GUIDE FOR STAFF

on engagement with non-State actors

Framework of Engagement with Non-State Actors  FENSA
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Rationale

This Guide is meant to help WHO staff at all three levels of the Organization understand and apply the provisions in the Framework of engagement with non-State actors (FENSA). This document offers guidance on how you can engage with non-State actors, as well as the process you need to follow.

The Framework provides a firm basis for enhancing engagement, and also serves as an instrument for identifying the risks and balancing them against the expected benefits, while protecting and preserving WHO's integrity, reputation and public health mandate.

The objectives of WHO's engagement with non-State actors are to promote global health, as articulated in the WHO Constitution and the Organization’s General Programme of Work, and to implement the Organization’s technical norms and standards, and policies and recommendations as decided by its governing bodies.

To achieve WHO’s mandate and the Sustainable Development Goals (SDGs), WHO needs to interact more with a wider range of non-State actors. At the same time, WHO has to protect its reputation and integrity from real or perceived undue influence. Achieving both objectives at the same time requires clear rules and a solid and transparent process, which is defined in FENSA.

WHO staff are encouraged to engage with non-State actors to advance and promote global health, as well as to encourage non-State actors to work towards the same goals.

World Health Assembly resolution WHA 69.10 Framework of Engagement with non-State Actors clarified how WHO should engage with non-State actors. These include non-governmental organizations, private sector entities, philanthropic foundations and academic institutions.

In order to further strengthen WHO’s engagement with non-State actors, an engagement strategy is currently being developed. This will allow all parts of WHO to define their strategic priorities in engagement, the organization as a whole to better coordinate engagement with key partners, to better use such engagement in the implementation of the 13th General Programme of Work.

The complete engagement strategy will build on the 13th General Programme of Work and establish clear organizational objectives of engagement with non-State actors, define indicators to measure progress towards these objectives, clarify the integration of engagement planning into regular planning activities, create incentives towards the promotion of a stronger but risk management engagement in accordance with FENSA, promote organizational coherence in working with major non-State actors, embed regional and cluster-specific strategies, incorporate non-State actors engagement into performance measurement.

The added value of FENSA includes:

- Increased clarity on how to work with non-State actors at country, regional and global levels.
- Enhanced transparency both internally and externally, through the Register of Non-State Actors.
- Enabling more strategic engagements with non-State actors.
- Protecting WHO from affiliations that could jeopardize the credibility of its work.
- Ensuring coherence and consistency in WHO’s engagements with non-State actors.
- Allowing learning, information sharing and improvement on how to structure engagements.
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BASIC ELEMENTS

1 · 1 WHAT IS FENSA?

The Framework of Engagement with non-State actors (FENSA) is an organization-wide policy governing all WHO’s engagements and relations with non-State actors across the three levels of the Organization.

It consists of an overarching framework of engagement with non-State actors that outlines the general principles for engagements and specific WHO policies and operational procedures for the four different types of non-State actors.

The purpose of FENSA is to provide a set of rules in order to strengthen and enhance WHO’s engagement with non-State actors while reinforcing WHO’s management of the potential risks related to these engagements. The aim is to balance the risks against the expected benefits, while protecting and preserving WHO’s integrity, reputation and public health mandate.

The entire FENSA text can be found here
### 1.2 WHAT IS A NON-STATE ACTOR?

WHO recognizes four groups of non-State actors:
1. nongovernmental organizations,
2. private sector entities,
3. philanthropic foundations and
4. academic institutions.

In addition to the overarching framework of engagement with non-State actors, for each group of non-State actors a specific policy and operational procedures are defined. Although some provisions in the four specific policies are identical for all groups, others are not. It is necessary to follow both the overarching framework and the specific policy for the non-State actor with whom you intend to engage.

The outcomes of the due diligence will determine which of the four policies to apply to WHO engagement with each non-State actor, regardless of its legal status under any national jurisdiction. The application of the specific policy is relevant only to the engagement of WHO with this entity.

FENSA defines the 4 groups of non-State actors in paragraphs 8–13 of the overarching Framework.

### 1.3 WHAT CONSTITUTES AN INTERACTION/ENGAGEMENT?

FENSA refers to 5 types of interactions:
1. participation,
2. resources,
3. advocacy,
4. evidence and
5. technical collaboration.

An engagement with a non-State actor is any formalized interaction in one of the 5 types of collaboration defined by FENSA, including: participation in each other’s meetings, provision of resources, advocacy, evidence gathering or sharing, and technical collaboration. FENSA procedures do not apply to informal interactions with non-State actors, such as phone calls, informal discussion, preliminary conversations, sharing of public materials on WHO’s activities and areas of work, etc.

For more information on the types of interactions, see paragraphs 14–20 of the overarching Framework.
PRINCIPLES, BENEFITS AND RISKS OF ENGAGEMENT

FENSA defines the principles, benefits, and risks of engagement. Staff should be familiar with these to help make sure that WHO engages only when the benefits for public health outweigh any possible risk of engagement.
2.1 PRINCIPLES

When considering an engagement with non-State actors, bear in mind the following principles (defined in paragraph 5 of FENSA):

WHO's engagement with non-State actors is guided by the following overarching principles.

Any engagement must:

A. demonstrate a clear benefit to public health;
B. conform with WHO's Constitution, mandate and general programme of work;
C. respect the intergovernmental nature of WHO and the decision-making authority of Member States as set out in the WHO's Constitution;
D. support and enhance, without compromising, the scientific and evidence-based approach that underpins WHO's work;
E. protect WHO from any undue influence, in particular on the processes in setting and applying policies, norms and standards;
F. not compromise WHO's integrity, independence, credibility and reputation;
G. be effectively managed, including by, where possible avoiding conflict of interest and other forms of risks to WHO;
H. be conducted on the basis of transparency, openness, inclusiveness, accountability, integrity and mutual respect.

2.2 BENEFITS OF ENGAGEMENT

Engagements with non-State actors are not a goal by themselves. They always aim to achieve one or more of the following benefits (defined in paragraph 6 of FENSA):

WHO's engagement with non-State actors can bring important benefits to global public health and to the Organization itself in fulfilment of its constitutional principles and objectives, including its directing and coordinating role in global health. Engagements range from major, longer-term collaborations to smaller, briefer interactions.

Benefits arising from such engagement can also include:

A. the contribution of non-State actors to the work of WHO;
B. the influence that WHO can have on non-State actors to enhance their impact on global public health or to influence the social, economic and environmental determinants of health;
C. the influence that WHO can have on non-State actors' compliance with WHO's policies, norms and standards;
D. the additional resources non-State actors can contribute to WHO's work;
E. the wider dissemination of and adherence by non-State actors to WHO's policies, norms and standards.

1 Policies, norms and standard setting include information gathering, preparation for, elaboration of and a decision on the normative text.
2 As set out in paragraphs 22 to 26 of FENSA
2.3 RISKS

These benefits must be weighed against any of the potential risks (defined in paragraph 7 of FENSA):

WHO’s engagement with non-State actors can involve risks which need to be effectively managed and, where appropriate, avoided.

Risks relate inter alia to the occurrence in particular of the following:

A. conflicts of interest;
B. undue or improper influence exercised by a non-State actor on WHO’s work, especially in, but not limited to, policies, norms and standard setting;¹
C. a negative impact on WHO’s integrity, independence, credibility and reputation; and public health mandate;
D. the engagement being primarily used to serve the interests of the non-State actor concerned with limited or no benefits for WHO and public health;
E. the engagement conferring an endorsement of the non-State actor’s name, brand, product, views or activity;
F. the whitewashing of a non-State actor’s image through an engagement with WHO;
G. a competitive advantage for a non-State actor.

¹ Policies, norms and standard setting include information gathering, preparation for, elaboration of and a decision on the normative text.
3 · 1 WHO MANAGES INDIVIDUAL AND INSTITUTIONAL CONFLICTS OF INTEREST

FENSA addresses institutional conflict of interest, which should be distinguished from individual conflict of interest both of staff and of external experts. These conflicts of interest are regulated through the Staff Regulations and Staff Rules and the Regulations for Expert Advisory Panels and Committees and the Guidelines for Declaration of Interests (WHO Experts).

These three policies are implemented in a coordinated manner to avoid any ambiguities when a conflict of interest arises. Conflicts of interest are actively managed when identified and avoided where appropriate.

3 · 2 WHAT IS A CONFLICT OF INTEREST?

“Conflict of interest arises in circumstances where there is potential for a secondary interest (a vested interest in the outcome of WHO’s work in a given area) to unduly influence, or where it may be reasonably perceived to unduly influence, either the independence or objectivity of professional judgement or actions regarding a primary interest (WHO’s work). The existence of conflict of interest in all its forms does not as such mean that improper action has occurred, but rather the risk of such improper action occurring. Conflicts of interest are not only financial, but can take other forms as well.”4
3-3 WHERE TO FIND THE POLICIES TO MANAGE INDIVIDUAL CONFLICT OF INTEREST

While FENSA does not apply, WHO has a robust process to protect the integrity of WHO in its normative work as well as to protect the integrity of individual experts with whom the Organization collaborates. WHO requires that experts serving in an advisory role disclose any circumstances that could give rise to actual or perceived conflict of interest. Public information can be found here.

Staff members must submit a declaration of interests form yearly.

3-4 HOW IS INSTITUTIONAL CONFLICT OF INTEREST MANAGED?

When engaging with non-State actors, WHO is often faced with a combination of converging and conflicting interests. An institutional conflict of interest is a situation in which WHO’s interests may be unduly influenced by the conflicting interest of a non-State actor in a way that affects, or may reasonably be perceived to affect, the independence and objectivity of WHO’s work.

In actively managing institutional conflict of interest, WHO aims to avoid allowing the conflicting interests of a non-State actor to exert, or be reasonably perceived to exert, undue influence over the Organization’s decision-making process or to prevail over its interests.

For WHO, the potential risk of institutional conflicts of interest could be greatest in situations where the interest of non-State actors, in particular economic, commercial or financial, are in conflict with WHO’s public health policies, constitutional mandate and interests, in particular, the Organization’s independence and impartiality in setting policies, norms and standards.

WHO needs to know the non-State actors that it engages with. Therefore each non-State actor is required to provide all relevant information about itself and its activities, following which WHO conducts the necessary due diligence.

WHO conducts a risk assessment in order to identify the specific risks of engagement associated with each engagement with a non-State actor.

Risk management concerns the process leading to a management decision whereby the Secretariat decides explicitly and justifiably on entry into engagement, continuation of engagement, engagement with measures to mitigate risks, non-engagement or disengagement from an existing or planned engagement with non-State actors. It is a management decision usually taken by the unit engaging with the non-State actor based on a recommendation of the specialized unit responsible for performing due diligence and risk assessment.

For further information please refer to paragraph 22 to 36 of the Overarching Framework of Engagement with non-State actors.
PRACTICAL INTERNAL STEPS TO FOLLOW WHEN ENGAGING WITH NON-STATE ACTORS

FENSA defines an assessment and clearance process for engagement with a non-State actor.

Here are some practical steps

1 | Verify whether you are interacting with a non-State actor (a non-governmental organization, private sector entity, philanthropic foundation or academic institution).5

2 | Confirm whether the interaction you anticipate constitutes a FENSA engagement. An engagement can take the following forms of interaction: a participation in meeting, provision of resources from or to a non-State actor, evidence gathering or sharing, advocacy (raising awareness and campaign) with non-State actors or a technical collaboration.6

3 | Ensure that the planned engagement is in accordance with the principles of FENSA, conforms with WHO’s Constitution, mandate and General Programme of Work and whether the expected public health benefit outweighs any potential risk of the engagement. All engagements must follow the

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5 Interactions with governmental organizations, other intergovernmental organizations and with individuals acting in their individual capacity and not as representatives of a non-State actor are not covered by FENSA.

6 Procurement of goods and services at market rates are not covered by FENSA. Informal interactions, such as an informal lunch, phone call or the preparation for a possible future engagement, do not have to follow any specific process.
defined principles. The expected benefits must be described and potential risks assessed.

4 | Verify whether the profiles non-State actors are already in the WHO Register of non-State actors. If not, create a new profile.

5 | Describe the planned engagement and determine whether (see decision tree in section 4.2):
   
   A | a simplified self-assessment procedure is appropriate for this engagement; or
   
   B | submit the proposal to your designated FENSA focal point to determine if it should go through the simplified focal point assessment or standard due diligence and risk assessment procedure.

6 | If the profiles are not in the Register and the engagement qualifies for the simplified self-assessment, invite non-State actors to provide their simplified profile; if they are already in the Register, ask them to update their profile, if necessary.

7 | Upon assessment (whether simplified or standard), a decision is made on whether to enter into an engagement.

This entire process including the simplified and is facilitated through an electronic workflow provided in the IT solution Global Engagement Management (GEM).

4-1 IS THE NON-STATE ACTOR REGISTERED IN THE REGISTER OF NON-STATE ACTORS?

Before WHO engages with non-State actors they must provide information that will be published in the Register of non-State actors.

The WHO Register is a publicly available platform that contains information on non-State actors that engage with WHO. It increases the transparency and accountability of our engagements with non-State actors.

The Register has three sections:

✓ “Non-State actor profile”: The information in this section is entered by the non-State actor, which is responsible for the content and for keeping the profile up-to-date. The information will be published only after due diligence and confirmation of decision to engage. The profile includes the following information about the non-State actor: name, membership, legal status, objectives, governance structure, composition of main decision-making bodies, assets, annual income and funding sources, main relevant affiliations, and webpage. The documentation that the non-State actors are required to submit will depend on the procedure chosen (simplified or standard).

✓ “WHO’s Engagements”: This section is filled in by WHO staff and contains a high-level description of the engagement of WHO with each non-State actor, once approved.

✓ “Official relations”: The status of official relations is granted by the Executive Board and reviewed on a regular basis. This section is filled in by WHO staff and contains the agreed plans of collaboration between WHO and the non-State actor in official relations with the Organization, and the annual reporting in accordance with paragraph 52 of the overarching framework.

Many engagements are preceded by an informal exploratory phase in which WHO and the non-State actors discuss the possibility and interests of such engagement. This phase is not to be documented in the Register, but the involved staff member should keep in mind the principles, benefits and risks of engagement and assess whether a proposed engagement is likely to be in the interest of WHO.
Is it a Non-State Actor?

N

Send to FENSA Focal Point for advice

Unsure

Y

Is it an engagement according to FENSA?

N

Informal exploratory phase including an informal lunch, preparations for a formal engagement or other forms of contacts which do not require any documentation in the register of non-State actors nor any formalized risk assessment. Nevertheless the principles of FENSA (and common sense) are applied by staff member (such as not meeting with representatives of the tobacco industry). Procurement is not considered as an engagement according to FENSA but follows procurement rules.

Unsure

Y

Send to FENSA Focal Point for advice

Box A
Does any of these apply?:
• Relevant potential conflicts of interest identified
• Engagement with private sector entities and other non-State actors whose policies or activities are negatively affecting human health and are not in line with WHO’s policies, norms and standards, in particular those related to noncommunicable diseases and their determinants.
• Engagements for normative work (unless they are repetitive and have been recently assessed)
• Secondments

Box B
Does any of these apply?:
• Engagements where in view of their complexity or uncertainties you want to ask for a standard procedure
• Possible reasons to ask a standard assessment related to the non-State actor:
  • Engagements with multinational private sector entities (unless it is participation in non-normative meetings).
  • Engagements with local private sector entities with possible risks
  • Engagements with entities where it is unclear which policy would apply
  • There might be concerns for potential terrorism links
  • The entity has reputational problems or might create reputational problems for WHO
  • Possible reasons to ask a standard assessment related to the engagement
  • Multiannual and complex engagements
  • Engagements where WHO receives resources
  • Engagement where WHO provides resources to non-State actors
  • Co-organization, co-branding, co-sponsoring of meetings (existing co-branding procedure apply as well)
  • Multistakeholder engagement (other than participation)
  • Other engagements where the engaging unit identifies other significant risks or has doubts about their assessments.

Y/Unsure

Send to FENSA Focal Point for determination.

FENSA Focal Point review

SIMPLIFIED PROCEDURE

For Box A cases, compulsory
For Box B cases, optional

STANDARD PROCEDURE

Self-assessment (Performed by technical unit)

FENSA Focal Point assessment

Standard due diligence and risk assessment (Performed by PNA)
4-3 HOW TO PERFORM THE SIMPLIFIED ASSESSMENT

The basic information provided by the non-State actors through the WHO Register of non-State actors and the project proposal with its supporting documents (narrative of the project, budget, draft agreement, etc.) will allow you to gather the elements needed to confirm and to complete the simplified risk assessment.

You must confirm:

✓ whether the proposed engagement is in conformity with the WHO's Constitution, furthers the Organization’s objectives as expressed in the General Programme of Work and Programme Budget and contributes to the advancement of public health;

✓ that the non-State actor does not have and has not had any formal association, affiliation or links with the tobacco and/or arms industry, while appropriate caution is exercised if the engagement involves a non-State actor whose policies or activities are negatively affecting human health and are not in line with WHO’s policies, norms and standards, in particular those related to noncommunicable diseases and their determinants;

✓ No reputational issues or risk have been identified in terms of: conflict of interest; undue or improper influence by the non-State actor; a negative impact on WHO’s integrity, independence, credibility and reputation, and public health mandate; the use of the engagement to serve the interests of the non-State actor concerned, with limited or no benefits for WHO and public health; the ‘whitewashing’ of a non-State actor’s image through an engagement with WHO; or a competitive advantage for a non-State actor;

✓ WHO’s name, acronym and emblem or any abbreviation shall not be used for, or in conjunction with the entity’s businesses and/or activities, or for commercial, promotional marketing or advertisement purposes. This includes the display of the WHO’s name, acronym and emblem on any premises or space, communication material, social media tools or any other publication/advertisement issued by the entity; and

✓ Acknowledgements, if required, will be made in line with WHO existing practices and rules.

For further information on “simplified” assessment procedure for low risk engagements please refer to paragraph 28 of the overarching Framework of engagement with non-State actors.

4-4 HOW IS THE STANDARD DUE DILIGENCE AND RISK ASSESSMENT PROCESS INITIATED?

When an engagement is being considered, the technical unit conducts an initial examination to establish whether such an engagement would be in the interest of the Organization and in line with the principles of WHO’s engagement with non-State actors and the priorities defined in the General Programme of Work and Programme budget. If this appears to be the case, the technical unit consults the WHO Register of non-State actors and, if necessary, creates an entry with the name of the entity.

Using GEM, the technical unit then complements this information with a description of the proposed engagement and its own assessment of the benefits and risks involved, as needed. If the engagement qualifies for a simplified self-assessment, the technical units asks the non-State actor to provide the simplified basic information through the Register.

Otherwise the technical unit refers the engagement to your designated FENSA focal point. The designated FENSA focal point will review the engagement and decide whether to refer it back to the technical unit for a simplified self-assessment, to perform a simplified assessment themselves, or to refer it for standard due diligence and risk assessment. The latter option is compulsory in certain cases (see decision tree in section 4.2). The designated FENSA focal point is also responsible to request the concerned non-State actors to provide their information through the Register.

For further information please refer to paragraph 27 to 30 of the Overarching Framework of Engagement with non-State actors.
WHO TAKES THE DECISION ON ENGAGEMENTS?

4.5.1 THE DECISION ON ENGAGEMENT IS TAKEN BY THE MANAGER OF THE ENGAGING UNIT IN ACCORDANCE WITH THE REGULAR DELEGATION OF AUTHORITY.

When the simplified or the standard due diligence and risk assessment processes are concluded, the decision on engagement, risk mitigation measures or non-engagement is taken by the manager of the engaging unit, subject to the outcomes of the due diligence and risk assessment. Depending on the delegation of authority, this manager can be, for instance, the DDG, RD, ADG, Director, Head of Country Office, coordinator or team leader.

If the manager disagrees with the final recommendations on a given proposal, it may be escalated, together with appropriate justification, to the ADG or Regional Director, who may in turn refer the request to the FENSA Proposal Review Committee (FPRC).
SPECIFIC QUESTIONS ON FENSA APPLICATION

5.1 WHEN DOES FENSA APPLY?

FENSA applies to engagements of the WHO Secretariat with non-State actors. The Secretariat includes headquarters, regional offices and country offices, entities established under WHO (such as IARC or the FCTC Secretariat), co-sponsored programmes (TDR and HRP) as well as hosted partnerships (PMNCH, European Observatory, UNITAID, AHPSR). For hosted entities FENSA applies to all engagements under the authority of the Secretariat, while activities decided and implemented by the partnership boards do not fall under FENSA.

5.2 WHEN DOES FENSA NOT APPLY?

The provisions of FENSA do not apply for the following:

✓ Engagement between WHO and Member States, including their ministries, national agencies, subnational entities such as regional or local governments, and other public entities that are directly reporting to the government.

✓ Engagement between WHO and global or regional intergovernmental organizations, such as the United Nations and its funds, programmes and specialized agencies, the World Bank, the EU, ASEAN, OIC, MERCOSUR, AU, etc.

✓ Procurement of goods and services from non-State actors to WHO. In this case, the WHO procurement policy and WHO’s Financial Rules and Regulations apply.

✓ Fees, payments, contributions and/or goods received by WHO from non-State actors as a result of their use of WHO materials, information, data (e.g. use of the Global Influenza Surveillance and Response System under the Pandemic Influenza Preparedness – PIP Framework) or other mechanisms
or services (e.g. prequalification). For PIP Framework related fees, payments, contributions or goods, the terms and conditions of the PIP Framework apply.

- Engagement between WHO and individuals acting on their own behalf and not as a representative of a non-State actor. In this case, the WHO Rules and Regulations for individual experts apply.

- Engagement between the Codex Alimentarius Commission and non-State actors. Meetings of this Commission, Committees, including independent expert committees, and Task Forces are regulated by the Rules of Procedure and other decisions adopted by the Codex Alimentarius Commission.

- FENSA does not apply for engagements where WHO is assessing individual products of companies, such as in the case of WHO Pesticide Evaluation Scheme (WHOPES) or the prequalification programme.

5-3 ENGAGEMENTS INVOLVING MEMBER STATES AND OTHER INTERGOVERNMENTAL ORGANIZATIONS

Although FENSA does not apply to engagements with Member States and other UN agencies, it does apply to WHO’s engagement with non-State actors even if organized jointly with Member States or other UN agencies.

FENSA applies to engagements WHO has with non-State actors, whether these are proposed by WHO alone or by a Member State or another intergovernmental organization. It is important to make other partners aware of the elements to be observed by WHO at an early stage of planning.

For the specific case of meetings organized by Member States, UN agencies or other intergovernmental organizations, to which non-State actors are also invited to attend, WHO’s participation is guided by the FENSA principles. However, WHO cannot request non-State actors participating in such a meeting to register in WHO’s Register of non-State actors.

5-4 HOW DOES FENSA RELATE TO OTHER POLICIES?

WHO’s engagement with non-State actors in relation to the following policies will be coordinated and aligned with FENSA:

- **Partnerships**: Policy on WHO’s engagement with global health partnerships and hosting arrangements (WHA63.10) applies when WHO decides to join and/or host a partnership. FENSA applies to the engagement of the hosted partnerships with non-State actors, not to their respective governance. For WHO’s engagement in external partnerships FENSA also applies. When engaging with a partnership or collaborative engagement involving non-State actors both the Partnership policy and FENSA apply.

- **WHO Experts**: When engaging with an individual it should always be determined whether he or she is acting in a personal capacity; if so, the engagement is therefore subject to the Guidelines for Declaration of Interests (WHO Experts). If the person is representing a non-State actor, the engagement is subject to FENSA.

- **WHO Collaborating centres**: Scientific collaborations are regulated by the Regulations for Study and Scientific Groups, Collaborating Institutions and other Mechanisms of Collaboration. Collaborating centres and other academic institutions are subject to FENSA, except for those entities that are part of a government.

- **WHO Staff**: All staff are subject to the Organization’s Staff Regulations and Staff Rules, pledging themselves to discharge their functions and to regulate their conduct according only to the interests of the World Health Organization.

- **Secondments**: Secondments from non-State actors are accepted from nongovernmental organizations, philanthropic foundations and academic institutions subject to criteria and principles. WHO does not accept secondments from private sector entities.

- **Procurement of goods and services**: The procurement of goods and services is regulated by the Financial Rules and *Financial Regulation* and is not covered by FENSA, although pro-bono contributions from non-State actors are covered.

- **Financing** from non-State actors is regulated by the Financial Rules and *Financial Regulations* and FENSA.

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For further information, please refer to paragraphs 48 and 49 of the overarching Framework of engagement with non-State actors.

5-5 WHO DOES NOT ENGAGE WITH THE TOBACCO INDUSTRY OR NON-STATE ACTORS THAT WORK TO FURTHER THE INTERESTS OF THE TOBACCO INDUSTRY

WHO does not engage with the tobacco industry or non-State actors that work to further the interests of the tobacco industry. The latter includes but is not limited to:

- Entities and subsidiaries engaged in the manufacturing, distribution and/or sale of tobacco or tobacco-related products;
- Entities working to further the interests of the tobacco industry through lobbying, advertising, legal advice or similar activities;
- Entities being funded, supported or influenced in their governance by tobacco-related entities;
- Entities having the tobacco industry or their representatives among their members.

5-6 WHO DOES NOT ENGAGE WITH THE ARMS INDUSTRY

WHO does not engage with the arms industry. For entities receiving funding from other entities linked to the arms industry, a case-by-case assessment is made on the acceptability of funding from such entities.

5-7 WHICH NON-STATE ACTORS REQUIRE PARTICULAR CAUTION WHEN ENGAGING?

WHO takes particular caution when engaging with non-State actors whose policies or activities are negatively affecting human health and are not in line with WHO’s policies, norms and standards, in particular those related to noncommunicable diseases and their determinants, as well as to protect WHO’s normative work from any undue influence.

In these situations, as for other engagement proposals, a case-by-case assessment is conducted in accordance to FENSA. Examples of such non-State actors may include entities from the alcohol industry, the food and beverage industry (including producers of breast milk substitutes), and the chemical industry, among others.

5-8 HOW TO DETERMINE WHICH POLICY TO APPLY?

WHO will determine through its due diligence if a non-State actor is subject to the influence of private sector entities to the extent that the non-State actor has to be considered itself a private sector entity. Such influence can be exerted through financing, participation in decision making or otherwise. Provided that the decision-making processes and bodies of a non-State actor remain independent of undue influence from the private sector, WHO can decide to consider the entity as a non-governmental organization, a philanthropic foundation or an academic institution, but may apply relevant provisions of the WHO’s policy and operational procedures on engagement with private sector entities, such as not accepting financial and in-kind contributions for use in the normative work.

This assessment is made case-by-case based on the definitions in FENSA and taking into account the following general orientations:

A Any entity having a significant proportion of its funding from private sector entities is considered a private sector entity, especially if those private sector entities are active in the same field as the non-State actor and if funds are coming from a single or small number of private sector entities.

B Entities being influenced by private sector entities through representation in their governing bodies, especially by representatives of private sector entities active in the same field as the non-State actor.

C Any other method of relevant influence by private sector entities on the non-State actor.

5-8.1 HOW TO DIFFERENTIATE BETWEEN COMPANIES AND THEIR FOUNDATIONS?

WHO does not make a differentiation between companies and foundations set up by companies; therefore, the policy and operational procedures on engagement with private sector entities will apply to these foundations.
Entities considered not “at arm’s length” from their commercial sponsors, and partially or fully State-owned commercial enterprises acting as private sector entities will be subject to the policy on private sector engagement.

5.8.2 WHAT DOES “AT ARM’S LENGTH” MEAN?

An entity is “at arm’s length” from another entity if it is financially and organizationally independent from the other entity, does not take instructions and is clearly not influenced or clearly not reasonably perceived to be influenced in its decisions, mandate and work by the other entity.

5.8.3 CAN ENGAGEMENT BE MADE WITH A FAITH-BASED ENTITY?

WHO will assess each engagement in accordance with the provisions of FENSA as with any other engagement. Faith-based organizations fall often under the policies for engagement with nongovernmental organisations or philanthropic foundations, as long as they conform to the description provided in paragraphs 9 or 11 of FENSA, respectively.

Such entities, when engaging with WHO, shall operate in accordance with the principle of equal treatment of every human being without distinction of race, religion, political belief, economic or social conditions, as stated in WHO’s Constitution.

5.8.4 HOW SHOULD A PROFESSIONAL ASSOCIATION BE CONSIDERED?

Professional associations are usually categorized as nongovernmental organizations, provided they conform with the description provided in Paragraph 9 of FENSA, which defines nongovernmental organizations as non-profit entities that operate independently of governments. They must be free from concerns that are primarily of a private, commercial or profit-making nature.

5.9 PARTICULAR SITUATIONS

5.9.1 HOW DOES FENSA APPLY IN EMERGENCY SITUATIONS?

When responding to acute public health events described in the International Health Regulations (2005) or other emergencies with health consequences, the Director-General, while acting according to the WHO Constitution and the principles identified in FENSA, may exercise flexibility as might be needed in the application of the procedures of FENSA in those responses, when he/she deems necessary.

The Deputy Director-General for Emergency Preparedness and Response may propose the use of such flexibilities to the DG.

For further information please refer to paragraph 73 of the overarching Framework of engagement with non-State actors.

5.9.2 CAN WHO ACCEPT SECONDDENTS FROM NON-STATE ACTORS?

WHO can accept secondments from nongovernmental organizations, philanthropic foundations and academic institutions. WHO does not accept secondments from private sector entities. Secondments are subject to the criteria outlined in document WHA 70/53. All secondments must be cleared by the departments of Human Resources and Partnerships and Non-State actors.

5.9.3 CAN WHO PROVIDE FUNDS TO NON-STATE ACTORS?

Funds are provided to an “Implementing Partner” when WHO, acting as a funding agency, provides financial support to projects implemented by non-State actors, rather than commissioning services in support of WHO’s work.

Funding for these projects must be within WHO’s overall programmatic priorities. Implementing partners include the following categories: Non-State Actors (including NGOs, Philanthropic Foundations, Academic institutions) and International Organizations (including UN). As a general rule, WHO provides grants only to legally registered nongovernmental organizations, philanthropic foundations and academic institutions.

5.9.4 WHAT ARE THE CRITERIA TO ACCEPT A NON-STATE ACTOR AS AN “IMPLEMENTING PARTNER”?

In general, WHO selects implementing partners based on the following criteria:

✓ Effectiveness and feasibility of programme activities/approaches
✓ Anticipated results
✓ Implementation plan
Organizational capacity and experience
Creativity and community involvement
Beneficiaries of programme activities
Cost breakdown
Availability of funding
Known history of compliance/performance
Efficient use of resources
Legal status, constitution, bylaws, tax status
Having completed FENSA due diligence and risk assessment

The above selection criteria may vary and can include other criteria important to a specific programme. For more details and information, please refer to the internal Standard Operating Procedure reserved for this purpose.

**5.9.5 DOES FENSA APPLY TO PROCUREMENT?**

No, FENSA does not apply to procurement

“Procurement” includes all actions necessary for the acquisition, by purchase or lease, of real property, goods, works or professional services.

The procurement of goods and services is regulated by the Financial Rules and Financial Regulations; it is not covered by FENSA, although pro-bono contributions from non-State actors and work with implementing partners are covered. (In the case of a regular procurement, WHO is buying goods or services as market rated from the best possible supplier, while a pro-bono contribution from a non-State actor is considered as an engagement in which the non-State actor provides resources to WHO).

For further information please refer to paragraph 49 (e) of the overarching Framework of engagement with non-State actors.

**5.9.6 PARTICIPATION IN MEETINGS ORGANIZED BY NON-STATE ACTORS**

When WHO is invited to participate in meetings organized by non-State actors, WHO cannot request all participating entities to fill in an entry in the Register of non-State actors. In order to participate in such meetings, the following elements should be observed:

- The event/meeting will not be considered as an event co-sponsored, jointly organized, or endorsed by WHO. Therefore, the WHO emblem and name will not appear on any material related to this event/meeting nor on the host entity’s social media platforms, press releases or other material related to this event/meeting;
- It is also assumed that in no case shall the non-State actors participating or co-organizing this event, use the name or emblem of WHO, or any abbreviation thereof, in relation to their business or activities, or otherwise;
- The role of WHO staff is limited to being participants or speakers;
- Their participation should not be considered as formally engaging with the host/inviting entity and/or the co-organizing entities or those invited, nor should it be considered an endorsement of their activities, name, brand, products, or views;
- The purpose and nature of the event/meeting are to discuss and encourage dialogue with non-State actors (including private sector entities) on public health issues and WHO’s perspective and position on this subject;
- There will be no commitments expected from WHO such as signing a “Declaration”, implementation plan, recommendations, endorsement of any roadmap or strategy, partnerships, etc., at the meeting/event;
- By participating in the meeting WHO does not commit to any agreement or contract;
- Presentations and interventions made by WHO staff will echo and reflect WHO’s views and positions, even those conflicting with interests of the organizers and attendees;
- The travel and ancillary expenses of the WHO staff member attending the event/meeting will not be supported by the non-State actor.

**5.9.7 WHAT ARE THE DIFFERENCES BETWEEN JOINTLY (CO-)ORGANIZED MEETINGS AND CO-SPONSORED MEETINGS WITH NON-STATE ACTORS?**

Jointly (co-)organized meetings, i.e. meetings convened and organized jointly by WHO and one or more non-State actors. In such cases, WHO should be closely involved in the administrative planning and organization of the meeting and have the opportunity to provide technical input to the meeting materials and to comment on other written material (such as reports) emanating from the meeting. In these cases, WHO may share the costs of the meeting with the other organizers.
**WHO co-sponsored meetings**, i.e. meetings convened by non-State actors, to which WHO lends its support and in which WHO is actively involved in the planning and organization. WHO co-sponsorship does not imply any financial commitment on the part of WHO.

In accordance to FENSA, WHO does not co-sponsor meetings organized by private sector entities. Co-sponsorship of meetings organized by other actors where non-health-related private sector entities are also co-sponsors should be reviewed on a case-by-case basis.

There shall be no commercial exhibitions on WHO premises and at WHO's meetings. WHO does not co-sponsor commercial exhibitions, whether as part of meetings organized by private sector entities or as part of meetings organized by other actors.

To note, WHO can participate at the technical level in outside meetings – either through simple attendance or as a speaker, etc. – without necessarily co-sponsoring or jointly organizing the meetings. Attendance by WHO staff at outside meetings requires Director and ADG approval in each case.

**USE OF WHO NAME AND EMBLEM**

WHO's name and emblem are recognized by the public as symbols of integrity and quality assurance. WHO's name, acronym and emblem shall not therefore be used for or in conjunction with commercial, promotional marketing and advertisement purposes. Any use of the name or emblem requires an explicit written authorization by the Director-General of WHO.

For further information please consult the WHO Guidelines on use of the World Health Organization emblem and also visit the webpage [http://www.who.int/about/licensing/emblem/en/](http://www.who.int/about/licensing/emblem/en/). All requests for the use of WHO's name and emblem by non-State actors must be reviewed by the Department of Communications (DCO), the Department of Partnerships and Non-State Actors (PNA) and by the Office of the Legal Counsel.

For further information please refer to paragraph 46 of the overarching Framework of engagement with non-State actors.

**WHAT ARE “OFFICIAL RELATIONS”?**

“Official relations” is a privilege that the Executive Board, through its Programme, Budget and Administration Committee may grant to three types of entities: non-governmental organizations, international business associations and philanthropic foundations. The decision to grant official relations is based on an assessment of past collaboration and a plan for future collaboration between WHO and the non-State actor with agreed objectives and activities for a three-year period structured in accordance with the General Programme of Work and Programme budget and consistent with the Framework. The aims and activities of all these entities shall be in conformity with the spirit, purposes and principles of WHO's Constitution, and they shall contribute significantly to the advancement of public health.

Non-State actors in “official relations” can attend – as observers – governing body meetings of WHO but are otherwise subject to the same rules as other non-State actors when engaging with WHO. To note, being in official relations does not automatically qualify a non-State actor for all engagement; they still have to follow the same procedure as any other proposed engagement.

In addition, the entity is expected to provide annually a short report on the progress made in implementing the agreed plan for collaboration, to be published in the dedicated section of the Register.

In accordance with the Framework of Engagement with Non-State Actors, the Executive Board, through its Programme, Budget and Administration Committee, shall review collaboration with each non-State actor in official relations every three years and shall decide on the desirability of maintaining official relations or defer the decision on the review to the following year.

WHO collaborating centres and non-State actors in official relations with WHO are subject to different rules and policies, which are mutually exclusive. As nongovernmental organizations are not eligible for designation as WHO collaborating center. Furthermore, “partnerships”, “collaborative arrangements” and “public-private partnerships” are not considered eligible for official relations. Instead, WHO includes such entities in its list of “Partnerships and Collaborative Arrangements with WHO involvement”, which is regularly updated and where these entities are recognized for their work with WHO.

For further information on “official relations” please refer to paragraph 50 to 66 of the overarching Framework of engagement with non-State actors.
5.9.10 WHAT IS THE SIGNIFICANCE OF A COLLABORATING CENTRE?

WHO collaborating centres are institutions, such as research institutes, or parts of universities or academies, that are designated by the Director-General to carry out activities in support of the Organization’s programmes. For those collaborating centres being a department or unit of a non-State actor, FENSA applies together with the rules concerning collaborating centres.

WHO collaborating centres and non-State actors in official relations with WHO are subject to different rules and policies, which are mutually exclusive.

For further information see Paragraph 22 of Academic institutions policy.

5.9.11 HOW TO DEAL WITH NON-STATE ACTORS THAT REFUSE TO COMPLY WITH FENSA REQUIREMENTS?

WHO reserves the right to decline engagement with a non-State actor should the latter refuse to provide information or does not comply with FENSA provisions.

For further information on non-compliance see paragraphs 69–71 of the overarching Framework of engagement with non-State actors.
WHAT ARE THE ROLES AND RESPONSIBILITIES ON FENSA IMPLEMENTATION WITHIN WHO?

6.1 ROLES AND RESPONSIBILITIES OF TECHNICAL UNITS AT COUNTRY, REGIONAL AND GLOBAL LEVEL

Technical units at all levels of the Organization are those proposing, initiating, deciding upon and implementing engagements with non-State actors in accordance with their delegation of authority. Therefore, all staff members involved in engagements with non-State actors should know the main principles and procedures of FENSA.

WHO and its technical units take a proactive approach to engaging with non-State actors in the implementation of its mandate. Therefore, the question of strategic engagement with non-State actors should be part of any planning process of technical units.

Technical units also conduct the assessment of engagements which qualify for a self-assessment.

6.2 ROLES AND RESPONSIBILITIES OF MANAGERS

Managers of engaging units clear engagement proposals in line with their delegation of authority. Each region and cluster determines what clearance steps are necessary in addition to the due diligence and risk assessment regulated by FENSA.

Management is also responsible for the strategic orientation and promotion of
engagement with non-State actors and the implementation of FENSA in their field of responsibility.

6-3 ROLES AND RESPONSIBILITIES OF DESIGNATED FENSA FOCAL POINTS/UNITS

Each region and cluster defines its internal approval stages in accordance with the delegation of authority and a FENSA focal point (a responsible officer or a team). The roles of the focal points are:

A. To support the management of the region/cluster in the strategic promotion of engagement with non-State actors.
B. To act as primary contacts for technical units on all questions related to FENSA.
C. To support the elaboration of clear engagement proposals facilitating an efficient due diligence and risk assessment.
D. To discuss with the department for Partnerships and Non State Actors (PNA) and/or other members of the FENSA focal point network questions requiring clarification and a coordinated approach of engagement.
E. To determine if an engagement referred by the technical unit qualifies of the simplified procedure or should be sent for the standard due diligence and risk assessment.
F. To conduct the simplified assessment for engagement neither qualifying for self-assessment nor needing a standard due diligence and risk assessment.
G. To play a role in accordance with the delegation of authority in the clearance of proposed engagements.
H. To support technical units in their simplified assessment of low risk engagements.
I. To represent the region/cluster in the FENSA focal point network.

6-4 ROLES AND RESPONSIBILITIES OF CENTRAL UNIT IN FENSA IMPLEMENTATION

A central department, Department of Partnerships and non-State actors (PNA) supports the organization in the overall implementation of FENSA and the reporting to the PBAC and EB and acts as the specialized unit responsible for performing due diligence and risk assessment as well as the submission for the Executive Board of non-State actors applications and the review of their official relations with WHO.

Depending on the modalities of each engagement it can also require inputs or clearance by other units as appropriate. The electronic workflow in GEM allows technical units to trigger this clearance when required in parallel with the due diligence and risk assessment.

6-5 ROLES AND RESPONSIBILITIES WITHIN REGIONS/CLUSTERS

Each region and cluster defines its specific roles and responsibilities with names and contact details as well as the workflow specific to the region/cluster.

6-6 THE FENSA PROPOSAL REVIEW COMMITTEE

The FENSA Proposal Review Committee (FPRC) is a dedicated mechanism for reviewing proposals of engagement referred to it. The FPRC recommends engagement, continuation of engagement, engagement with measures to mitigate risks, non-engagement or disengagement from an existing or planned engagement with non-State actors. The Director-General, working with the Regional Directors, ensures coherence and consistency in implementation and interpretation of this Framework across all levels of the Organization. Its Terms of Reference are as follows:

6-6-1 FENSA PROPOSAL REVIEW COMMITTEE – TERMS OF REFERENCE

1. The Framework of Engagement with non-State actors (FENSA) call in its paragraph 35 for the establishment of “A dedicated secretariat mechanism reviews proposals of engagement referred to it and recommends engagement, continuation of engagement, engagement with measures to mitigate risks, non-engagement or disengagement from an existing or planned engagement with non-State actors. The Director-General, working with the Regional Directors, ensures coherence and consistency in implementation and interpretation of this Framework across all levels of the Organization.”

2. Therefore, the purpose of the FENSA Proposal Review Committee is to review proposals of engagement referred to it and to recommend engagement, continuation of engagement, engagement with measures to mitigate risks, non-engagement or disengagement from an existing or planned engagement with non-State actors.
Functions

1. To review proposals of engagement considered to have a potentially significant associated risk.
2. To review proposals for engagement that illustrate specific aspects of engagement and require a consistent interpretation of existing policies.
3. To review proposals of engagement where there is a difference of opinion between the proposing unit and the assessing unit.
4. To clarify other questions on interpretation of FENSA provisions.
5. To make recommendations to the Director-General on the way forward concerning the above-mentioned proposals of engagement.

Composition

The FPRC is composed of the following members, appointed by the Director-General:
- Deputy Director-General for Corporate Operations (Chair)
- Assistant Director-General for External Relations (Co-Chair)
- Assistant Director-General for General Management
- One Assistant Director-General of a technical cluster (rotating on an annual basis)
- One Director of Programme Management of a Regional Office (rotating on an annual basis)
- One Director of Finances of a Regional Office (rotating on an annual basis)
- Legal Counsel, or their representative (LEG)
- Director, Compliance, Risk Management and Ethics Office (CRE), or their representative
- Director, Partnerships and non-State actors (PNA) (Secretary of the Committee)

Method of Work

1. The FPRC meets on demand, within at least one month of receiving a proposal for engagement.
2. Meetings may be held virtually and decisions can be taken electronically.
3. All members or their representatives must participate.
4. Proposals for engagement may be submitted to the FPRC by the head of the department/office proposing the engagement, through the relevant Regional Director or ADG, or referred to the FPRC by the Director Partnerships and non-State actors or the Legal Counsel.
5. Proposals for engagement for consideration by the FPRC must be submitted using the standard template for this purpose.
6. Regional Offices and Clusters submitting proposals for engagement for consideration by the FPRC are invited to participate in the FPRC discussion but are excluded from the decision making of the FPRC.
7. The report of the FPRC will be provided to the Regional Office or Cluster submitting the proposal within one week of the meeting.
8. The minutes of the meeting include the decisions taken and a rationale for these decisions. After approval by the members of the FPRC, these minutes are circulated to FENSA focal points, DAFs, PNA and LEG.
GUIDE FOR STAFF
on engagement with non-State actors

Framework of Engagement with Non-State Actors - FENSA