

# 169th SESSION OF THE EXECUTIVE COMMITTEE

*Virtual Session, 24 September 2021*

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*Provisional Agenda Item 3.3*

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## ENGAGEMENT WITH NON-STATE ACTORS

### Introduction

1. In May 2016, the World Health Assembly adopted the Framework of Engagement with Non-State Actors (FENSA).<sup>1</sup> Given the independent legal status of the Pan American Health Organization (PAHO), this policy framework did not automatically apply to PAHO until it was expressly approved and adopted by resolution of PAHO Member States through its Governing Bodies.

2. In September 2016, PAHO Member States at the 55th Directing Council adopted FENSA through Resolution CD55.R3. Member States instructed the Director of the Pan American Sanitary Bureau (PASB) to implement FENSA in a coherent and consistent manner, and in coordination with the Secretariat of the World Health Organization (WHO), with a view to achieving full operationalization within a two-year timeframe, taking into account the constitutional and legal framework of PAHO. The Director was also requested to report on the implementation of FENSA to the PAHO Executive Committee, through its Subcommittee on Program, Budget, and Administration, under a standing agenda item to be considered each year during the June session of the Committee.

3. The annual report of PASB on Non-State Actors in Official Relations with PAHO, which is part of the implementation of FENSA in PAHO, was presented at the 168th Session of the Executive Committee held 21-25 June 2021 (Document CE168/6) and adopted as Resolution CE168.R14. This document contains the report of PASB on FENSA for 2020.

### Implementation and Engagement

4. PASB began implementation of FENSA immediately after it was adopted by PAHO Member States in September 2016. To ensure consistent implementation, the PAHO FENSA focal point has continuously informed staff of all applicable procedures and has provided guidance and recommendations at the initial stages of potential

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<sup>1</sup> Resolution WHA69.10 (2016).

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engagements. Relevant internal policies and procedures are reviewed frequently so that they can be revised and/or implemented without disruption to ongoing engagements.

5. As requested by PAHO Member States when they adopted FENSA, PASB coordinates closely with the WHO Secretariat to ensure the coherent and consistent implementation of FENSA, taking into account the legal status and Constitution of PAHO. In 2020, among other things, the PAHO FENSA focal point participated in a WHO evaluation of FENSA. This included a recommendation to reconfirm the global FENSA network of focal points. PAHO FENSA focal point previously participated in global network meetings when the network was active. The meetings provided the opportunity for focal points to share information and experiences across the different WHO Regions, and to enhance and facilitate learning exchange and dissemination of best practices. The global network also promoted coherency in the implementation of FENSA. Thus, PAHO FENSA focal point supports the recommendation.

6. With regard to WHO's FENSA tools, the WHO Secretariat continues to introduce enhancements to the WHO Register of non-State actors in a phased manner to facilitate efficiency and transparency of engagements with non-State actors in official relations.

7. As PAHO has done for many years, including prior to FENSA under its Guidelines for Collaboration with Private Enterprises, PASB proactively engages with a broad range of non-State actors in an effort to support PAHO Member States and to fulfill the Organization's mission. FENSA, as an enabling policy, provides a firm basis for strengthening and expanding such engagements for a positive impact on public health. Before engaging, PASB identifies issues through its due diligence and risk assessment process, determines whether risks can be mitigated or managed, and then weighs the potential risks against expected benefits. In this way, PASB promotes engagement with non-State actors while preserving the Organization's independence, integrity, and reputation.

8. In 2020, PASB conducted standard due diligence and risk assessment reviews for more than 280 proposed engagements, as well as hundreds of simplified reviews for low-risk engagements.<sup>2</sup> The proposals and subsequent engagements with non-State actors were robust across all levels and each technical area of the Organization, and included, for example, activities such as prevention and control of communicable diseases in Latin America and the Caribbean, developing guidance on regulatory measures to improve nutrition and curb obesity in Latin America and the Caribbean, water sanitation projects, co-organizing an antimicrobial resistance seminar, and improving access to essential health

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<sup>2</sup> PASB conducts a standard due diligence and risk assessment review following the criteria established in paragraphs 29-36 of FENSA if a proposed engagement involves, among other things, a financial or in-kind contribution; policies, norms, and standard setting; the private sector or any entity affiliated with the private sector; or non-State actors whose policies or activities negatively affect human health. A simplified review may be conducted when the proposed engagement is repetitive in nature (that is, an assessment of the non-State actor has previously been conducted and the activities are the same) or is considered low-risk (e.g., participation in a meeting with a non-State actor that is not categorized as "private sector," and the meeting does not involve policies, norms, or standard setting).

services, to name a few. Approximately half of the proposed engagements originated in the country offices, and the other half at the Regional level from technical departments in Headquarters. Of the more than 280 proposed engagements reviewed following the standard due diligence and risk assessment process, approximately 95% were cleared for engagement because the benefit to public health outweighed any residual risks. In those instances when engagement was not recommended, the primary reasons included: *a) identification of links between the non-State actor and the tobacco industry and/or b) conflicts of interest that could not be mitigated or managed.*

9. PASB also conducted due diligence and risk assessment on non-State actors that were applying for or seeking renewal of the status of non-State actors in official relations with PAHO. Finally, PASB maintained close collaboration with those non-State actors in official relations with both PAHO and WHO, as 64 delegates from 34 non-State actors in official relations attended the 58th Directing Council meeting in September 2020.

10. Although FENSA has been fully implemented in PAHO, some challenges persist. In 2020, due to resource constraints and prioritization of the Organization's COVID-19 response, the planned formal FENSA trainings had to be postponed, resulting in only a few ad hoc sessions held in response to specific requests for trainings. There was also limited ability to review guidance documents and update them, if needed. In 2021, PASB has resumed its robust FENSA training program and expects to offer up to four formal training sessions, as well as numerous ad hoc sessions upon request. PASB also plans to assess and update, as necessary, guides and procedures to ensure ongoing relevance and applicability.

### **FENSA during COVID-19**

11. Early in the response to the COVID-19 pandemic, PASB recognized the need to review potential engagements with non-State actors in an expedited manner to ensure the most efficient and robust support to Member States. To address this worldwide emergency, and in accordance with Article 73 of FENSA, the Director of PASB exercised certain flexibilities in the application of FENSA procedures in order to respond more rapidly to the COVID-19 pandemic while preserving the Organization's integrity, independence, and reputation. Specifically, the Director authorized a simplified FENSA process for any proposed engagement related to PASB's response to COVID-19, whereby non-State actors are asked to provide limited basic information.<sup>3</sup> Using this information, PASB conducts an expedited due diligence and risk assessment pursuant to FENSA, completing such reviews within 48 hours if no risks or issues of concern are identified.

12. The simplified FENSA process that PASB applied during the COVID-19 emergency is similar to the one established by the WHO Secretariat for its COVID-19 engagements with non-State actors. In addition, PASB developed a COVID-19 model agreement to receive financial and in-kind contributions expeditiously, where appropriate.

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<sup>3</sup> The information requested includes name, address, website, bylaws, composition of governance, sources of funding, and a signed tobacco-arms disclosure statement.

The model contains necessary legal terms and FENSA protections, ensuring that an engagement with a non-State actor does not confer a competitive advantage or privilege, constitute an endorsement, or permit the non-State actor to use the PAHO name and/or logo without prior express authorization.

13. In response to the COVID-19 pandemic during 2020, PASB developed new cross-sectoral collaborations at the international and regional levels, enabling PAHO to promote evidence-based information and public health messages. For example, PASB worked with social media platforms and technologies to broadly disseminate messages and counter health-related misinformation. PASB also partnered with musicians to target messages to their audiences through social media. This included collaboration with a major music company on a virtual concert, bringing music to people at home while promoting measures to prevent COVID-19, with the proceeds of two songs donated to the Organization's pandemic response efforts.

14. PAHO also engaged with many non-State actors at country level to support responses to the pandemic on the part of the Organization and its Member States. For example, PAHO collaborated with nongovernmental organizations to educate vulnerable groups about preventive measures against COVID-19 and to scale up national capacities to detect, monitor, and control outbreaks of the disease. In addition, PAHO personnel frequently attended virtual meetings and events to raise awareness of and advocate for the priorities of PAHO and its Member States in support of the pandemic response.

**Action by the Executive Committee**

15. The Executive Committee is invited to take note of this report and provide any comments it deems pertinent.

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