



Baby Milk Action/IBFAN comment: WHO Draft Thirteenth General Programme of Work November 2017

IBFAN appreciates the opportunity to comment on the draft Programme and expand on our short statement made during the EBSS4 on the 22nd November, taking note of comments made by Member States and Dr Tedros. Further elaborations can be found in the submission from IBFAN GIFA.

Alignment with the SDGs and WHO's Mandate and Core Functions:

IBFAN's primary concern relates to WHO's duty to protect its *independence, integrity and trustworthiness* so that it can fulfill its mandate and core functions.

The Draft Plan currently makes an unquestioning call for closer alignment with the Sustainable Development Goals (SDGs), with the suggestion that the SDGs are "*consistent with WHO's Constitution.*" The Constitutional principle that the "*health of all peoples ... is dependent on the fullest cooperation of individuals and states*" is used to justify this alignment. Bearing in mind that a Constitution of a UN agency is not the same as an 'agenda' that in the case of the SDG's, was much influenced by corporate interests¹ this is misleading. There is nothing in the Constitution that justifies turning WHO into just one actor, a "*humble catalyst*" in an "*ecosystem of partnerships.*"

As written in the current Plan, the proposed alignment with the SDGs would fundamentally change WHO's health governance architecture and threaten WHO's capacity to fulfill its unique constitutional core functions, including:

- To act as the directing and coordinating authority in international health work (Art.2a)
- To propose conventions, agreements and regulations.... (Art.2k)
- To assist in developing an informed public opinion among all peoples on matters of health (Art. 2r)

IBFAN fears that without effective Conflict of Interest safeguards, WHO's role in proposing regulations and building the international Rule of Law will be fundamentally undermined.

The most problematic SDG, SDG17: '*Strengthen the means of implementation and revitalize the global partnership for sustainable development*' is the overarching mode under which all the other goals are said to be reached.

IBFAN is concerned that throughout the Draft Plan there is an implication that the purpose of FENSA is to *enable* partnerships rather than *manage* them in a way that safeguard WHO. Paragraph 4 of FENSA specifically states:

"In order to be able to strengthen its engagement with non-State actors for the benefit and interest of global public health, WHO needs simultaneously to strengthen its management of the associated potential risks. This requires a robust framework that enables engagement and serves also as an instrument to identify the risks, balancing them against the expected benefits, while protecting and preserving WHO's integrity, reputation and public health mandate"

¹ See e.g. Adams, B. J. Martens (2015). *Fit for whose purpose? Private funding and corporate influence in the United Nations*. Bonn/New York

WHO's Funding

The Draft Plan suggests that WHO is expected to show its “*competitive advantage*” to attract funding and be assessed along measurable impact targets. This is not acceptable. If WHO is to be able to fulfill its constitutional mandate, full funding of WHO must be the agenda. WHO must be freed from the dependency on ‘voluntary’ funders – the result of the long-standing near-freeze on its assessed contributions imposed since the 1990s.

WHO – and other UN agencies – have become increasingly vulnerable to undue influences since this time and it is now difficult for WHO to work on policy and programme areas that some donors don't like – even those decided by Member States at the WHA. IBFAN continues to advocate for sustained funding from an increase in Member States assessed contributions as the only appropriate solution that will allow WHO to carry out its core work.

Operational vs norm-setting in the public interest

IBFAN shares the concerns expressed by several Member States about the strategic shift to being more ‘operational.’ This shift may open the door to yet more earmarked voluntary funding from the rich and powerful. It may also risk distorting public health planning away from areas, seen by some as problematic: from prevention to treatment, from sustainable foods to dependence on highly processed foods, from regulation of marketing to voluntary, industry friendly agreements.

We were pleased to hear Dr Tedros' explanation during the EBSS4 that the reference to ‘operational’ relates primarily to the 15 or so countries in crisis and that WHO's norm-setting and lead role in supporting Member States in regulation setting is still seen as its core function. This needs to be made explicit in the Plan.

Goal 2: End hunger, achieve food security and improved nutrition, and promote sustainable agriculture

If WHO's response during emergencies and in situations of conflict is to be appropriate, it must also be guided by its norms, standards and recommendations. Since the potential for commercial exploitation is greatly increased in emergencies and crisis situations, the *International Code of Marketing of Breast-Milk Substitutes*, the subsequent relevant WHA Resolutions and Guidance, and the *Operational Guidance on Infant and Young Child Feeding in Emergencies (OG-IFE)* (endorsed by WHA 63.23) should be included in the Plan.^{2, 3}

The Plan must also make a reference to the human right to health and that optimal infant and young child feeding is essential for the survival, growth and development of children. Although breastfeeding is mentioned in *Goal 2*, it is only in relation to stunting. WHO's role is defined as merely to:

“*Support policy action to improve access for infant and young child feeding practices, provision of micronutrients and help with implementation, including populations in fragile settings.*”

The *Global Strategy on Infant and Young Child Feeding* (GSIYCF) outlines the importance of appropriate complementary feeding, and is not just focused on the provision of micronutrients.⁴ Para 14. *Appropriate complementary feeding depends on accurate information and skilled support from the family, community and health care system. Inadequate knowledge about appropriate foods*

² [Operational Guidance for Emergency Relief Staff and Programme Managers](#), developed by the [IFE Core Group](#) Updated 2017. Version 3 October 2017

³ Research also concludes that formula feeding is associated with higher risks for major chronic diseases and conditions, such as type 2 diabetes, asthma, and childhood obesity. WHO recommends optimal breastfeeding practices could have the single largest impact on child nutrition, health, development and survival. The Lancet Series on Breastfeeding in January 2016 concludes that scaling up breastfeeding to nearly universal levels could prevent nearly 50 percent of diarrhea episodes and a third of respiratory infections. Increasing breastfeeding to near-universal levels could save more than 820 000 lives each year.

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and feeding practices is often a greater determinant of malnutrition than the lack of food...15. Providing sound and culture-specific nutrition counselling to mothers of young children and recommending the widest possible use of indigenous foodstuffs will help ensure that local foods are prepared and fed safely in the home.”

The GSIYF also sets out the two and only appropriate roles for the baby feeding industry: full compliance with the *International Code* and Resolutions and meeting standards of Codex Alimentarius.⁵

The Plan could help ensure that the support and protection of breastfeeding is prioritised rather than sidelined. An [analysis of current nutrition funding](#) by the World Bank Group, *Results for Development Institute* and *1,000 Days* reveals the imbalance of resource allocation, to the detriment of breastfeeding, stunting and anemia. (See IBFAN comment on RUTF ⁶)

Tackling NCDs

Poor diets are the biggest cause of death and disability globally, and the cost of diet-related disease is fast consuming health budgets. The response to NCDs in current Plan is inadequate and proposes to merely stabilise obesity rates.⁷ The Plan should mention that importance of breastfeeding and early child feeding in the prevention of obesity.

It is essential that WHO tackles the harmful marketing that is exacerbating the NCD epidemic. Member States need WHO to take the lead and establish Conventions, regulations and Frameworks to end corporate strategies that harm health.

As mentioned before, Conflicts of Interest (CoI) safeguards are key to any success in this area. Without such safeguards MS's may be persuaded that spurious, *'here today, gone tomorrow'* initiatives (that gained credibility from any link to WHO) will be more effective than regulations and fiscal measures.

We are concerned about the proposed establishment of an Independent High-level Commission on NCDs and a *"multi stakeholder NCDs Cooperative."* The Terms of Reference for this High-level Commission includes representation from the private sector and a "dialogue" stream. The only reference to CoI safeguards is in a presentation on FENSA (that, as mentioned before, has a faulty COI conceptualisation, see FENSA below).

Also of concern is the Global Coordinating Mechanism that has given disproportionate access to corporations that not only promote unhealthy foods, but are involved in land-grabbing and monocropping. If WHO is serious in promoting sustainable agriculture, identified in Goal 2, it must promote the protection of bio-diverse, culturally appropriate and sustainable foods while heeding FENSA's requirement to *"exercise particular caution...when engaging with private sector entities ...whose policies or activities are negatively affecting human health.."* Small farmers, town planners and teachers are much more effective partners than corporations, who waste precious time producing and promoting slightly less harmful junk foods.

Fostering Innovation

While innovation can be important, there is always the risk of unintended consequences, especially in relation to nutrition. WHO has a duty to ensure that any recommended actions and innovations

⁵ *Global Strategy on Infant and Young Child Feeding Commercial enterprises 44. Manufacturers and distributors of industrially processed foods intended for infants and young children also have a constructive role to play in achieving the aim of this strategy. They should ensure that processed food products for infants and children, when sold, meet applicable Codex Alimentarius standards and the Codex Code of Hygienic Practice for Foods for Infants and Children. In addition, all manufacturers and distributors of products within the scope of the International Code of Marketing of Breast-milk Substitutes, including feeding bottles and teats, are responsible for monitoring their marketing practices according to the principles and aim of the Code. They should ensure that their conduct at every level conforms to the Code, subsequent relevant Health Assembly resolutions, and national measures that have been adopted to give effect to both*

⁶ IBFAN briefing on Proposed draft guideline for Ready To Use Therapeutic Food (RUTF) to be discussed in the 39th session of Codex Committee on Nutrition and Foods for Special Dietary Uses (CCNFSDU) <http://www.babymilkaction.org/wp-content/uploads/2016/07/IBFAN-Codex-RUTF-FINAL6.11.17-1-1.pdf>

⁷ Draft GPW Goal 3 *Keep the levels of overweight (including obesity) in children and adolescents stable*

are first independently reviewed, scrutinized and supported by *'Relevant convincing / generally accepted scientific evidence or the comparable level of evidence under the GRADE classification.'* Such scrutiny will be jeopardized if it is in partnership with an interested party.

It is worth noting that in general, corporations choose ill-defined terms such as *'generally accepted' 'History of safe use' 'science-based' 'scientifically demonstrated.'*

FENSA and its faulty Conflict of Interest:

The draft Plan places much emphasis on FENSA - a still contested instrument that was adopted in May 2016 with promises of due diligence and increased transparency. Concerned Member States clarified the mandate of WHO's Secretariat: to strengthen dialogue and cooperation with other stakeholders *'as appropriate whiletaking into account the importance of managing conflicts of interest.'*ⁱ WHO is required to *"exercise particular caution...when engaging with private sector entities ...whose policies or activities are negatively affecting human health.."*

IBFAN is especially concerned that FENSA contains a conflict of interest concept that redefines legal conflicts of interest, and legitimizes problematic multi-stakeholder arrangements. The definitions confuse conflicts of interest *within* an institution or person with conflicts *between* actors who have diverging or fiduciary duties (which in the case of corporations is to maximise profits). FENSA's muddled definitions divert attention away from conflicts that exist *within* public actors – conflicts between their mandates and prime functions and their secondary interest to be adequately funded.ⁱⁱ

With the sheer number of PPPs and multi-stakeholder initiatives now being encouraged we fear that it will be impossible for WHO to apply the due diligence and scrutiny needed to prevent commercial exploitation and allow it to fulfil its prime constitutional function to protect health for all.ⁱⁱⁱ

Ensuring that Trade rules prioritise health

A glaring omission is the need for WHO to continue to improve health safeguards at the Codex Alimentarius. The Standard setting procedures of Codex and its guidelines covering National Codex Committees and National Codex Contact Points, are wide open to undue commercial influences. Because of the imbalance of resources and power, businesses and their front groups are disproportionately and inappropriately represented at Codex meetings (often sitting on government delegations and sometimes even leading them). These industries regularly fund dinners and receptions for participants and contribute to secretarial services. The lack of an adequate COI policy leads to the minimizing of global public health needs and the prioritization of regulatory measures that facilitate trade interests. This has a profound influence on everything that Codex does, including the evidence base that is used to decide on the safety of ingredients, additives etc. It also affects developing countries efforts to protect the right to food and health, by preventing strategies that promote land and sea-grabbing, mono-cropping and soil depletion. IBFAN is supporting WHO – the parent organisation of Codex – in its efforts to bring Codex Standards into line with WHO's recommendations on nutrition, food safety and labelling and marketing.

Conclusion

We hope that the suggestions above will assist in the further redrafting and development of the Plan, and offer our support to WHO, bearing in mind the needs of the world's poorest people who will pick up the cost of bad decisions about their health.

ⁱ 2011, EBSS/2/DIV/2 (g) (Emphases added)

ⁱⁱ See e.g Richter, J. (2015). "Time to debate WHO's understanding of conflicts of interest." British Medical, Journal (BMJ) rapid response, 22 October www.bmj.com/content/348/bmj.g3351/rr; Richter, J. (2015)"Conflicts of interest and global health and nutrition governance - The illusion of robust principles," BMJ RR, 12 Feb. 2015, www.bmj.com/content/349/bmj.g5457/rr; Richter, J. (2017). "Comments on Draft Approach for the prevention and

management of conflicts of interest in the policy development and implementation of nutrition programmes at country level."
<http://www.babymilkaction.org/consultations>

ⁱⁱⁱ Richter, J. (2005). Global partnerships and Health for All: Towards an institutional strategy. A discussion paper prepared for WHO's Department of Government, Civil Society and Private Sector Relations (GPR). Geneva, WHO: 20 pp,
<http://info.babymilkaction.org/files/Richter%20Global%20Partnerships%20and%20health%20for%20all.pdf>