

19.5 Engagement with NSAs

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In focus

The Secretariat advises:

Report on the implementation of the Framework of Engagement with Non-State Actors

In accordance with resolution [WHA69.10 \(2016\) and the Framework of Engagement with Non-State Actors](#) (subparagraph 68(a)), the Director-General will submit the annual report ([EB148/39](#)) on WHO's implementation of the Framework of Engagement with Non-State Actors, illustrating engagements with entities and reporting on the different aspects of the implementation of the Framework at the three levels of the Organization. The Board will be invited to note the report.

Non-State actors in official relations with WHO

In line with the provisions of the [Framework of Engagement with Non-State Actors](#), the Executive Board is mandated, through its Programme, Budget and Administration Committee, to consider applications for admittance of non-State actors into official relations and to review collaboration with one third of the non-State actors in official relations in order to decide whether to maintain, defer the review or discontinue their official relations. The Board will be invited to note the report ([EB148/40](#)) and to consider a draft decision.

Background

The [Framework of engagement with non-state actors \(FENSA\)](#) was adopted in May 2016.

In [WHA69.10](#) which endorsed the FENSA, the Assembly also requested an initial evaluation of the Framework and its impact to be undertaken in 2019. The report of the Initial Evaluation was submitted to the EB in [EB146/38 Add.2](#).

According to the report [EB146/38 Add.2](#), the initial evaluation “did not assess the FENSA as a framework in itself but rather the implementation of the FENSA”. It nevertheless includes statements on the relevance, such as: “The FENSA constitutes a coherent and integrated

framework compared to previously separated and discrete engagement policies for different non-State actors” and “the existence of the FENSA is a significant accomplishment in its own right and a precedent for the wider United Nations system.” (page 3).

What is lauded in the report as “integrated” approach has been criticised by civil society organizations in their public calls (earlier overview [here](#)) and statements at WHO governing body meetings, as reported by [Rodwin](#) (2020, p.2): “FENSA’s use of the term non-state actors put business-based and public-interest-based actors on an equal footing. Furthermore, it legitimized for-profit firms’ (and affiliated not-for-profit trade associations’) participation in WHO policy development, failed to adequately control conflicts of interest frequently arising from engagement with commercial firms, and did not employ the standard definition of (Conflicts of Interest) used in the law and dictionaries, thereby confusing analysis and undercutting effective responses”.

See: [Previous discussions of FENSA and NSAs more generally](#)

See also the advice provided by [PBAC33 in EB148/5](#) (18/1)

As “factors affecting FENSA implementation”, [EB146/38 Add.2](#) (p.8, paras 30-37) highlighted the following:

- *The perception that senior management’s endorsement and support was initially lacking*
- *The absence of an overarching Organization-wide actionable implementation strategy for engagement,*
- *The absence of an accompanying change management and communications strategy.*
- *Limited absorptive capacity in the Organization due to the ongoing transformation (change fatigue).* In this para, we find the remarkable statement: “Staff perception is that WHO is increasingly paralysed due to resolutions, rules, regulations and frameworks without prioritization and that the FENSA as a major organizational endeavour has been somewhat buried under a larger set of changes.”
- *Insufficient resources to support implementation.*
- *Focus on reporting requirements at output and activity level, rather than on the effects of implementation.*

As a result, FENSA implementation is reported as “undertaken in an ad hoc, fragmented and unsystematic manner across the Organization” (p. 4, para 14)

The evaluation report’s sections on “lessons” (p.10, paras 38-39) and “recommendations” (p.11, paras 42-47) built on this analysis. Here the set of recommendations (titles only):

1. Enhance communication on the FENSA
2. Strengthen understanding, ownership and management of risks and benefits of engagement.
3. Enhance access to specialized knowledge and apply expert technical advice.
4. Strengthen the data environment by establishing a systematic monitoring and tracking mechanism

5. Enhance learning.
6. Develop, finalize and implement an engagement strategy with non-State actors.

FENSA at EB 148

[EB148/39](#), now before the Board, combines a ‘management response’ to the recommendations of the Initial Evaluation (see above, [EB146/38 Add.2](#)) and the annual report on FENSA implementation requested in [WHA69.10](#).

[EB148/39](#) refers to the challenge any assessments or recommendations made by the Initial Evaluation Report [EB146/38 Add.2](#), but states that, “to facilitate implementation of the recommendations and in order to prepare the management response to the initial evaluation, a series of elements have been developed and consultations have been conducted across the three levels of the Organization.” and that “the outcomes of the consultations have led to the preparation of a comprehensive management response document”.

This “comprehensive management response document” itself is not included in the EB documentation.

[EB148/39](#) then mainly reports on the implementation of the recommendation (under recommendation 5, “Enhance learning”) to reactivate a “FENSA Focal Points Network” and a “FENSA Proposal Review Committee”. The Secretariat also reports that a plan has been developed to respond to the recommendations on communication, capacity and learning and promises the development of an engagement strategy

In its general report on FENSA implementation [EB148/39](#) reviews implementation in each of the regional offices and the WHO Headquarters and in various hosted partnerships as well as the implementation of FENSA during the Covid emergency.

[EB148/40](#) presents for PBAC and the Board the Secretariat’s recommendations regarding NSAs in Official Relations.

PHM Comment (draft, work in progress)

Follow-up of Initial Evaluation (EB 148/39, paras 4-14)

As the Evaluation report itself, the related section of [EB148/39](#) mainly shows how the Secretariat struggles with FENSA implementation throughout the three levels of the Organization.

This section and the report as a whole are written within the overall FENSA narrative and are not particularly interesting, maybe with the exception of the section on the “implementation of an engagement strategy with non-State actors” where the [EB148/39](#) states (para 14): “In

consultation with the three levels of the Organization, the Secretariat will develop a strategy and proposed plan for its implementation.”

This announcement of “a (single?) engagement strategy” contradicts expectations and demands by civil society for a specific Civil Society Engagement Strategy (as announced earlier). We hope that this is rather a typo than the plan.

Annual report on FENSA implementation (EB 148/39, para 15-60)

Again, this is FENSA mainstream narrative, if you like it or (rather) not: “As an enabling policy, the Framework of Engagement with Non-State Actors provides a firm basis for strengthening engagement; it prioritizes the need to expand, deepen and strengthen engagements that will have a positive impact on public health, while balancing risks against expected benefits.” (para 16)

In the section on FENSA implementation at regional level (paras 17-44) we appreciate the formal provision for NSAs to participate in some RC meetings.

In its section on the Secretariat’s implementation of FENSA (paras 45-53), the most interesting para is the one on the Secretariat “working on revising its policy on consultants” (para 47), but the outcome of this review is not yet reported/available. The sneaky replacement of formally employed WHO staff by consultants needs to be carefully watched.

And, yes, the report includes a remark that “with regard to their participation at WHO meetings, non-State actors have expressed concern about the modalities governing their participation.” (para 52). O yes, [indeed](#). See [agenda item 19.2](#)

Secretariat’s recommendations regarding NSAs in Official Relations (EB148/40)

This is a routine document and procedure, nothing particular to be noted.

Notes of discussion