tool for the Register of non-State actors
 - Training costs
 - Additional burden of filling the register with first time entries
 - c. Potential efficiency savings through implementation of FENSA
 - i. Information gathering
 - ii. Clarity on actors, process and earlier decisions
 - d. Added value of FENSA
 - i. Stronger protection from undue influences
 - ii. Coherence in engagement across WHO and across different engagements

- iii. Clarity on engagement
- iv. Transparency
- v. Better information, documentation, intelligence and lessons learnt on non-State actors and engagements
- vi. Clear process of senior management decision making
- e. Risks of FENSA
 - i. Potentially cumbersome process
 - ii. High number of engagement
 - iii. Lack of flexibility
 - iv. Potential bottle-neck in due diligence and risk assessment process
 - f. Changes to the engagement opportunities and risks
 - i. Policy changes in engagement
 - ii. Incentive changes for engagement

QUESTIONS:

8. Estimation of the volume of engagements. Questions in paragraphs 9 and 10 try to estimate the volume of engagements which should in the future be handled through the process defined by FENSA. The External Auditors will compile your input from country, regional and headquarter level into an overall estimation. Please note that this refers to formalized engagement as defined in the paragraphs 15-21 of the draft FENSA and not to informal interactions. Formal engagements include amongst others: a meeting with official invitations, agenda, list of participants, etc; any interaction involving a signature of an agreement or MoU to receive resources, work as implementing partner, allow the use of advocacy material, enter into technical collaboration, etc. Preparation for such engagement or informal contacts by phone, e-mail or informal discussion are not considered as engagements. For a meeting only the non-State actors who have actually participated should be counted, not all those who have been invited. A series of meetings in the same year on the same subject with the same or similar invitation lists should be counted as one engagement.
9. Please provide a rough estimate of the **numbers of non-State actors** you engaged with in 2015 by type of engagement in the following table for your region (excluding country level), cluster or country office respectively.

Cluster / Regional office / country office: Malaysia

	Participation	Resources	Evidence	Advocacy	Technical collaboration
NGOs	2			3	^Individ: 1
Private sector entities	1	XX		2	Org.: 2 ^Individ: 5*
Philanthropic foundations					

Academic institutions	7			5	Org: 1 ^Individ: 7
Other	**1				^^ Individ: 1

Footnotes

** Other = CCM (the Global Fund Country Coordinating Mechanism) – this does not fit the categories above easily as is not a registered legal entity or even an unregistered entity, but a formal mechanism required by the Global Fund in all countries that receive a GF grant, and participants are a mix of State actors and NSAs (including a private sector representative).

* One individual was a former WHO staff member

^ Individuals indicated here have a significant/primary connection with the category indicated (eg they may be a professor at a university) but the contract is with them personally – however, if all contracts of this nature should be considered as purely private, then these numbers should be shifted under the 'private sector entities' category.

^^ This individual contractor was an MOH employee from another country who got formal leave/approval from her employer to have a paid contract directly with WHO. [In the past we have also used MOH/public sector employees and engaged them as Temporary Advisers as their country agreed they could provide the consultancy but with no fee payment (only airfares and per diem) – so this situation does arise occasionally in different forms.

XX We receive in-kind donations from 3 different drug companies for NTDs – this is through the globally arranged programme and coordinated by HQ, so we assume these figures should not be counted at country level, as such an engagement would be cleared centrally.

10. Please provide a rough estimate of the numbers of **engagements** in 2015 by type of engagement in the following table. For engagements covering more than one type count them only once for the most relevant type.

	Participation	Resources	Evidence	Advocacy	Technical collaboration
NGOs	2			3	^Individ: 1
Private sector entities	1	XX		2	Org.: 2 ^Individ: 5*
Philanthropic foundations					
Academic institutions	7			5	Org: 1 ^Individ: 7
Other	1**				^^ Individ: 1

** CCM (refer also footnote for table above) – can have 3-4 meetings per year, counted as one, but meeting participation can vary between meetings (as there are members and alternates – these may be from different organisations for the same constituency), so counting the NSAs who are present across several meetings is difficult. (Relying on minutes may not be so timely, as minutes can take some time to come out.)

*,XX,^^,^ please refer to footnotes of previous table.

Comments on the methodology used and its difficulties of this estimation,

1. Lack of clarity whether contractors (consultants and APWs, who may be individuals or organisations) are included on the clearance/reporting procedures of the FENSA – para 48 implies that they might be excluded as they would fall under procurement of rules and regulations [(e) (i)] but the comment in other documents/emails that the statement that FENSA only applies to institutions has been removed may suggest otherwise (particularly as para 48 says that our engagement with NSAs will be coordinated and aligned with FENSA)... We have included figures above (if you do not want to exclude TA contractors, then exclude those figures under the 'technical collaboration' column in the tables above).

2. Who is responsible for getting clearance and including on the register (we need to avoid double counting), in the following situations:

(a) components of a country visit by the DG or RD, where the programme includes events that are not organised directly by the host government? Eg. a public lecture/forum/event hosted by a university, where hundreds may attend – impossible to give a count of different types of participants; or a visit to an NGO? (Numbers are included in the tables above.) [we assume the country office will do this where it is a country visit, but where the DG/RD is coming to provide a speech at an international conference and the invitation has been arranged in conjunction with the relevant HQ/RO technical unit, then the HQ/RO unit will seek FENSA clearance for this; if there is a combination of events (some local/some regional/international) then the responsibilities will be divided accordingly.]

(b) a global or regional workshops hosted in the country (numbers NOT included in the tables above)? [we assume HQ or the relevant Regional Office will do this]

(c) biregional workshops hosted in the country (numbers NOT included in the tables above)? [we assume one of the Regional Offices will do this]

(d) drug donations for NTDs through the global programme (numbers NOT included in the tables above)? [we assume HQ will do this]

3. Do we count or not count our engagement with:

(i) UN Special and Personal Representatives, Special Rapporteurs, Envoys and Advisers? (eg UN Special Envoy for Road Safety, Mr Jean Todt who is the president of the Fédération Internationale de l'Automobile). My understanding is that they are not UN staff, and may even be from the private sector. (they have not been included in the figures above)

(ii) UN Universities (UNU) and their Institutes (eg the International Institute of Global Health (UNU-IIGH)? We counted state-owned universities as separate academic institutions in the figures above – for consistency we should probably also include the UNU institutes also as separate academic institutions even though they are part of the UN. (we have included the UNU-IIGH in the above tables).

(iii) events/meetings organised/convened by other UN or intergovernmental agencies? – it could be argued that UN agencies are at arms-length from their member states control, and so are no different from engagements with state-owned universities which have been counted in the tables above. Currently, meetings/events organised by UN or other intergovernmental agencies have not been included.

(iv) statutory bodies such as the country Human Rights Council, or the Medical Council or other health professional regulatory bodies which have a registration and disciplinary role (this is separate from the Medical Associations, which may have a lobbying/role of representing the profession)? Engagements have been included in the tables above.

11. Please estimate the number of non-State actors your cluster / regional office / country office engages with in emergency situations (as described in the Emergency Response Framework) and describe the type of these engagements

We have established a UN Humanitarian Country Team, to help share information and preparedness for emergencies, even though there is no current emergency. Membership is determined by the RC, and includes NGOs and private sector representatives (eg from telecommunications companies), international agencies (other UN and IFRC, ICRC), and some government agencies. We meet quarterly. No numbers are include above as it is convened/organised by a UN agency – see query 3(iii) under question 10 above.

12. Please describe the main opportunities you see for the work of your region / cluster / country office through the adoption and implementation of FENSA

13. Please describe the main risks you see for the work of your region / cluster/ country office through the adoption and implementation of FENSA. This question does not refer to the risks of individual engagements as defined in FENSA but rather to the overall risks and challenges of implementing FENSA as a new policy.

1. Occasionally, we get asked to participate in meetings with various groups that may be a mix of individuals and (legally) established NGOs, or sometimes just individuals who are concerned about human rights related issues/violations, including how they have been treated by various authorities, or, for example, the lack of access for their group to ARV treatment. They may be seeking advice from relevant UN agencies, or a more neutral forum to identify how to proceed on various issues. If we detail these groups in any register, to which member states have public access, it could put these people in jeopardy for actions by security forces or other elements that (mis)use some religious or other basis for discrimination, and it may result in increased police or other surveillance on UN staff (not just WHO staff, if other agencies participated together)

2. If this also covers procurement of technical support, and approval of temporary advisers, etc – there may be significant bottle-necks in having a centralised assessment process for due diligence and risk management, and WHO will be criticised even more than it currently is for slow procurement processes.

3. Last minute invitations to participate in events (usually just to attend, but occasionally to deliver a speech) – if we cannot provide a prompt response, we will miss out.

4. Invitations to deliver a speech, etc – even though these may be received some weeks/months in advance, organisers usually want a response within a few days as they want to include relevant speakers etc on their programmes. After local due diligence (which we do do now) and we agree to participate, but then pull out (ie 'disengage' in FENSA language) much closer to the event because the higher-level risk assessment recommends not to engage, it will damage our reputation; if we delay saying yes, we may end up not being included and so we miss the opportunity to provide WHO's perspective/influence on key issues and reduce our visibility further.

5. Lack of consistency in understanding and applying FENSA (given also that many country staff are working in languages other than official languages and so the nuances of the FENSA may not be easily understood, even with very good training). It seem likely that each country office will need to have a mechanism/focal point to ensure that there is consistency in FENSA applications being submitted and correct use of the framework. This will need to be a P staff member, as the technical content needs to be understood, and

could be a bottleneck for implementation or engagement with NSAs.

14. Please describe the specific resources (staff and activity costs) currently working on engagement with non-State actors within your region / cluster/ country office.

Staff time spent on programme budget implementation and engagement of NSA contractors, etc = 2.5-3 FTE. Activity costs being used to engage contractors are those from the biennial country budget, approximately USD350,000+ per biennium.

Engagement by P staff and NPO with NSAs for participation (meetings/conferences) and advocacy varies considerably throughout the year, but is roughly 5-10% of time on average.

15. Please describe the specific incremental resources (staff and activity costs) that you would expect to be necessary to implement FENSA. If applicable please give resource needs for the focal points and central processes in regions / clusters separate from estimations for resource needs of technical units and explain your assumptions and methodologies :

One off resources/costs:

A. Training (and this needs to be proper training appropriately tailored for country level activities, not the usual stuff we get); periodic updating/retraining as more experience is gained in using the FENSA.

B. A system set up that enables (i) input by individual staff, but reviewed by appropriate technical managers and a 'focal point' to ensure consistency before final submission to the 'specialised' due diligence/risk management unit; (ii) regular sharing of examples and experience; (iii) central handling of due diligence so we do not have many country offices duplicating efforts to assess the same NGOs or agencies.

Recurring or On-going resources/costs:

1. Depends on processes developed – if the centralised unit does not rely on the engaging unit's assessment/summary of materials that can be found on the internet, or submitted by the organisation concerned about the background of the NSA or the event, then there may be significant additional resources needed at country level to translate webpages and other documents (eg from Khmer, Bahasa, Vietnamese, Chinese, etc...)

2. Whatever mechanism is put in place, in any country office there will have to be a mechanism that what is submitted for approval/recommendation is reviewed by a focal point to ensure it is the FENSA application is being submitted correctly and with some degree of consistency. This will need to be a P staff member, as the technical content needs to be understood. In a large country office this could add up to a significant amount of time of the PMO or similar, as there are often many different engagements in meetings simultaneously, so it may be necessary to engage additional staff to undertake this role. We already do due diligence on speaking engagements, etc and are careful to consider our engagement across any of the categories. But having to increase the documentation and submit this will take additional time. If it includes procurement of technical support, there is no doubt that additional resource will be needed to handle this – for a small office, estimate another 0.2-0.25 FTE may be needed.

3. Given different time zones and the essential need to be responsive globally, I assume the centralised 'specialised' due diligence/risk management unit will operate 18-24 hours a day, and not just during Geneva working days and times.