

# 5.3 Framework of Engagement with NSAs

## Contents

- [In focus](#)
- [Background](#)
- [PHM comment](#)
- [Notes of discussion at EB138](#)

## In focus

The Secretariat report ([EB138/7](#)) conveys the outcome of the open-ended intergovernmental meeting convened in line with resolution [WHA68.9](#) (2015).

The EB is requested to extend the mandate of the OEIG meeting to finalise the Framework. It seems unlikely that the EB will engage with the substance of the Framework under development as reflected in EB138/7.

## Background

Secretariat [resources page](#) (extensive).

PHM commentary prior to [WHA68](#)

PHM report of discussion at [WHA68](#)

Provisional summary records of FENSA discussion at WHA68

- First meeting: [page 6](#) (one para)
- Fourteenth meeting: [page 2](#) (one para)
- Fifteenth meeting: [page 3-44](#): bracketted text; 44-51: debate;
- Resolution [A68.9](#) adopted

CSO Letter to DG (15 Oct 2015) [Civil Society Letter of Concern on FENSA "non-paper"](#)

Third World Resurgence: [World Health Organization-Corporation?: Resisting Corporate Influence in WHO](#)

[WHO: Informal meeting to negotiate text on engagement with non-State actors](#) (TWN Info Service on Health Issues, 19 October 2015)

[WHO: Secretariat “scare mongering” on FENSA](#) (TWN Info Service on Health Issues, 19 October 2015)

[WHO - Partial agreement on engagement policy with industry](#) (TWN Info Service on Health Issues, 26 October 2015)

Medicus Mundi International [WHO Reform repository](#)

## PHM comment

There is much more green than there was at WHA68 and after the July meeting. It seems possible that an agreed document will be produced.

Among the issues which are still lacking consensus:

- the proposed pooling method for private sector entities (PSEs) to contribute financially to WHO;
- technical collaboration.

The final ‘consensus draft’ which comes out of this process will be considered at WHA69. It is most unlikely that it will be opened for amendment!

## Notes of discussion at EB138

### Consideration commenced during Fourth Meeting, pm of Day 2

Docs:

- [EB138/7](#) Framework of engagement with non-State actors
- See also WHO [governance page on FENSA](#)

**CHAIR OF PBAC:** (refer [EB138/3](#), paras 8 & 9) they examined the report of the DG. they discussed about the proposal to finalize FENSA: recommend to extend the mandate for a final session, in order to present a consensual document. They wish to see the Secretariat to have a review on the potential effect of FENSA.

**CHAIR OF FENSA OEIM:** We going from one easy one to a simple one. Regarding the question of FENSA the argentine republic expresses its gratitude for it the organisation of the working group. The WG discussed in many format. after the formal session. They are convinced that we will be able to adopt the FENSA during the next session of WHA.

**EGYPT:** on behalf of EMRO. progress has been made. Finalizing this document would be a important step on the way forward to the WHO Reform. we need to ensure integrity and independence of the WHO: in spite of progresses, there are remaining questions: FENSA in the context of emergencies. We need a policy on COI. We should not be too fast and pay attention.

**DOMINICAN REPUBLIC:** we make this statement on behalf of the americas. welcome the significant progress achieved on the framework. It is necessary to engage with non state actors but must be conducted within a principle of a clear framework and rules. wish fensa will be implemented in all levels of the organisation. commit to the appropriate follow up of the process and its full implementation.

**ALBANIA:** welcoming the work of the IGWG. this draft is the result of consultative process. there are still remaining questions to settle: Philanthropic organizations; accreditations procedures: they are in favour of the continuation of the work.

**MALTA** (speaking on behalf of EU and its member states): thanks Argentina and all MS that were engaged in the process on negotiating the framework; Complicated issues such as WHO's engagement with NSA is still in question; the EU and member state are concern on the broader concerns of FENSA. until now no clear documents are presented on the financing of the FENSA programme. Recommend the submission of a paper on the issues raised for further discussion.

**GAMBIA:** africa region appreciate the progress made and hope on a concensus be reached on the document.

**SAUDI ARABIA:** We should have a hard look to try to avoid any type of Conflict of Interest and the influence of private organisations. We are in favour of the renewal of the mandate of this working group, under the chairmanship of Argentina, in order to achieve the securing the functioning of this organisation.

**CHINA:** china delegation are happy that members have some agreement of the project; china will participate in the april member state conference in April. a discussion on the framework and the planing in April will be carried out. China will participate in the April member states conference, and hope to have a draft resolution for the WHA. They support the Secretariat for providing costing and planning of the implementation in advance of the WHA, for discussion.

**NAMIBIA:** Lengthy and difficult process of MS. The report of the open-ended meeting provides a framework - some things have been agree, some to be agreed. The positive gains should not be lost. The paragraphs which have been agreed upon (green) should not be re-open and discussed. Instead, focus should be put in the non agreed paragraphs. Therefore: welcome the progress made thus far, and supports giving more time for this discussion to come to agreement until the end. Propose that the forward discussions on the unagreed text, the Secretariat provides explanations on the implication of the proceeds.

**PHILIPPINES:** welcomes the report like Albania. this reflect the hardwork and the patience of the WG and other stakeholders who participated in the discussions. we believe with more time the WG could come out with a consensus.

**USA:** Align with Dominican Republic on behalf of the Americas. Fully support both recommendations of PBAC. First recommendation + recommendation of a report of implementation of framework. Important for the body to refocus on the need of strengthen WHO's ability to engage with NSA. The WHO needs that (e.g. for NCDs, the road safety

declaration, the declaration of social determinants of health, the SDGs - multi-state actors are needed for all of these).

**Democratic People's Republic of Korea:** The framework was highly discussed in the region but yet to reach a consensus in the SEAR. Suggested changes in text. Strongly feels all member states will help in discharging their responsibilities in the framework although consensus is not easy.

**RUSSIAN FEDERATION:** Thank chair and Argentina (for the consensus). Support the proposal to extend the mandate to the 69th session in order to discuss the remaining matters. Then only those aspects that are not coloured or not included in the square brackets should be put forward for approval. But the final draft has to be done this year for WHO to fulfill its mandate.

**FRANCE:** France fully endorses proposal by Malta and proposals by PUBAC. express gratitude to Argentina government for the text which is almost in our reach. it is possible to getting it approved by the next assembly. we are not limiting the local countries. we see this framework would provide the necessary clarification for action.

**BRAZIL:** Fully supports the intervention of DR on behalf of Americas. Brazil brings Transparency and accountability in the dialogue of NSA. Clear and objective rules are the best platform to support the collaboration with NSA without Conflicts of Interest. A few highlights:

- The bans or Secondments on private sector should be.... ?
- Implementation of FENSA: periodical report of implementation + review process aiming the continuous improvement.
- Support the extension of mandate, the formal meeting next April, and hope for the draft to be finalised, to be approved in next WHA.

**SWEDEN:** Aligns with Malta. speaking on behalf of Latvia, Lithuania, Sweden, Denmark.

SDG - calls for more multi stakeholder partnerships to fulfill them. The WHO needs them in order to deliver the service that our citizen and governments are expecting. strong framework of engagement of NSA, in a clear and transparent way.

Support for April meeting, hoping to finalise the agreement by this year's assembly. An agreement that will benefit WHO and Global Health.

Need to be clear about: 1) Consequences for WHO's work in emergencies, 2) practical and resource implications, 3) uniform applicability on the levels of WHO.

**UK:** the UK aligns with Malta. the need for a transparent framework on the WHO engagement with NSA and allow it plays a full role in GH; we believe the would be the need for a clear document on the financial implication of the document. EB to attend the April meeting. Look forward to Financial and guidelines for applying FENSA in all WHO offices. Support both recommendations.

**New Zealand:** Supports. Because of Practical resource implications of implementation, the implementation of FENSA may be difficult to implement in WHA. (?)

**Thailand:** There are important issues that needs to be address. Thailand support the proposal by PBAC

**India:** the recommendation in our view will complicate the ease of reaching consensus. the open ended meeting envisage in 2016 gives hope to consensus on the document. what we need to agree is a consensus that is not compromised by conflict of interest. WHO principle of engagement. no dilution of roles.

**IRAN:** Support extension of work of intergovernmental WG. The delegation is looking forward to an agreed FENSA, and is willing to participate in all discussions regarding it. It wants to protect WHO from all inappropriate influence, it doesn't want to compromise WHO's reputation. Wants to avoid Conflict of interest. Wants a WHO with transparency, accountability, inclusiveness and integrity. Independentness, reputation and integrity. This is about Public Health.

**MONACO:** Acknowledge the work towards concensus. there is still a number of points remaining open. it is vital that we have a framework that is adopted in MAY by the WHA 69. so we call for a framework and we support the proposals made by PBAC on this proposal.

Absolutely vital to have a framework adopted in May WHA69. Support both proposals made.

**NORWAY:** Critical time for FENSA. There are key things unagreed still, e.g. emergency clause. However, in the text it is not reflected:

- resource requirements of implementing the FENSA. Not only staff and money, also time-consumption.
- Conclusion about Extensive mitigation measures - they request more information about this.

Proportionality between the cost and benefit of implementation needs to happen. Clearly speaking: if the cost and resource implications are not clear, or not real balance cost and benefit, we will not be ready to adopt FENSA until that has been addressed.

Implementation across the 6 regions: they note that the paper shows the challenge PAHO would have in being part of FENSA, they are prepared to acknowledge that openly and to help PAHO in that respect.

DG should be the final voice if no agreement. Goal: adopt the framework in WHA69.

**AUSTRALIA:** Report needs to include. Concerned about the implementability of FENSA, including the western pacific regional offices and their own offices in Australia. Clear, balanced and practical framework to the benefit of public health.

**GERMANY:** fully aligns with Malta and strongly support the recomendation of PBAC. Point of departure: WHO needs to adequately engage all its actors but protecting its intergrity.

FENSA should not unintentionally impose rigidity. FENSA is in no way going to impede WHO work in Health emergencies. Germany has 5 strong points:

- FENSA needs to be implementable.
- FENSA does not have to have the consequence of having to stop to work with NSA.
- FENSA has to allow WHO to continue its day-to-day PIP, SSFFC, ...
- FENSA is in no way to impede WHO's work on emergency response
- They would not agree on an approach that allowed double-standards.

believes there would be consensus to the negotiations. So a few additional hours to the 100 hours mentioned by Chair are welcome.

**Switzerland:** Welcome efforts made till now to provided the framework. It is one of the international community ambitious agenda. the implementation of this agenda in 2030 would mobilise all actors. FENSA must engage all actors not compromising on all. Promote the roles of <WHO in all issues of health emergencies. Framework must be applied in all regions. Should not generate any disproportionate resource demands. Disappointed there is no document on this challenge because it was specifically requested at the last WHA from the secretariat.

**GHANA:** Alignes with all the african group. Acknowledge the institution of FENSA; Dscussion of principles of transparency, avoidance of CoI need to be very clear. Strongly support the continuation of the mandate of intergovernmental open ended group - so that we have a comprehensive, transparent document.

**COLOMBIA:** Aligns with Dominican Republic. Supports extending mandate, hopes agreement in WHA69. Hopes that the taken decision contains a document on the implications of the implementation of FENSA. Wants a FENSA that is balances, objective and reasonable. Clear politics.

**MEXICO:** Would like to fully endorse positions by Argentina. a number of progress has been made and we would like to support the decision for more time and support for more time for further discussions of the Group and regions on the report.

**ZAMBIA:** Aligns with Gambia position. reminds the involvement of the secretariat on the discussion of FENSA and its implication. it is uncomfortable for the implication would delay the process.

**Chair:** concludes presentation for EB and non EB Members.

#### **NGOs:**

- International Alliance of Patients' Organizations (IAPO)
- International Baby Food Action Network (IBFAN)

- International Federation of Medical Students' Associations (IFMSA)
- International Pharmaceutical Federation (FIP)
- Medicus Mundi International – International Organisation for Cooperation in Health Care (MMI)
- World Heart Federation (WHF)

## Consideration resumed at the commencement of Fifth Meeting, am of Day 3

Doc: [EB138/7](#)

The day started with the reading of statements by CSOs on FENSA

- International pharmaceutical organisation
- World heart federation
- International Baby Food Action Network
- Medical Student Federation
- Medicus Mundi International

**MMI & PHM:** *Thank you, Chair, for the opportunity to address the distinguished EB members on behalf of MMI and PHM.*

*The regulation of WHO's engagement with the private sector is a crucial aspect of the WHO Reform.*

*However, as it stands, the document constitutes a Trojan horse, which will legitimise the influence of private sector interests on the decision-making processes of the WHO. This is of deep concern as it places vested interests at the heart of an organisation which should value the right to health above all else.*

*FENSA is symbolic of a more fundamental issue - that of the WHO's independence, which is compromised by its financial crisis and crippling dependency on tightly earmarked voluntary contributions. This situation has led to the donor capture of WHO's operational agenda and gross misalignments between the priorities identified in the Assembly and the expenditures underwritten by donors. We urge MS to lift the dual freeze on the Programme Budget and on assessed contributions which severely limits WHO's functioning.*

*In addition to the donor choke-hold there is a more insidious distortion being introduced into WHO's programme design models, namely the multi-stakeholder partnership. To construct every programme as a partnership with industry creates huge barriers to a*

*proper analysis of the barriers to WHO's goals, including industry partners who are seriously conflicted regarding their interests in WHO programmes.*

*The WHO needs strong safeguards to protect it from undue influence from funders and conflicts of interests on the part of industry partners. A robust conflict of interest policy should also include appropriate protection of whistle-blowers.*

*The discussion on FENSA has so far failed to provide a robust framework against undue influence. Until and unless this is addressed, WHO stands at risk of private sector capture and further loss of its integrity, independence, and credibility.*

Chair response: There has been overwhelming support for extending the mandate of the intergovernmental working group on FENSA. Item left open for Mr Holio to go back and take the comments into consideration

## Fensa resumed Thirteenth Meeting (am of Day 6)

Docs:

- [EB138/7](#)
- See also PBAC report ([EB138/3](#)) paras 8 & 9.

**Argentina:** framework will improve our organisation and our collaboration with non state actors (NSA). No strong opposition in finding a report for implementation. my proposal: ask the EB to approve a decision reflecting the exact text of PBAC. he will read it in english

draft resolution to WHA69 to PBAC. 2. timing: remaining paragraphs of the text, try to green them. propose to work out details. in close consultation with regional committees. as chair of the progress, I'll dedicate my time in the first three days of the meeting on text and to take action on implementation. conclude report in 140 EB meeting. 3. analysis of practical and resource implementation

**Chair:** the board agrees by proposals made by the chair of FENSA?

**SWEDEN:** we agree. we have a question on the report for implications for WHO that will be ready on assembly. not about financial aspects, more about other things?

**PBAC:** have to thoroughly understand its impact. we understand it as our US colleague.

**CANADA:** FENSA as an enabling tool. we remain committed.

**South Africa:** on behalf of AFRO. reaffirm commitment to finalisation. like to thank argentine delegation for the leadership. we support the way forward. this way is the most productive

**France:** appreciate the work of the chair of Argentina. the report is a constructive one. April consultation should be proceeded with an information briefing

**Norway:** implementation is an issue that has to addresses on the FENSA document itself. FENSA is a tool for accountability. what is now in FENSA has to be implemented to the full



by secretariat. we can't give a large amount of flexibility to the secretariat for implementation. subjective and balanced means that the document needs to give a factual account on implementation of document. balanced cannot mean that half the paper has to speak for the half on positive side and the other half of risk. it must be more factual

**Legal Counsel:** requests that the paper on implementation also reflects the views of the regions, we will try to ensure that.

**Brazil:** focus on finishing FENSA before getting trapped in the discussion of implementation or cost implication, since we have already been behind the discussion on FENSA for 2 years. A small overhead in association with NSA. We do not want a listing of obstacles that say "it would be impossible to negotiate FENSA" because otherwise: why have you spent 2 years negotiating FENSA?

**Switzerland :** we think vocabulary balanced with politically document. we expect it technically and mathematically document not politically it has to be factually and political. we don't have information we need.

**Chair:** addition to make, let's focus on the proposal that has been made.

**Algeria:** the fensa, we support statement by south africa on behalf of the African group. Welcome the progress made in negotiating the FENSA document, and thank Argentina (and in particular Julio) for leadership in this. Only concerns:

- support continuing the consideration of the FENSA document.
- discussing the consequences of the implementation / implications only after the FENSA document has been made.
- Not discuss the Green bits anymore. Move forward, not in circles anymore.

**Argentina:** i would like to thank all of you . to continue believing in this process . Just like to assure all of you . we have been working very responsively . very green text you can see is the outcome of a very careful process. when we agreed on text, the issue of implementation was always in our minds. can't allow to adopt a text that cannot be implemented. of course we'll need a general review. listen to each others, try to understand, find consensus. we need mutual trust in interest of organisation we. we will continue to work on that approach . when we get it to final stage we will make a view on evaluation

We conclude this item 5.3

