

## **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 138<sup>th</sup> 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: **NMH Cluster**

	Participation	Resources	Evidence	Advocacy	Technical collaboration
<b>NGOs</b>	200	20	40	60	40
<b>Private sector entities</b>	100	3	0	3	10
<b>Philanthropic foundations</b>	10	20	1	20	30

<b>Academic institutions</b>	70	30	40	50	30
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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.

	<b>Participation</b>	<b>Resources</b>	<b>Evidence</b>	<b>Advocacy</b>	<b>Technical collaboration</b>
<b>NGOs</b>	600	20	40	240	160
<b>Private sector entities</b>	100	3	0	3	10
<b>Philanthropic foundations</b>	40	20	1	20	30
<b>Academic institutions</b>	280	30	160	100	120

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

Number of NGOs vs engagement: participation x 4, resources x 1, evidence x 1, advocacy x 4, technical collaboration x 4

Number of private sector entities vs engagement: all x 1

Number of philanthropic foundations vs engagement: participation x 4, resources x 1, evidence x 1, advocacy x 1, technical collaboration x 1

Number of academic institutions vs engagement: participation x 4, resources x 1, evidence x 4, advocacy x 2, technical collaboration x 4

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

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

Resolutions WHA57.17 (Global strategy on diet, physical activity and health), WHA58.26 (Public-health problems caused by the harmful use of alcohol), WHA61.4 (Strategies to reduce the harmful use of alcohol), WHA63.13 (Global strategy to reduce the harmful use of alcohol), WHA63.14 (Marketing of food and non-alcoholic beverages to children) provide a mandate to WHO to hold discussions with private sector entities on how they could contribute to the public health objectives set out in these resolutions.

These resolutions do not provide guidance for interaction with other non-State actors (as defined in paragraph 9 of the draft FENSA included in EB138/7), or for other categories of interaction (as defined in paragraph 15).

However, to help Member States fulfil their own commitments included in the 2011 UN Political Declaration and 2014 UN Outcome Document on NCDs, WHO's engagement with non-State actors is extensive in view of their significant role in global health for the advancement and promotion of public health and to encourage non-State actors to use their own activities to protect and promote public health.

Similar scenarios exist for WHO's work in the area of nutrition (which are guided by the commitments included in the ICN2 Rome Declaration on Nutrition and Framework for Action currently being endorsed by the UN General Assembly) and road safety (including the UN Decade of Action on Road Safety), as well as mental health, substance abuse, disability, and violence and injury prevention – with mandates provided by the World Health Assembly, as well as the UN General Assembly, to strengthen the contribution of non-State actors to these public health objectives.

Encouraged by the Addis Ababa Action Agenda (which frames private sector contributions as one of the main means of implementation for the 2030 Agenda for Sustainable Development) and the 2030 Agenda for Sustainable Development itself (which facilitates intensive global engagement with the private sector in support of the implementation of all SDGs), the tobacco, food, beverage and alcohol industries have started to flood the global development arena with considerable financial resources (e.g. the recent announcement of US\$1 billion to promote “alcohol health literacy” by one of the alcohol producers). These resources are offered through domestic, bilateral, multilateral and non-State actor channels. FENSA will clarify the benefits and risks of WHO's engagement with these financial or in-kind contributions, and will help WHO to manage conflict of interest and other risks of engagement using a series of systematic steps (as set out in FENSA).

FENSA will also provide an opportunity for earlier clarification on actors, process and go/no-go decisions, as well as give position WHO better to work with non-State actors in different areas. FENSA will also provide the opportunity to receive feedback and input from non-State actors on WHO's normative work, and to provide better balance of technical support at advisory meetings. A mechanism to encourage input from relevant non-State actors might be considered, for example, an online portal such as the Global Health Policy Portal, or the country health policy process tool. The systematic approach to due diligence and risk assessment across the three levels of the Organization will also help to identify conflict of interest as regards to industry influence. The NMH Cluster has been using the DoI as a standard procedure when engaging with individual actors.

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/. Only the tobacco industry and the arms industry are currently excluded from engagement (paragraph 44). Member States may take into account that the alcohol industry and its business associations have increased their attempts to strengthen engagement with WHO across the three levels of the Organization. To ensure policy coherence with the WHO Global Strategy to Reduce the Harmful Use of Alcohol, appropriate procedures for engagement with the alcohol industry and related business associations should also be spelled out in FENSA. The resources at WHO's disposal to ensure that due diligence, risk assessment and risk management are undertaken by the Secretariat in this area may otherwise need to be huge. One example is the resources which WHO would require to manage the conflict of interest and other risks of engagement by potentially engaging with State-run monopolies on alcohol established on public health grounds, which would be considered as “partially or fully State-owned commercial enterprises acting like private sector entities” (paragraph 11).

2/. A similar case can be made for other industries which promote and produce products with the potential to cause dependence (e.g. cannabis or other plant-based psychoactive substances).

3/. Taking into account that many NGOs, philanthropic foundations, and academic institutions working in the areas of NCDs, mental health, substance abuse, nutrition, disability, violence and injury prevention have not benefitted from ODA financing streams as similar entities focused on the “unfinished business” of the health-related MDGs, many entities may find that the FENSA requirements are too demanding. This may also create an imbalance with industry-

supported NGOs vs. public-health NGOs.

4/. Non-State actor engagement by clusters, regions and countries without Cluster- and Category-wide information and coordination may impact on transparency and confidence.

5/. There is a very broad range of non-State actors and the risk is that WHO will establish a working relation with only a few, thereby excluding others. To avoid this type of top-down approach, Member States may need to give consideration to ensure that FENSA becomes fully inclusive. This might be assisted by a categorisation of non-State actors, so that different Clusters and Categories can identify the most relevant to their ongoing work. For example, this is not currently the situation with the list of NGOs in official relations.

6/. Current engagement with philanthropic foundations and some academic institutions are based on existing ToRs. FENSA will require that collaborative terms be revisited.

7/. SOPs, education and information for both internal and external stakeholders will be required to implement FENSA.

8/. While FENSA will help WHO to exercise particular caution when engaging with private sector entities, the full operationalization of the functions of the WHO Global Coordination Mechanism on NCDs (GCM)– as per its terms of reference endorsed by the World Health Assembly – would be restricted by the provisions included in FENSA. For example: insurance companies could not become a member of the GCM. More general: “the advancement of public health” (as stated in FENSA) can be achieved much more readily by allowing organizations in areas like trade, taxation, education, agriculture, urban development, climate change, energy, etc, to be eligible for entering into official relations with WHO.

9/. FENSA may restrict the work of the Secretariat (i.e. WHO) of the UN Interagency Task Force on NCDs in operationalizing some of its objectives (technical collaboration, advocacy, resources). For example: How will WHO exercise its “leadership and coordination role in relation to the work of other UN agencies in addressing NCDs in a coordinated manner” (paragraph 13 of the 2011 UN Political Declaration on NCDs) during joint country programming missions, if WHO’s types of interaction with non-State actors are subject to different provisions than those of UNDP and the World Bank?

10/. Readers may misinterpret FENSA as governments’ nationally defined regulatory and other engagement of non-State actors (rather than WHO’s corporate engagement with non-State actors).

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: All staff in the NMH Cluster are engaged in engagements with non-State actors, varying from 10% to 80% of a full-time staff member. The estimated total cost is the equivalent of 30 professional staff members working full-time on engagement with non-State actors, totalling around US\$1 million.

Activity costs: US\$2 million.

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:

Training across the NMH Cluster: US\$200,000

Recurring or On-going resources/costs:

Additional staff and additional activity costs would need to be doubled (compared to resources

described in question 14).