



March 20, 2013

**US Council for International Business Comments on Issues and questions on WHO's engagement with non-State actors**

**1. The scope of non-State actors**

WHO's Member States have stated in recent deliberations on WHO Reform that a set of overarching principles need to be established which can be applicable to WHO's engagement with "non-State actors." Member States have acknowledged the strategic importance for WHO to strengthen engagement with non-State actors to leverage mutually beneficial cooperation at global, regional and country levels with a view towards improved public health outcomes. It is also recognized that non-State actors play a critical role in supporting WHO's work to fulfill its constitutional mandate.

The term "non-State actors", however, is not reflected in the WHO Constitution, and could potentially encompass a wide array of entities. For example, "non-State actors" may include not only civil society and private commercial entities, but also philanthropic foundations, partnerships, faith-based organizations, social movements, the general public, individuals, etc., resulting in challenges concerning management of WHO's engagement with non-State actors.

**QUESTION:** How should WHO best address the challenge of ensuring that its principles and policies of engagement with "non-State actors" are relevant and applicable to the wide range of entities that may fall therein? How should WHO best address the challenge of developing policies and procedures for engagement with non-State actors, given the range of diversity within this sector? Are there entities with which WHO should never engage?

- Non-State actors should be understood as encompassing the whole of civil society, including business and industry.
- USCIB believes that the term "private commercial entities" is too limited, and not appropriate to describe the business and industry community. The term itself implies a stigma and seems to prejudge the interests of business and industry as purely commercial, whereas business, as part of civil society, is also vested in good outcomes for society and human health. Moreover, it does not reflect the contribution of business and industry in innovation and research in areas related to health and wellbeing. Business's commercial activities generate employment, tax revenue and other important resources for societal and individual well-being. Finally, business and industry – like other societal interests – are organized in associations and groups, often of a not for profit nature, that operate on a similar footing to other non-profit groups advancing other societal interests. Calling such business groups "private commercial entities" is therefore a misnomer.
- The term "business and industry" is widely accepted in the UN system, and business is recognized as one of the 9 Major Groups agreed at the U.N. Conference on Environment and

Development in 1992, as well as, in ECOSOC, UNEP, CSD, Strategic Approach to International Chemicals Management, Internet Governance Forum, and FAO's Committee on World Food Security. It is also recognized as an important partner and societal interest in overarching treaties, such as the U.N. Framework Convention on Climate Change, the U.N. Convention on Biological Diversity, among others. Finally, it is one of the three major interests in the tri-partite International Labour Organisation (ILO).

- In all these forums and deliberations, UN entities already constructively engage with business and industry on matters of policy formulation and implementation.
- USCIB recommends that all non-state actors should have equal opportunity and status in the WHO engagement process. The WHO should not favor or discriminate against one non-state actor group over another, and should be transparent in its engagement across all actors.
- UN agencies and inter-governmental bodies engage with civil society, inclusive of business and industry, in a variety of ways, each tailored to the specific process and subject matter. We would recommend that WHO review these various approaches, identify good practices and work with member states and civil society, including business and industry, to develop an inclusive mechanism for engagement.
- We are pleased to see that the WHO is taking this first step to engage with non-State actors. As important as it is to invite comments, we strongly recommend consultation and dialogue be organized to discuss engagement options and experiences, and to allow an exchange of views across stakeholders and with governments and WHO representatives.
- Defining and understanding how such engagement could inform and support WHO's work, and provide an additional resource to governments and others, should be a fundamental starting point consideration, and further dialogue and discussion with civil society –including business— could shed light on the opportunities and potential value-added of such enhanced engagement.

## **2. The scope of different groups within non-State actors**

Even within a particular non-State actor constituency, there exist a diverse range of entities linked to various interests, commercial or otherwise. For example, many nongovernmental organizations that have relevance in the health sphere can be categorized in different groupings (e.g. professional associations; trade or industry associations; disease-specific nongovernmental organizations; development nongovernmental organizations; patient and consumer group nongovernmental organizations, faith-based organizations, etc.)

Currently, no specific differentiation of groups is made amongst NGOs or any other non-State actor grouping with which WHO engages. In addition, no further distinction is made among the numerous constituencies that comprise this sector.

**QUESTION:** How should WHO best address the challenge of developing policies and procedures for engagement with non-State actors, given the range of diversity within this sector? Are there entities with which WHO should never engage?

- Non-state actors should have the right to self-organization, including selection of their respective representatives, so long as they are accredited.
- WHO should consider existing models for the “taxonomy” of different important interests in use in the U.N., notably the “major groups” categories. In determining relevance of these or other categories, WHO should consult with civil society and with member states.
- We encourage the WHO to define non-State actors as the whole of civil society, including business and industry. At the same time, WHO should not treat all of civil society as homogeneous. Business and industry comprises a wide range of sectors, nationalities and sizes; this diversity in business (and indeed in other societal interests) should be considered as a resource.

### **3. Overarching principles for engagement**

WHO’s Member States have requested that overarching principles for WHO’s engagement with non-State actors be submitted for the consideration of the Executive Board at its 133rd session in May 2013. The following represent an initial formulation of principles in this regard, and are in line with principles articulated by Member States during the 65th World Health Assembly (Decision WHA65(9)) to guide the development of policies of engagement with private commercial entities and nongovernmental organizations:

- WHO is an intergovernmental organization, and WHO’s decision making supremacy lies with WHO’s governing bodies;
- WHO is a science and evidence-based organization espousing a public health approach, and the development of norms, standards, policies and strategies must continue to be based on the systematic use of evidence and protected from influence by any form of vested interest;
- transparency of WHO’s engagement with external stakeholders is paramount; and
- conflicts of interest must be adequately managed.

**QUESTION:** Do the principles above encompass all elements that are needed to articulate overarching principles to guide WHO’s interaction with non-State actors? Are there others?

- Potential conflicts of interest should be addressed across all stakeholders in civil society.
- In its engagement, WHO should develop and follow procedures and practices to invite, acknowledge, and reflect, as appropriate, credible and evidence based civil society inputs.

### **4. Modalities of engagement**

#### **a) General**

WHO currently engages with non-State actors in a host of ways across all levels (country, regional, and HQ) of the Organization. For example, WHO may engage with non-State actors in large epidemics and civil strife and other humanitarian action, in the context of development of global strategies or plans of action, or in relation to transmission of advocacy efforts and information to country level. The current manner by which WHO's engagement of non-State actors is governed, however, is not well-defined, and is in many ways ad hoc.

**QUESTION:** How can WHO best ensure that its principles and policies of engagement with non-State actors are relevant and applicable to the wide range of activities undertaken by WHO? What mechanisms should WHO develop to more systematically manage its engagement with non-State actors?

Principles, policies and guidelines for civil society – inclusive of business and industry -- input and engagement should be consistent, clear, and flexible. With regards to business and industry:

- a. business and industry engagement with the WHO would be autonomous and self-organized.
- b. business and industry engagement would complement established informal and formal dialogues and interactions between business, governments, and the UN system.
- c. all private sector representatives from different parts of the world, inclusive of SMEs and MNEs, appropriately accredited, who want to participate, could do so.
- d. business engagement should be brought in at every step of the process in a meaningful and active way: in developing agendas and setting terms of discussion; in offering submissions and commenting on papers; and in discussions.
- e. private sector statements and submissions shall represent the maximum consensus possible, but there should also be scope to accommodate a range of business views and approaches, when consensus is not attainable.
- f. submissions and positions would be constructive, concrete, focusing on mechanisms to improve outcomes in the social, economic and environmental dimensions of the WHO's work.

The private sector is highly diverse in terms of sectors, size and geography. Given the wide array of issues addressed by WHO, it will be essential to provide business and industry adequate representation to enable broad and deep engagement across the business community.

To enable this level of participation, WHO should provide timely and easy access to all information and documents for its policies, programs and supporting activities, as needed by stakeholders for full participation.

## **b) Context-specific**

WHO's current engagement with a particular non-State actor may be different depending on the context of the activity or the nature of the engagement. For example, a particular non-State actor may engage with WHO in one context in relation to a particular activity or function, but may be excluded from engaging altogether in relation to a different activity or function. Similarly, different non-State actors (depending on their nature) may be treated differently in the same context. There is currently no consistent or predictable system or mechanism by which these assessments or decisions are made.

**QUESTION:** How should WHO best address the issue of engaging with non-State actors in different contexts, and in view of different modalities of engagement? How can WHO best ensure consistency and predictability in engagement of non-State actors?

- Clearly, there are many types of engagement and interactions that could be tapped to connect with WHO in such areas as, policy dialogue; norms and standard setting; development and implementation of technical programs; advocacy and communication; knowledge management and dissemination; monitoring and reporting; and mobilization of resources.

-Similar to the comments submitted under question 1 above, the modalities of engagement across each of these different points are best developed in consultation with civil society.

### **c) Engagement with WHO's governance processes**

WHO's engagement with non-State actors in the context of WHO's governance processes (e.g. WHO's governing bodies or processes established by WHO's governing bodies), or consultations towards the development of health policies, is an important modality of engagement which supports an effective, collective response to national and global health challenges, in addition to adding an important dimension to WHO's role in global health governance.

**QUESTION:** What methods should WHO employ to strengthen and widen engagement with non-State actors in relation to WHO's governance processes or towards the development of health policies and strategies? What are the factors that WHO should take into consideration when defining the parameters of this engagement?

The WHO should consistently be transparent and engage with civil society including business and industry and take into account all of their views as long as it is science-based.

-Addressing governance and conflicts of interest are important, but this should not discourage stakeholders' involvement based on unwarranted starting point assumptions about motivations. The diversity of stakeholders offers a resource to encourage innovation and partnerships. Once an organization meets criteria for accreditation and is accredited, it should have the option to engage with WHO on the same standing as other organizations.

#### **d) Strengthening country-level engagement**

Given the vital role played by non-State actors in the implementation of health policies and strategies at country-level, it is important that WHO strengthen engagement with non-State actors and encourage initiatives to bring such entities together with Member States to collaborate on WHO's strategic priorities. In particular, action by non-State actors in the context of WHO's technical work at country level needs to be adequately reflected in, and accommodated by, any collaborative framework concerning engagement with non-State actors.

**QUESTION:** What actions should WHO explore to strengthen engagement with non-State actors at country-level? What are the factors that WHO should take into consideration when defining the parameters of this engagement?

-The principles of engagement applied at the international level should also apply at the country level; including self-determination, transparency of activities, access to information and accreditation.

#### **5. Challenges and risks arising from engagement**

A number of challenges exist for WHO when engaging with non-State actors. For example, engaging with a non-State actor may result in a reputational risk to WHO, may present challenges in managing conflicts of interest arising from a particular engagement, or may raise challenges in ensuring full transparency of the engagement. Similarly, certain challenges may be present for non-State actors when engaging WHO.

**QUESTION:** What are the different challenges and risks that may be associated with WHO's engagement with non-State actors, both from the perspective of WHO and that of the non-State actor?

As the WHO develops its work program and project, we believe that it should consistently be transparent and engage with civil society, including business and industry, and take into account all of their views as long as it is science-based.

-The WHO's work should remain consistent with its mandate and expertise. Given the limited resources available, it should not duplicate work of other inter-governmental organizations, as this could undermine the organization's credibility.

#### **6. Management of conflicts of interest**

It is recognized that all non-State actors with which WHO engages have interests which may or may not be regarded as a conflict of interest. One of the aims in promoting a more streamlined and systematic framework for engagement is to effectively manage such conflicts of interest.

It is also recognized that WHO should conduct the necessary due diligence to protect itself from such potential risk and manage any potential conflict of interest concerning any direct or indirect

engagement in actions contrary to the objectives of WHO, jeopardizing the independence and objectivity of WHO's normative and standard setting function, or favouring the commercial interest of the partner or the ones of third parties.

**QUESTION:** Given the spectrum of entities that comprise “non-State actors”, and in view of the complexities that arise when engaging with these actors both in the context of different activities undertaken by WHO and towards the development of health policies and strategies, how should WHO best ensure that vested interests are adequately addressed and managed?

[See response to 5 above](#)

## **7. Benefits for non-State actors**

It is recognized that any benefit derived by WHO from engagement with non-State actors should also accompany a benefit for the engaging party. There have been concerns expressed, however, that engagement of WHO with non-State actors can be misconstrued as WHO's “endorsement” of the engaging party's products, services, or positions.

**QUESTION:** How can WHO proceed to ensure a mutually derived benefit for non-State actors when engaging with WHO, while taking into account perceived reputational or other risks associated with such engagement?

-Incentives and benefits for different actors to engage will encourage involvement and substantive input which, in turn, will assist WHO in scaling up its activities and contributing to its success. Accrual of benefits should not be regarded as a negative outcome, especially where WHO does practice transparency and due diligence in its activities and partnerships, and follows clear criteria and process for accreditation.

-Market-based mechanisms are increasingly important for scaling health care delivery and behavior changed—so there needs to be openness if these elements are to enter into WHO's efforts.

## **8. Engagement in relation to WHO's financing**

WHO is currently, and anticipates to continue to be, financed from a mix of assessed (Member States) and voluntary contributions (Member States and non-State donors). Recognizing that Member States, through WHO's governing bodies, are responsible for determining Organizational priorities, there is still a need to better engage non-State contributors to WHO, particularly in the context of evolving financing mechanisms (i.e. a proposed financing dialogue, subject to endorsement by the World Health Assembly), to ensure greater transparency in financing with a view to increased predictability and enhanced alignment of resources with the programme budget.

**QUESTION:** What are considerations and concerns that WHO should take into account when defining parameters and procedures for the involvement of non-State actors in the financing of WHO? What are the elements of these parameters and procedures that should be considered?