

**Informal consultation with Member States and non-State actors
on WHO's engagement with non-State actors**

17–18 October 2013, 10:00–13:00 and 15:00–18:00

Executive Board room, WHO headquarters

8 October 2013

WHO's engagement with non-State actors

Discussion paper for the informal consultation with Member States and non-State actors, 17–18 October 2013

1. Engagement with non-State actors is a critical aspect of WHO's role in global health governance. Non-State actors play an essential role in helping WHO fulfill its constitutional mandate. This paper proposes ways in which engagement with nongovernmental organizations (NGOs) and private entities can be improved, including the strengthening of due diligence, management of risks and conflicts of interest, and increasing the transparency of engagement.

2. The overall objectives of these changes are to make better use of resources (for example: knowledge, expertise, commodities, personnel and finances) available among non-State actors to support the fulfillment of WHO's mandate, to maximize input from non-State actors in WHO's governance and consultations as well as to engage in dialogue with non-State actors on how they can improve their activities so as to better protect and promote health. Such an enhanced engagement calls for strengthened due diligence, as well as the management and mitigation of risks of engagement and increased transparency.

3. The Executive Board in May 2013 agreed that five overarching principles¹ should guide all interactions with non-State actors. The overarching principles are that all engagement with non-State actors should:

- a. Demonstrate a clear benefit to public health;
- b. Respect the intergovernmental nature of WHO;
- c. Support and enhance the scientific and evidence base 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.

4. The World Health Assembly and the Executive Board in previous discussions also highlighted some clear boundaries for the engagement with non-State actors, including:

- Decision-making in governing bodies is the exclusive prerogative of Member States, which means that drafting and approval of resolutions do not include non-State actors
- WHO's processes in norms and standard-setting must be protected from any undue influence
- WHO does not engage with industries that make products that directly harm human health, such as tobacco or arms
- Engagement with non-State actors must not compromise WHO's reputation.

¹ These overarching principles apply to all non-State actors, although the operational procedures may differ in the way they are applied to NGOs and the private sector.

5. To operationalize these overarching principles and enhance engagement while protecting the Organization's integrity, the following changes in the management of engagement are proposed:

- Strengthening due diligence
- Strengthening management of risk, including conflicts of interest
- Increasing transparency.

Strengthening due diligence

6. Currently, due diligence is limited to projects that involve private-sector companies or other entities financed or influenced by the private sector as well as some individual roles, such as goodwill ambassadors. Due diligence for NGOs is not conducted systematically. Proposals for interactions with the private sector are carefully reviewed and analysed for scope, intention, opportunity and risks. In this regard, due diligence is conducted on the basis of four pillars:

- a. In-depth screening (reputational risk);
- b. Preservation of WHO leadership in the proposal;
- c. Conflict of interest assessment;
- d. Assessment of the public health outcomes and added value of the proposal.

7. It is proposed that due diligence procedures are expanded and strengthened so as to be applied more systematically to all sorts of engagement and at all levels of the Organization. This will include screening of non-State actors based on a more comprehensive, clearly defined and transparent set of criteria. The revised procedure could also involve a public scrutiny phase where the public would be invited to draw attention to potential risks of engagement with a particular non-State actor that is being examined.

Strengthening the management of risk, including conflicts of interest

8. The current system of managing risks of engagement with the private sector is largely based on due diligence procedures. Managers then perform a risk—benefit analysis to determine whether to enter into an engagement with a particular private sector entity and how to mitigate any emerging risks of engagement. Risks of engagement with other non-State actors are assessed only on an ad hoc basis. The established procedure of decision-making involving an internal committee on private sector collaboration does not function well and is sometimes bypassed. This leads to an insufficient coherence in decision-making on engagement.

9. It is proposed that a comprehensive risk management approach be applied to WHO's engagement with all non-State actors. Management of risks of engagement will be based on a clear definition of these risks (such as: conflicts of interest; reputational issues; use of WHO's name, brand and emblem; competitive advantage; unduly improving a partner's corporate image; undue influence on WHO's priority setting; overdependence on a single partner). The procedures to manage risks of engagement (such as due diligence, declaration of interest forms, assessment of potential conflicts of interest, systematic internal documentation of past assessments, decision-making on engagement and risk mitigation) should be applied systematically to engagement with all kind of non-State actors and all levels of the Organization. WHO will manage organizational conflicts of interest explicitly, with clearly defined parameters, linked to strengthened due diligence screening, upon which basis assessment and decisions related to the extent and conditions of WHO's engagement with a particular non-State actor will be made.

Increasing transparency

10. Currently, access to information on WHO's engagement with non-State actors is limited. The list of NGOs in official relations is publicly available, while the database on additional information concerning those NGOs is internal. The financing received from non-State actors is reported in an annex to the annual Financial Report and audited financial statements for the period, while details of the activities for which these funds are used are given only on a case-by-case basis in news releases or on the webpage of particular topics.

11. It is proposed that transparency of engagement with all non-State actors be enhanced and made more systematic by an online transparency register. The register will provide basic information on the non-State actors with which WHO engages and detail the nature of the interaction.¹ Inter alia, it will provide a central repository and direct access to information about WHO's engagement with non-State actors, the activities being pursued, and the level of financial resources invested in these activities.

Enhancing engagement with non-State actors

12. WHO already has broad engagement with non-State actors. These engagements are not strictly limited to NGOs and the private sector but also include philanthropic foundations, academic institutions, laboratory networks, trade associations, trade unions, media and communications organizations. The following sections describe the current forms of engagement and examine to what extent this engagement and the management of associated risks could be strengthened. These engagements include:

- a. Attendance at WHO governing body sessions
- b. More meaningful participation in the governing body sessions
- c. Participation in consultations in preparation of intergovernmental meetings
- d. Financial contributions
- e. Human resources
- f. In-kind contributions
- g. Evidence generation, information gathering and research
- h. Advocacy and awareness raising
- i. Provision of technical advice to countries
- j. Collaboration with NGOs in official relations

Attendance at WHO governing body sessions

13. Currently, private sector entities do not attend the sessions of the governing bodies, although NGOs that represent the private sector may attend. Only NGOs that are in official relations with WHO are entitled to attend. To qualify to be "in official relations", NGOs must have at least three years of collaborative work with WHO. However, there are a number of NGOs that are not in official relations with WHO but that wish to attend governing body sessions.

¹ Information such as name, legal status, objective of the organization, composition of the board, or funding sources would be provided by the organization, while the WHO Secretariat would describe the status of the organization, the type of interactions, agreed work plans and their periodic review, WHO focal points, etc. If such a register was built up, several questions would still need to be clarified, such as: which interactions would require a registration in the transparency register; to what extent could and should WHO verify information reported by non-State actors; at what interval could such information realistically be updated; what would be the consequences of incomplete or wrong declarations made by non-State actors; and what would be the costs associated with the management of such a register?

14. A common suggestion is to establish an additional accreditation system specifically for the attendance of WHO governing body sessions. While this has the attraction of opening up participation in WHO meetings to all NGOs, it makes conducting the necessary process of due diligence more difficult and risks undermining the overarching principles.

15. Another suggestion has been to reform and streamline the official relations system to allow entry to those NGOs that cannot evidence the required “collaborative programmes with WHO” but which could provide input to governing body discussions. This could be done by recognizing those NGOs that focus on advocacy supportive of the implementation of WHO policies and allowing this to be reflected in joint work plans.

16. In both options, ground rules for attendance at meetings would have to be established. NGOs would be required to announce for each meeting the affiliation of all delegates and designate a head of delegation. Consideration should be given to limiting the size of NGO delegations.

More meaningful participation in governing bodies

17. Currently, NGOs in official relations can submit a statement to the Secretariat at least 24 hours before the sessions of the Executive Board or the committees of the World Health Assembly. These statements must be cleared by the Secretariat for their length and relevance to the debate and can then be delivered at the very end of the debate on the subject. NGOs are unhappy with this clearance process and the fact that their statements are not taken into account as they are delivered at the very end of the discussion of an item.

18. The pre-screening by the Secretariat of NGO statements could be replaced by a code of conduct and possible consequences in cases of breach of this code. In order to allow for more meaningful interaction with NGOs during the debates, NGOs could be encouraged to form self-organized groupings with similar interests. Such groupings of NGOs could have enhanced speaking rights in meetings, while individual statements could be made available on a dedicated website before the debate takes place.

Participation in consultations in preparation of intergovernmental meetings

19. WHO increasingly holds consultations with non-State actors in the preparation of intergovernmental agreements. NGOs in official relations are usually also admitted to such consultations. In addition, the involvement of the private sector in consultations and hearings has been handled on a case-by-case basis. Examples include the development of the Pandemic Influenza Preparedness (PIP) Framework and the ongoing processes on noncommunicable diseases. It is proposed that this continues.

Financial contributions

20. Financial contributions to the Programme budget are an important part of engagement. The reformed financing model, in which priorities are clearly defined by Member States through the approval of the entire Programme budget by the World Health Assembly, constitutes a good basis for an expansion and clearer definition of the possibilities of financial contributions with a strict management of associated risks. Funding for the elaboration of norms and standards from any source that could influence that process continues to be strictly excluded.

21. After implementing the strengthened due diligence, management of risks of engagement and increased transparency, WHO could accept project-based funding, non-earmarked contributions, or contributions earmarked at a high level. For activities where funding from individual entities could

represent a conflict of interest, pooled funding could be introduced (such as the pool created by the PIP Framework, where vaccine producers pay into the pool, as individual contributions from specific companies might be problematic). WHO could also begin charging for specific services provided (e.g. although funding by pharmaceutical companies for the definition of the process of pre-qualification of medical products would be problematic, charging for the application of these norms in the pre-qualification process could be considered).

Human resources

22. Non-State actors can contribute to WHO's work through the provision of human resources, whether as formal secondments or in the form of pro bono work.

23. The explicit management of the risks of such engagement, combined with public scrutiny through the transparency register, could allow WHO to use such arrangements more systematically.

In-kind contributions

24. WHO regularly receives in kind contributions such as drug donations for the treatment of neglected diseases. For such donations relevant internal guidelines apply, such as guidelines for medicine donations.

Evidence generation, information gathering and research

25. WHO draws regularly on knowledge, information and expertise available among non-State actors in its work to gather information, generate evidence and research. Further, WHO collaborates with NGOs in the dissemination of knowledge and development of training tools. Experts participating in the guidelines development group are always participating in their individual capacity and are rigorously scrutinized for conflicts of interest. Individuals working for the private sector are excluded from serving in these groups.

26. Collaboration and engagement in these fields can be enhanced if it is also subject to an explicit due diligence procedure, management of the risks of engagement and increased transparency. For guidelines development, where the knowledge available in the private sector is key to the elaboration of the guidelines, WHO will more systematically conduct public hearings, where private sector representatives can present the evidence without becoming part of the actual process of developing the guidelines.

Advocacy and awareness raising

27. WHO collaborates with non-State actors in advocacy for health and awareness raising. This is necessary particularly in view of the leadership priorities defined in the Twelfth General Programme of Work, such as the work on social, economic and environmental determinants of health. Advocacy for health is, however, limited not only to collaboration with non-State actors that share WHO's views. Indeed, WHO needs to be able to engage in dialogue with non-State actors particularly in the private sector as to how these actors themselves could improve their own activities to better protect and promote health. This dialogue has taken place so far only in very limited circumstances.

28. Joint advocacy work can also be enhanced in an improved system. Any collaboration on advocacy where a private sector entity's products could be promoted would remain excluded. With enhanced transparency, WHO could engage more systematically in a dialogue on behaviour or products with entities whose behaviour or products can positively or negatively affect health.

Technical advice provided to countries

29. One of the key roles of WHO is the provision of technical advice in countries. Non-State actors often have technical knowledge, skills and resources that can support WHO's work in advising countries.

30. For this work there is also scope for enhanced collaboration with non-State actors under condition of the agreement to such collaboration by the concerned Member State and an active management of the risks of engagement.

Collaboration with NGOs in official relations

31. Although being "in official relations" is not the only instrument of collaboration with NGOs, that designation is important for some NGOs. Indeed, some other NGOs with which WHO has intensive collaboration have not gone through that process. Currently, relations with NGOs are regulated by the "Principles governing relations between the World Health Organization and Nongovernmental Organizations" adopted in 1987. These principles define official relations as resulting from a process involving three years of working relations, the establishment of a joint work plan and a decision on admission by the Executive Board. The current system of coordination of the relations through a designated technical officer seems to work well for those NGOs focusing on one programme area, while larger NGOs collaborating with WHO in multiple fields have no proper mechanisms through which to coordinate this collaboration.

32. The status of official relations could be made more meaningful by a stricter application of criteria and a clear definition of the contribution made by NGOs in official relations towards the implementation of the outcomes and outputs agreed in the Programme budget. Just as WHO collaborating centres are academic institutions with which WHO collaborates systematically, official relations will be limited to NGOs with which WHO collaborates systematically.

Application of policies and procedures

33. Changes to policies and procedures will apply throughout the Organization and will be further elaborated. The Secretariat seeks guidance on the extent to which these policies are applied by hosted partnerships.

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