

Civil Society Statement
On the World Health Organization's Proposed
Framework of Engagement with Non-State Actors (FENSA)

69th World Health Assembly, May 2016

We, the undersigned Civil Society Organisations (CSOs), believe that the independence, integrity and credibility of the World Health Organization (WHO) are non-negotiable for the fulfilment of its constitutional functions. Actions of a few dominant donor countries, venture philanthropy foundations with large conflicted investments, private sector and private sector influenced NGOs and entities erode WHO's capacity to do its job.

The existing safeguards – to protect WHO from undue influence and to avoid or properly resolve conflicts of interest – are not sufficient and have been inconsistently enforced. That is why we, public interest advocates from civil society, stand ready to support the development of a robust effective framework to regulate relationships with non-state actors (NSAs). The on-going negotiations on the *Framework of Engagements with Non-State Actors* (FENSA) could have been an opportunity to adopt such a framework.

We fear that the upcoming FENSA negotiations during the World Health Assembly may be used by certain Member States (MS) to further dilute the existing policies regulating the engagements with the private sector and weaken stronger provisions that have been negotiated so far.

Compared to existing measures, the current draft FENSA does bring certain improvements. For example, proactive disclosure of financial contributions and the prohibition of secondments from the private sector. **However, major concerns are left unaddressed.**

FENSA, in its overarching section puts private sector entities on an equal footing with other NSAs, failing to recognize their fundamentally different nature and roles. It uses the principle of '*inclusiveness*' for all five '*types of interactions*' (resources, participation, evidence, advocacy and technical collaboration) to all NSAs. When applied to major transnational corporations, their business associations and philanthropic foundations, this categorization of interactions, combined with an alleged right to inclusiveness, will once and for all, legitimize the framing of public health problems and solutions in favor of the interests and agendas of those actors.

FENSA, for example, proposes technical collaboration with the private sector, including capacity building, with no adequate safeguards. It seems that there is opposition from developed countries to a clause that would exclude private sector resources for activities such as norms and policies development and standard setting. FENSA removes the existing minimum restrictions on accepting financial resources from the private sector to fund salaries of WHO staff. If the WHO relies on funds from the private sector for *any* operational expenses, it risks showing favouritism toward those sectors in its standard-setting, expert-advisory, and other public health functions.

FENSA's proposal to expressly allow business interest groups to obtain "Official Relations" status under the label of Non State Actors will, once and for all, legitimize lobbying by business associations and philanthropic foundations at WHO governing bodies. This will

normalise the inclusion of business agendas into public health decision-making. This seems in direct contradiction with FENSA's stated principles that any engagement must "*protect WHO from any undue influence, in particular on processes in setting and applying policies, norms and standards*"; and "*not compromise WHO's integrity, independence, credibility and reputation.*"

Member States have so far failed to rectify FENSA's **flawed definitions and conceptualization of conflicts of interest**. Thus FENSA ignores the prime purpose of institutional conflict of interest policies that is to ensure that "*an institution's own financial interest*" and those of its senior officials do not "*pose risks to the integrity of the institution's primary interests and missions.*" FENSA blurs the distinction between a conflict of interest which is *within* an actor or institution, with "*conflicting or diverging interests*" *between* actors. The issue of conflicting interests is, of course, important. But it has to be dealt with through robust risk assessment measures and political debate. **Had the correct conceptualization of conflicts of interest been applied throughout the entire FENSA process the document would have taken a different form.**

We fear that FENSA's poor conceptualization of conflicts of interest will be transferred to and felt at national level and that it will be used to redefine national rules, undermining any chance of effective safeguards.

Some Member States that resist the development of strict conflict of interest rules for WHO have developed relatively strict conflict of interest policies, e.g. to prevent industry from unduly influencing regulators and elected officials in their own jurisdictions. For example, OECD Member States who have committed to follow the *OECD Guidelines for Managing Conflict of Interest in the Public Service* at the domestic level, are now obstructing the development of a WHO comprehensive conflict of interest policy. Similarly, the UK *National Institute for Health and Care Excellence (NICE)* prohibits involvement of any experts from the private sector, yet the UK delegation resists inclusion of such a provision in FENSA. Canada's Federal Government prohibits financial contributions by corporations to political parties and limits the amount of contributions by individuals. **Member States must shed such double standards.**

Finally, we note that, referring to the *2030 Agenda for Sustainable Development*, at the last minute some Member States inserted into the draft Resolution and the FENSA document, references to "*multi-stakeholder partnerships*". Yet the entire FENSA fails to address how WHO should appropriately approach public-private hybrid entities, that undoubtedly create avenues for undue influence on policy-making. The OECD Guidelines have highlighted public-private partnerships, sponsorships and lobbying as particular "*at risk areas*" for conflicts of interest.

We call on Member States to:

- **Not approve a faulty FENSA at WHA:** this process will define the role of our highest global authority in public health for years to come and needs to be done correctly.
- **Evaluate the process, re-open transparent debate, clarify concepts, obtain missing evidence,** including from WHO civil servants and public interest advocates, and do an

in-depth review of the adequacy of existing relevant WHO policies. WHO must emerge from this process as an agency able to fulfill its mandate.

- **Stop developing FENSA under contradictory objectives:** both as an instrument to attract voluntary financial resources for WHO and, at the same time, as a safeguard to protect its mandate. It can't be done. If WHO is to fulfill its constitutional mandate, Member States must find other financial solutions: lift the freeze on assessed contributions and increase their levels of funding. This would end WHO's dependency on voluntary, often earmarked and volatile contributions. It would resolve the most important – financial – institutional conflict of interest of WHO and at the same time prevent wasting resources on implementing an ill-conceived FENSA.
- **Strengthen rather than weaken the safeguards against undue influence from the private sector:** at the very least, FENSA should not dilute the existing WHO safeguards contained in policies regulating WHO's relations with NGOs and the private sector. FENSA should acknowledge the especially high risks posed by inappropriate interaction with food, beverage, baby food, alcohol, pharmaceutical, medical technology, and tobacco industries in all WHO work.
- **Strengthen these safeguards by developing a comprehensive and effective conflict of interest policy:** if conflicts of interest had been effectively addressed, some of the recent public health emergencies would have been dealt with more efficiently, moreover also saving public resources.
- **Fully protect WHO from the undue influence of venture philanthropy and corporate funding:** WHO should be fully funded by Member States. In addition, FENSA should set out clear rules regarding acceptance of cash or in-kind contributions from these NSAs, recognizing that such forms of funding to WHO risk unduly affecting WHO's integrity, independence and effectiveness in fulfilling its mandate.
- **Protect the integrity of Official Relations:** ensure that the Official Relations policy is adequately discussed after this WHA so that it becomes a safeguard against undue influence, not a wide open lobby channel to influence the work of WHO governing bodies.

This statement is endorsed by organisations listed on the next page

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- 1 Africa Centre for Global Health and Social Transformation (ACHEST) (Uganda)
- 2 Active-Sobriety, Friendship and Peace (Norway)
- 3 Aktionsgruppe Babynahrung AGB (Germany)
- 4 AIMI (Indonesia)
- 5 All India Drug Action Network
- 6 Amref Health Africa
- 7 Associação IBFAN Portugal
- 8 Association of Breastfeeding Mothers (UK)
- 9 Association for Improvements in the Maternity Services (AIMS) (UK)
- 10 Baby Milk Action (UK)
- 11 Birthlight
- 12 BUKO Pharma-Kampagne
- 13 The Berne Declaration (Switzerland)
- 14 CEFEMINA - Feminist Center for Information and Action (Costa Rica)
- 15 Centre for Health Science and Law (Canada)
- 16 Corporate Accountability International (US)
- 17 Blue Cross Norway
- 18 Diverse Women for Diversity (India)
- 19 Drug Action Forum (India)
- 20 El Poder del Consumidor (Mexico)
- 21 European Alcohol Policy Alliance
- 22 FIAN International
- 23 First Steps Nutrition Trust (UK)
- 24 Fondazione Lelio e Lisli Basso ISSOCO, Italy
- 25 Geneva Infant Feeding Association
- 26 Global Alcohol Policy Alliance (GAPA)
- 27 Health Innovation in Practice (HIP), Geneva
- 28 The A Team (UK/USA)
- 29 IBFAN (Global)
- 30 IFARMA Foundation (Colombia)
- 31 INFACT Canada
- 32 Initiativ Liewensufank (Luxembourg)
- 33 IOGT International
- 34 Institute for Alcohol Studies (UK)
- 35 International Code Documentation Centre (ICDC)
- 36 Health Action International (Global)
- 37 Initiative for Health & Equity in Society (India)
- 38 Lactation Consultants GB
- 39 La Leche League GB
- 40 LOCOST (India)
- 41 Medico International (Germany)
- 42 Medicus Mundi International - Network Health for All
- 43 Midwives Information & Resource Service (MIDIRS) (UK)
- 44 Mission Salud
- 45 NGO Forum for Health (NGO F4H)
- 46 Osservatorio Italiano sulla Salute Globale (OISG), Italy
- 47 Peoples Health Movement
- 48 Public Services International
- 49 Research Foundation for Science Technology & Ecology (India)
- 50 Responsible Approaches to Infant Feeding (NZ)
- 51 School of Public Health, University of the Western Cape (Australia)
- 52 Society for International Development (SID)
- 53 SOYNICA (Nicaragua)
- 54 The Baby Feeding Law Group Ireland
- 55 The International Federation of Business and Professional Women
- 56 Third World Network
- 57 Transnational Institute (Global)
- 58 Treatment Action Campaign (South Africa)
- 59 Terra Nuova
- 60 UK Health Forum
- 61 Wemos (The Netherlands)
- 62 World Obesity Federation (Global)
- 63 World Public Health Nutrition WPHNA (Global)
- 64 Young Professionals Chronic Disease Network (Global)