

## Framework of engagement with non-State actors

### Report by the Secretariat

1. The Executive Board, at its 133rd session in May 2013, requested the Director-General in decision EB133(2) to advance the work proposed towards the development of a more detailed framework of engagement with non-State actors for consideration by the Board at its current session, taking into account the deliberations of the Executive Board at its 133rd session, particularly in relation to transparency, risk and conflict of interest.

2. In order to fulfil its directing and coordinating role in global health and to implement the six leadership priorities set out in the Twelfth General Programme of Work, 2014–2019, WHO will need to engage with a variety of governmental and nongovernmental partners without compromising its integrity. A robust policy that ensures the quality of its engagement in the interests of improved public health will build on current practices.

### OBJECTIVES, PRINCIPLES AND BOUNDARIES

3. The overall objective of WHO's engagement with non-State actors is to work towards the fulfilment of the Organization's mandate by making better use of non-State actors' resources (including knowledge, expertise, commodities, personnel and finances). To do this the Organization will have to make the best use of the input from non-State actors in WHO's governance and consultations, and to engage in dialogue with non-State actors on how they can improve their activities so as to better protect and promote health.

4. WHO's engagement with non-State actors is guided by five overarching principles. Any engagement should:

- (a) demonstrate a clear benefit to public health
- (b) respect the intergovernmental nature of WHO
- (c) support and enhance the scientific and evidence-based approach that underpins WHO's work
- (d) be actively managed so as to reduce any form of risk to WHO (including conflicts of interest)
- (e) be conducted on the basis of transparency, openness and inclusiveness.

5. WHO's engagement with non-State actors is limited by four clear boundaries:
- (a) decision-making by the governing bodies is the exclusive prerogative of Member States
  - (b) WHO's processes in setting norms and standards must be protected from any undue influence
  - (c) WHO does not engage with industries that make products that directly harm human health, such as tobacco or arms
  - (d) engagement with non-State actors must not compromise WHO's reputation.

## WORKING DEFINITIONS

6. This section provides working definitions on actors and interactions.<sup>1</sup>

### Non-State actors

7. The following working definitions are proposed:

- **non-State actor** is an umbrella term for entities that do not belong to any State or public institution, that participate or act in international and national relations, and that have the power to influence and cause change in public health.

For the purpose of WHO's engagement, non-State actors include:

- **nongovernmental organizations:** non-profit entities that operate independently of governments
- **private commercial entities:** corporate entities that are expected to make a profit for their owners
- **philanthropic foundations:** non-profit entities whose assets are provided by donors and managed by their own officials, and whose income is spent on socially useful purposes
- **academic institutions:** entities concerned with the pursuit and dissemination of knowledge through research, education and training.

8. Within each main group of non-State actors, there are many subgroups of actors. Subgroups can be distinguished based on purpose, membership, funding source or other criteria. Some would, for example, distinguish between business interest nongovernmental organizations and public interest nongovernmental organizations. In addition, the characteristics of an individual non-State actor may change with time.

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<sup>1</sup> Work is under way to map WHO's current engagement with non-State actors in more detail, by compiling information on existing and recent engagements in terms of their frequency, the types of non-State actors and the types of interactions.

## **Types of interaction**

9. During the Director-General's informal consultation with Member States and non-State actors on WHO's engagement with non-State actors (Geneva, 17 and 18 October 2013),<sup>1</sup> five broad areas of interaction were distinguished: participation, resources, evidence, advocacy and technical cooperation.

### **Participation**

10. Participation refers to the possibility for non-State actors to attend meetings or participate in consultations organized by WHO. Participation in governing body sessions can take different forms, starting from simple attendance as observers to different speaking rights. Attendance means presence at a meeting, listening to the deliberations and interacting informally with delegates.

11. WHO increasingly holds informal consultations with non-State actors in the preparation of policies. Consultations can be web-based or in person in the form of hearings where non-State actors can present their views. The format of such consultations is decided on a case-by-case basis.

### **Resources**

12. WHO also engages with non-State actors in order that the latter can contribute resources for the fulfilment of WHO's mandate in general, and in particular for the achievement of the outputs and outcomes set out in the programme budget.

13. Non-State actors provide resources to WHO in different forms. For financial contributions, the reformed financing model separates priority-setting by Member States, through the Health Assembly's approval of the entire programme budget, from the discussion of financial contributions by both State and non-State actors. Human resources can be provided in the form of formal secondments or pro-bono work. In-kind contributions, such as the donation of medicines for the treatment of neglected tropical diseases, often form part of a larger framework of cooperation with the donor entities. For such donations, relevant WHO guidelines, such as those on donations of medicines,<sup>2</sup> are applied.

14. WHO also provides resources to non-State actors. For example, WHO can provide resources to nongovernmental organizations as implementing partners in projects in order to achieve the outputs defined in the programme budget. Additionally, WHO frequently enters into commercial contracts in which it procures goods and services from non-State actors.

### **Evidence**

15. WHO is an information- and knowledge-based organization, and is therefore closely engaged with non-State actors in the fields of evidence generation, knowledge management, information gathering and research.

16. In this connection, it is essential to distinguish between engagement with non-State actors as entities and engagement with individuals who are working for or linked to a particular non-State actor.

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<sup>1</sup> See documentation at [http://www.who.int/about/who\\_reform/non-state-actors/en/index.html](http://www.who.int/about/who_reform/non-state-actors/en/index.html) (accessed 19 December 2013).

<sup>2</sup> Guidelines for medicine donations – revised 2010. Geneva: World Health Organization, third edition, 2011.

Individuals working for interested private-sector entities are excluded from participating in advisory groups; however, expert groups need to be able, where appropriate, to conduct hearings to access their knowledge.

17. WHO draws on non-State actors' knowledge, information and expertise in its work to gather information, generate evidence and promote and conduct research.

### **Advocacy**

18. WHO collaborates with non-State actors in advocacy for health and increasing awareness of health issues, including those that receive insufficient attention; for changing behaviours in the interest of public health; and for fostering collaboration and greater coherence between non-State actors where joint action is required.

### **Technical cooperation**

19. WHO regularly enters into technical cooperation with non-State actors at the global, regional and country levels. Non-State actors often have technical knowledge, skills and resources that can support the Secretariat's advisory work to Member States, including technical advice, capacity-building, dissemination of knowledge, provision of training, development of training tools and direct support for implementation of programmes.

## **STRENGTHENING MANAGEMENT OF ENGAGEMENT**

20. In response to the clear support expressed during the informal consultation (see paragraph 9) for strengthening the management of engagement based on WHO's existing policies, the Director-General is enhancing systems for increasing transparency and conducting due diligence, risk assessment and risk management of WHO's engagement with non-State actors.

### **Due diligence, risk assessment and risk management**

21. Due diligence is an in-depth investigation and verification of all information on a non-State actor before entering into an engagement. Risk assessment analyses the likely impact and the likelihood of occurrence of a risk due to a proposed engagement. Risk management refers to the management decision within the Secretariat whether to engage as planned, to engage after mitigating risks, or not to engage (on the basis of the results of due diligence on the actor and the risk assessment of the engagement).

22. The current system of management of engagement with non-State actors has evolved in a somewhat ad hoc fashion. Although proposals for interaction with private sector entities are carefully reviewed and analysed for scope, intention, opportunity and risks, due diligence and risk assessment are currently limited to projects that involve private-sector or other entities that are financed or influenced by the private sector. Due diligence is not conducted systematically on nongovernmental organizations.

23. In future, due diligence procedures on actors and risk assessment of possible engagement will be applied systematically at all levels of the Organization to all types of engagement with all types of non-State actors.

24. This assessment phase will be followed by an explicit risk management decision where only engagements are undertaken that are in line with the overall objective, overarching principles and within the boundaries of engagement (see paragraphs 3–5), and where the public health benefit outweighs the risks.

25. Risk assessment and management focus on the avoidance or mitigation of the following main risks:

- **Reputational risks.** This concerns a possible negative impact on WHO's reputation. Such a risk diminishes the value and integrity of WHO's name, brand and emblem, which in turn undermines WHO's work.
- **Conflict of interest.** A conflict of interest creates a risk that professional judgement or actions regarding a primary interest (WHO's work) may be unduly influenced by a secondary interest (a vested interest in the outcome of WHO's work in a given area). This secondary interest may affect or may reasonably be seen to affect the independence and objectivity of WHO's work. A conflict of interest can be individual or institutional and can be based on a commercial or financial interest or a private interest, such as an intellectual bias or a fixed policy position.
- **Undue or improper influence.** This concerns the risk that WHO's engagement with one or more non-State actors will result in undue or improper influence (real or perceived) being exercised on WHO's work.
- **Competitive advantage.** This concerns the risk that a non-State actor's association with WHO will result in that actor obtaining an undue competitive advantage (a perceived endorsement by WHO of the non-State actor or its products or services). WHO's interaction with a non-State actor should first and foremost be aimed at benefitting public health, rather than generating such a competitive advantage. WHO should also, as a general rule, engage with non-State actors on a non-exclusive basis.

### **Increasing transparency**

26. WHO will make its relationships and all its engagements with non-State actors more transparent. Increased transparency will allow: Member States, other non-State actors and the public to understand engagements better; governing bodies to provide better oversight; and the Secretariat to carry out due diligence, risk assessment and risk management decisions more efficiently and consistently. The result will be greater accountability, stronger risk management and, ultimately, trust in WHO's engagement with non-State actors.

27. Transparency will be increased by providing basic information on the non-State actors engaged with WHO and describing in detail the nature of the interaction<sup>1</sup> in a web-based register.

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<sup>1</sup> Information such as the non-State actor's name, legal status, objective, governance, board composition or funding sources will have to be provided by the actor, and the Secretariat will describe, inter alia, the non-State actor's status, the type of interactions, the agreed work plans and their periodic review, and WHO focal points.

## **NEXT STEPS TO REFORM WHO'S ENGAGEMENT WITH NON-STATE ACTORS**

28. Discussions that have taken place during meetings of governing bodies and informal consultations, including those held by the Director-General's special envoy on WHO's engagement with non-State actors, have clearly indicated the need for further consultations among Member States on the future modalities of WHO's engagement with non-State actors. The outcome of the Board's deliberations will feed into these further consultations. In parallel with these consultations, the Director-General will strengthen the management of engagement, as noted above. In addition, the following adjustments to the practices of implementing the current policy regarding nongovernmental organizations are proposed for immediate application.

- (a) Statements by nongovernmental organizations will no longer have to be submitted for clearance in advance, providing that they conform to existing guidance.<sup>1</sup>
- (b) WHO will provide webpages for sessions of the World Health Assembly, the Executive Board and regional committees that will be dedicated to the posting of statements from nongovernmental organizations in official relations with WHO. These statements may be posted in advance of the debates.
- (c) Each nongovernmental organization shall designate a head of its delegation and indicate the organizational affiliation of all its delegates.
- (d) Access to the documentation submitted to the Board's Standing Committee on Nongovernmental Organizations is currently restricted. In the spirit of transparency, this documentation will be posted on the WHO website in future.

29. It is proposed that these consultations would be held between this and the next session of the Executive Board. Based on the outcome of these consultations the Secretariat will develop separate policies and operational procedures for the different types of non-State actors for the consideration of the Executive Board at its 135th session.

## **ACTION BY THE EXECUTIVE BOARD**

30. The Board is invited to note this report and provide further guidance.

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<sup>1</sup> Statements shall be related to the subject under discussion and be limited to the length determined by the meeting. Nongovernmental organizations shall not use the denominations of Member States or parts thereof other than the official United Nations denominations.