

# **Global health & nutrition governance and the politics of conflicts of interest**

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**Health governance in the public interest?**

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## **Context**

***The health, food & nutrition environment  
has been changed as part of  
neoliberal global restructuring***

Since the 1992 Rio Conference  
on the Environment & Sustainable Development  
UN agency leaders have

*actively promoted closer UN-business relationships*

***Public-private 'partnership' paradigm***

- ***concrete public-private partnerships (PPPs)***
- ***& multi-'stakeholder' initiatives (MSIs)***

***Now summarized as MSPs = key implementation tools of  
the 2030 SD agenda***

Accompanied by  
Politics of conflicts of interest (Cols)  
From «normalisation» to blurring of concept

- Concerns of Member States that close partnership-interactions would increase Cols were dismissed as «constraints» to «more flexible» ways of working (a.o. in the Jeffrey Sachs chaired Report on Macroeconomics & Health in 2001)
- Where pressure resulted into work on Cols policies, Col concepts were redefined...  
for example:

**In 2018: 3 key documents  
with problematic Col conceptions**

**2014: Engaging in the SUN Movement: Preventing and managing conflicts of interest - Reference Note** – Gates funded; national level

**2016: WHO Framework for Engagement with Non-State Actors (FENSA)** – basis for training of WHO civil servants on Col identification in collaboration with NSAs

**2018 WHO Draft approach for the prevention and management of conflicts of interest in the policy development and implementation of nutrition programmes at country level (Col tool)** – national level

# Pseudo-consultations on tool

Expert opinions which would have led to revision of the FENSA conceptualisation were not taken into account

## What was not taken into consideration?

Law Prof. Ann Peters stressing the need to **avoid confusing «conflicts of interest» (Cols) with what others often call «conflicting interest»**

«The conflict we are dealing with is an *intrapersonal [intra-institutional]* **conflict** arising **within** a human or an institution which is entrusted with such [fiduciary] decision making.

It is **not** a clash **between** different actors.»

Remember the **KEY difference:**

**WITHIN** versus **BETWEEN**

e.g. according to the  
**Institute of Medicine IoM (2009)**

"Institutional conflicts of interest arise when an **institution's own [secondary] financial interest ...** pose risks to the integrity of **the institution's primary interests** and missions."

But **FENSA** maintained as definition (2016)  
«An institutional conflict of interest is a situation where WHO's primary interest as reflected in its Constitution may be unduly influenced by the **conflicting interest of a non-state actor...**» para 24

# SUN & WHO documents

- Blur distinction between **conflicts of interest** (= conflict WITHIN an individual or institution)
- and **risks of undue influences** due to «vested», «conflicting», interest of a «non-state actor» (= conflicts BETWEEN)
- Consequently blur distinction between:

Col identification & regulation and risk assessment

Diverts attention from a key Col question:

Do public interest actors give opportunities for undue influences for «voluntary» funding?



SUN & WHO documents  
legitimize problematic roles  
for private sector actors  
in their interaction typologies

e.g. FENSA

Provision of **innovative «ressources»** (NB:  
FENSA excludes staff secondment of Private  
Sector actors, but not of venture  
philanthropies)

«**Participation**» in all kinds of public decision  
making processes

«**Implementation** of WHO policies»

«**Advocacy**» e.g. to change behaviours

# What could be done immediately

- to ensure that FENSA & the Col tool are strengthened as a public interest safeguards and do not become frameworks of undue entanglements?
- FENSA = «enabling framework for multi-stakeholder partnerships» draft 'concept' behind WHO General Programme of Work

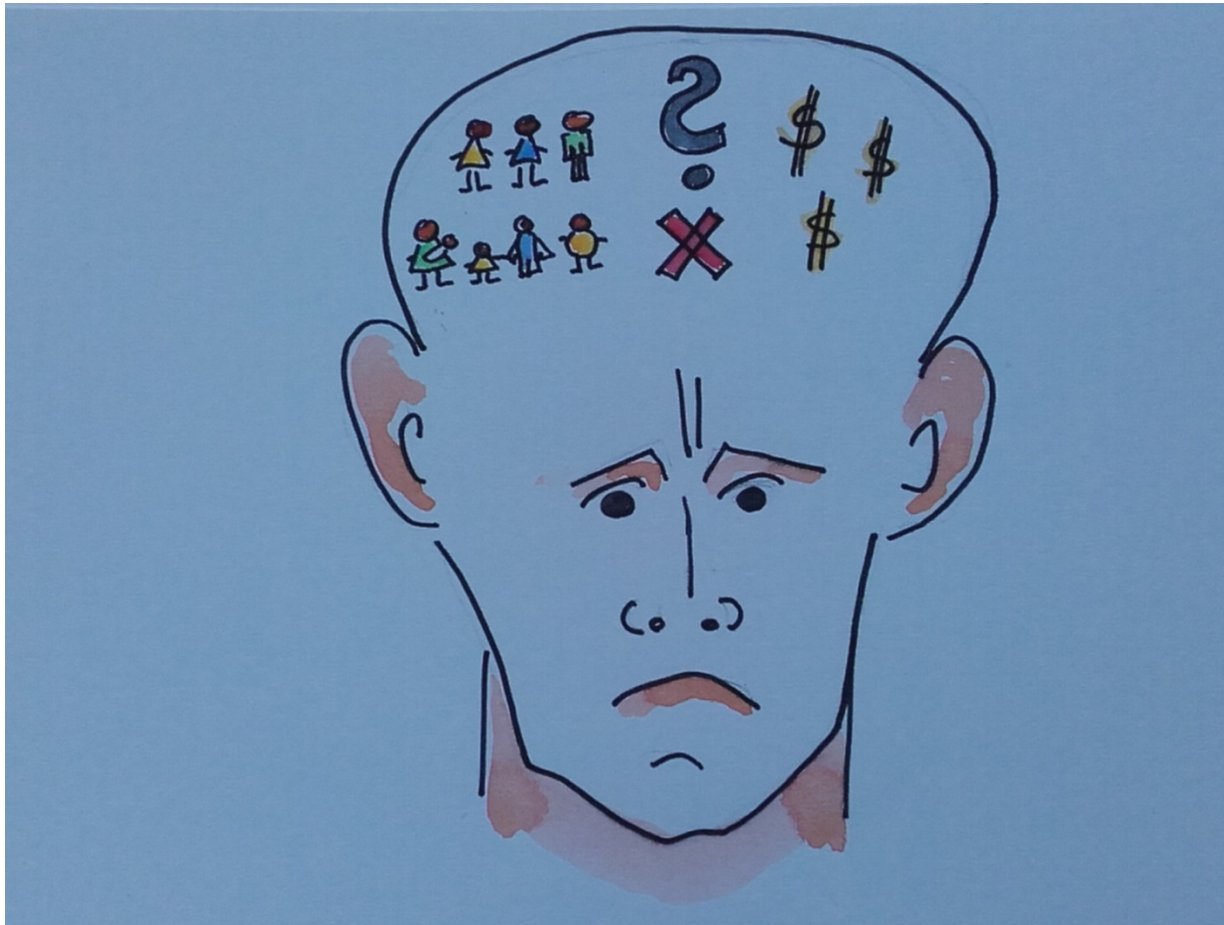
- If citizens, civil servants & health professionals knew the latest **reflections of legal Col experts**
- they would not need not turn into experts on Col
- They could use a «**reasonable person perspective**» because «**perceived**» **conflicts of interests** are taken very seriously in Col regulation (public trust/legitimacy)
- They could raise perceived conflicts of interest, by relying on **popular knowledge** as reflected in sayings, parabels, slogans

## A legal definition of Col: Fiduciary duties as well as loyalty obligations

"A **conflict of interest exists**  
where an individual has an **obligation to serve a party**  
or **perform a role**  
and the individual has either:  
1) **incentives** or  
2) **conflicting loyalties**,  
which encourage the individual to  
**act in ways that breach his or her obligations.**"

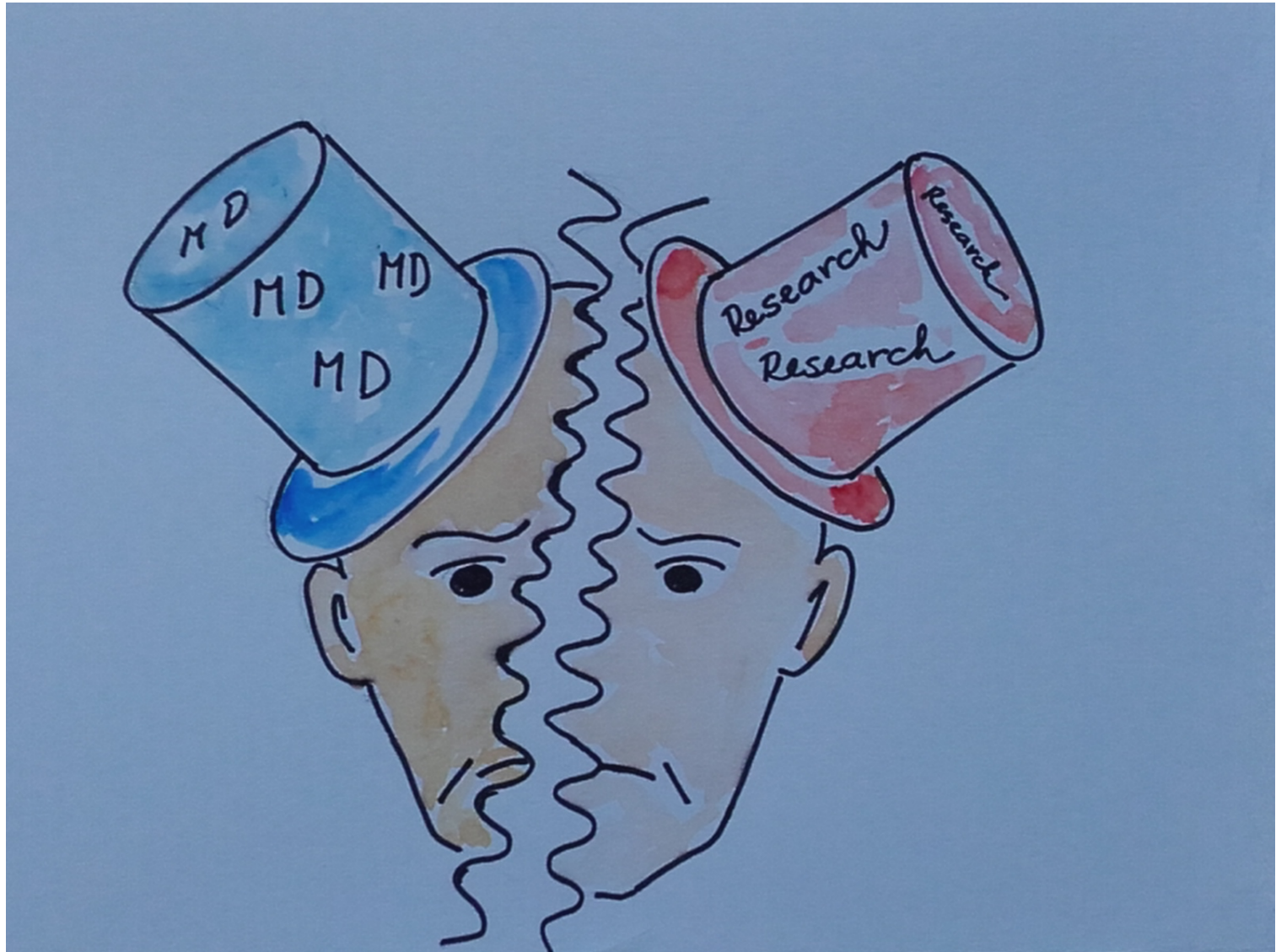
Prof. Marc Rodwin, Journal of Health Law and Policy, 2017

# Conflict of interest = Conflict WITHIN



**Financial conflict of interest**

## Split loyalty: Wearing two hats





# Divided loyalty: You cannot serve two masters



Financial relations:  
Sponsorship & investment in health &  
nutrition arena  
= partnership?

Corporations = partners  
who share «same values» with WHO,  
«not the enemy»

Report by IP expert & activist, James Love,  
WHO Global Dialogue on **Partnerships for Sustainable  
Financing** of Noncommunicable Disease (NCD) Prevention  
and Control,” Copenhagen, April 9-11, 2018.

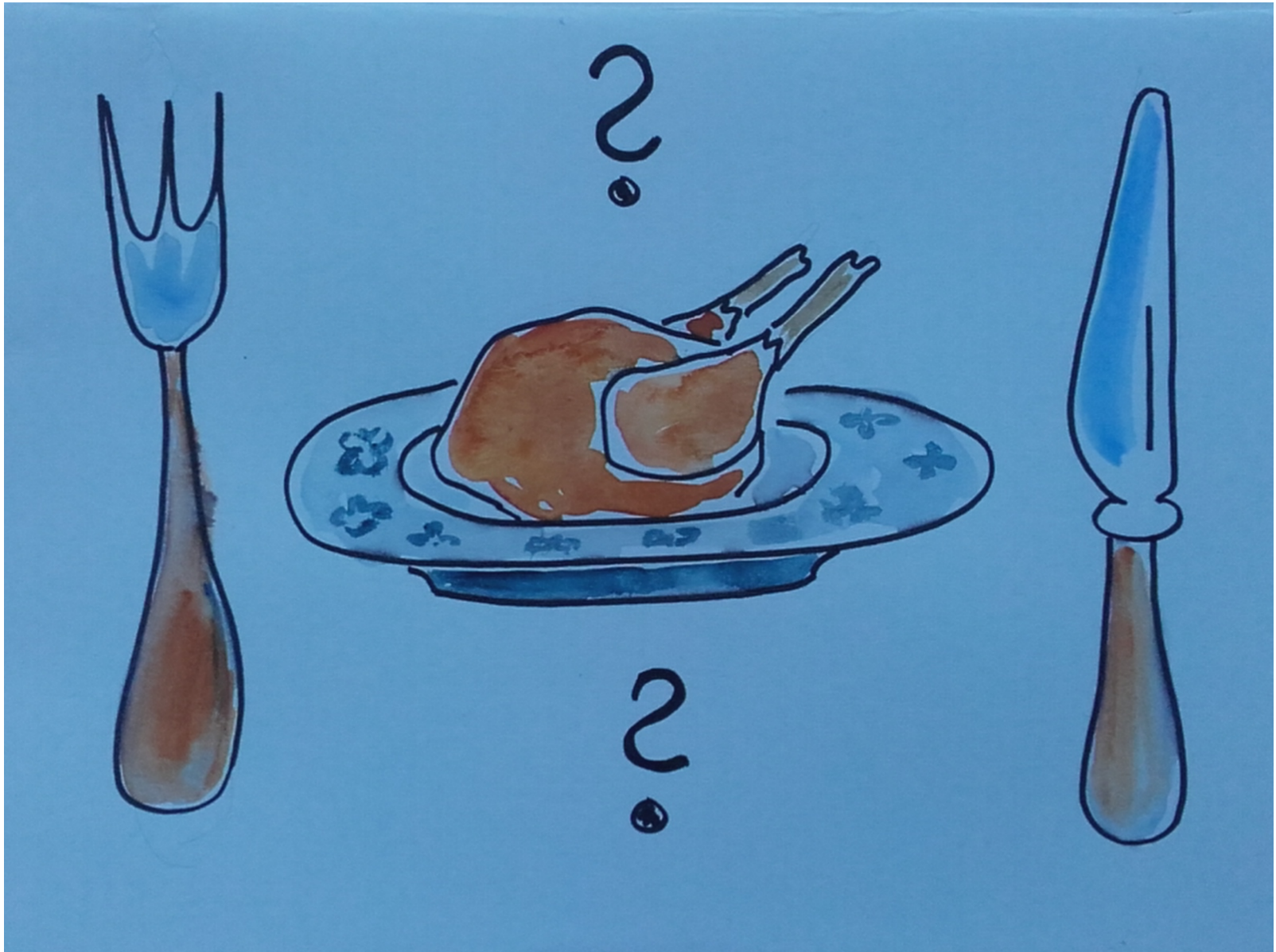


The hand that gives is always higher than the hand that takes



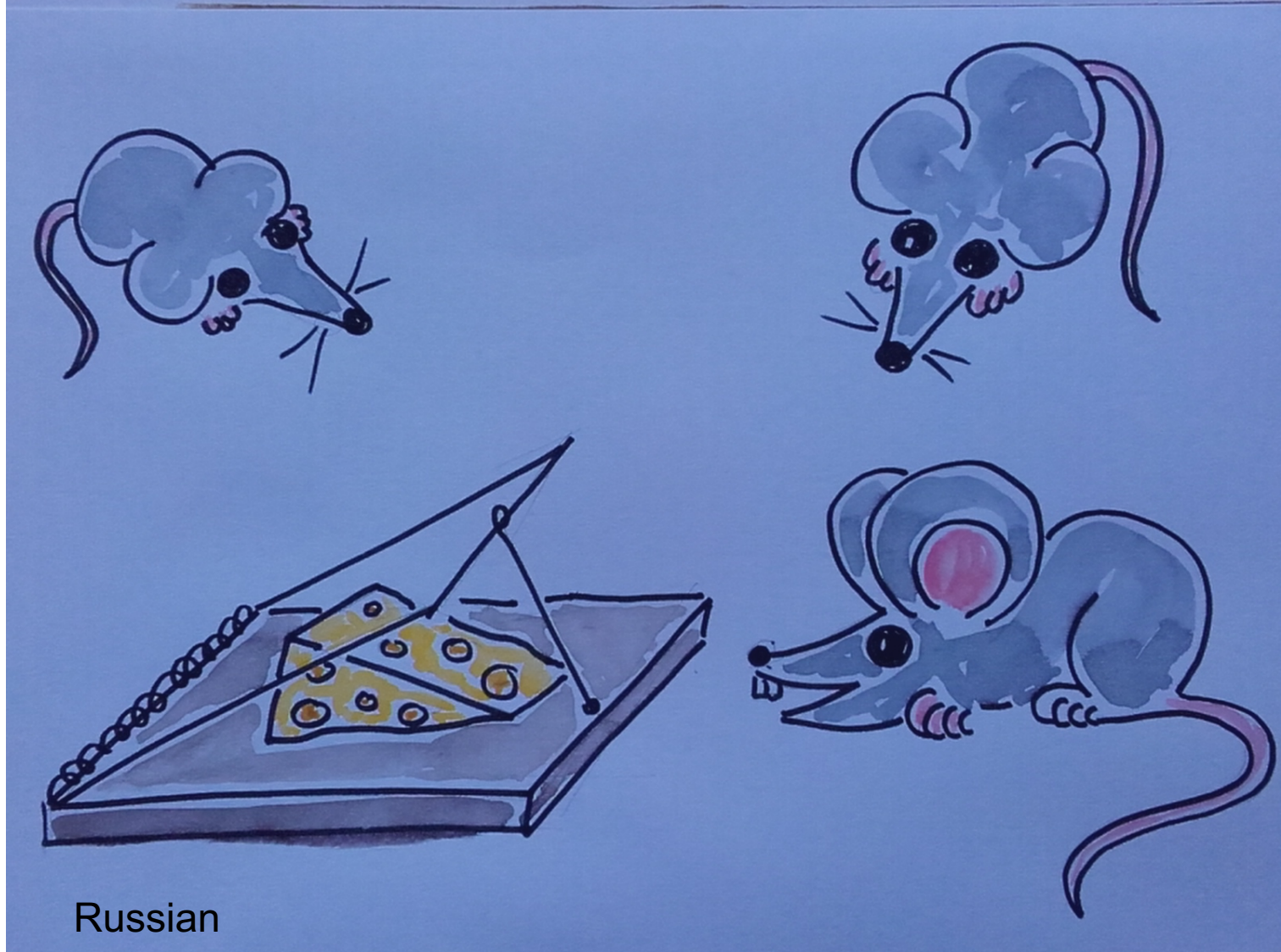
Congo

**There is no such thing as a free lunch**





Only in a mouse trap the cheese is for free



## Small presents maintain the friendship

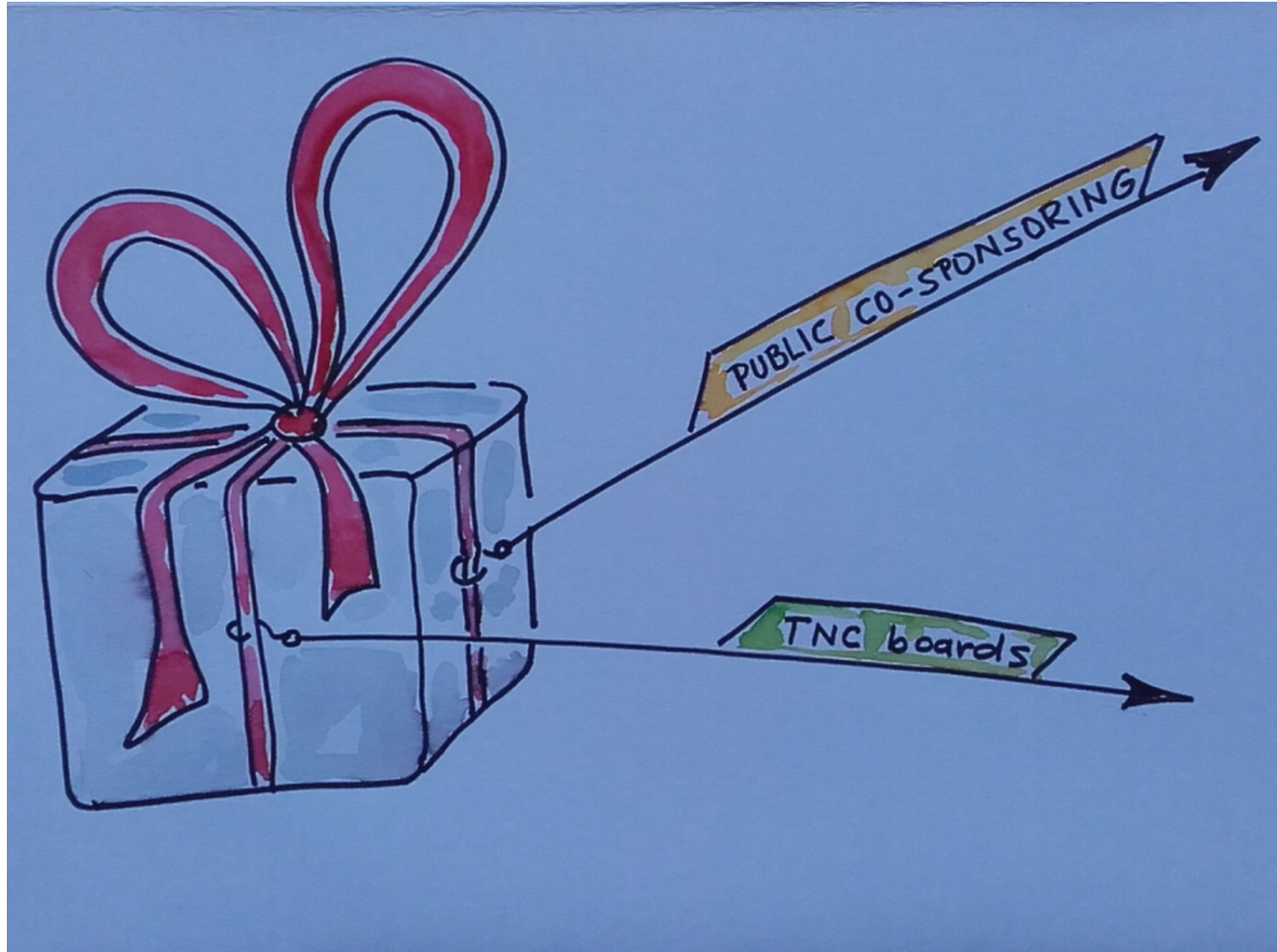


# What may be given in return?

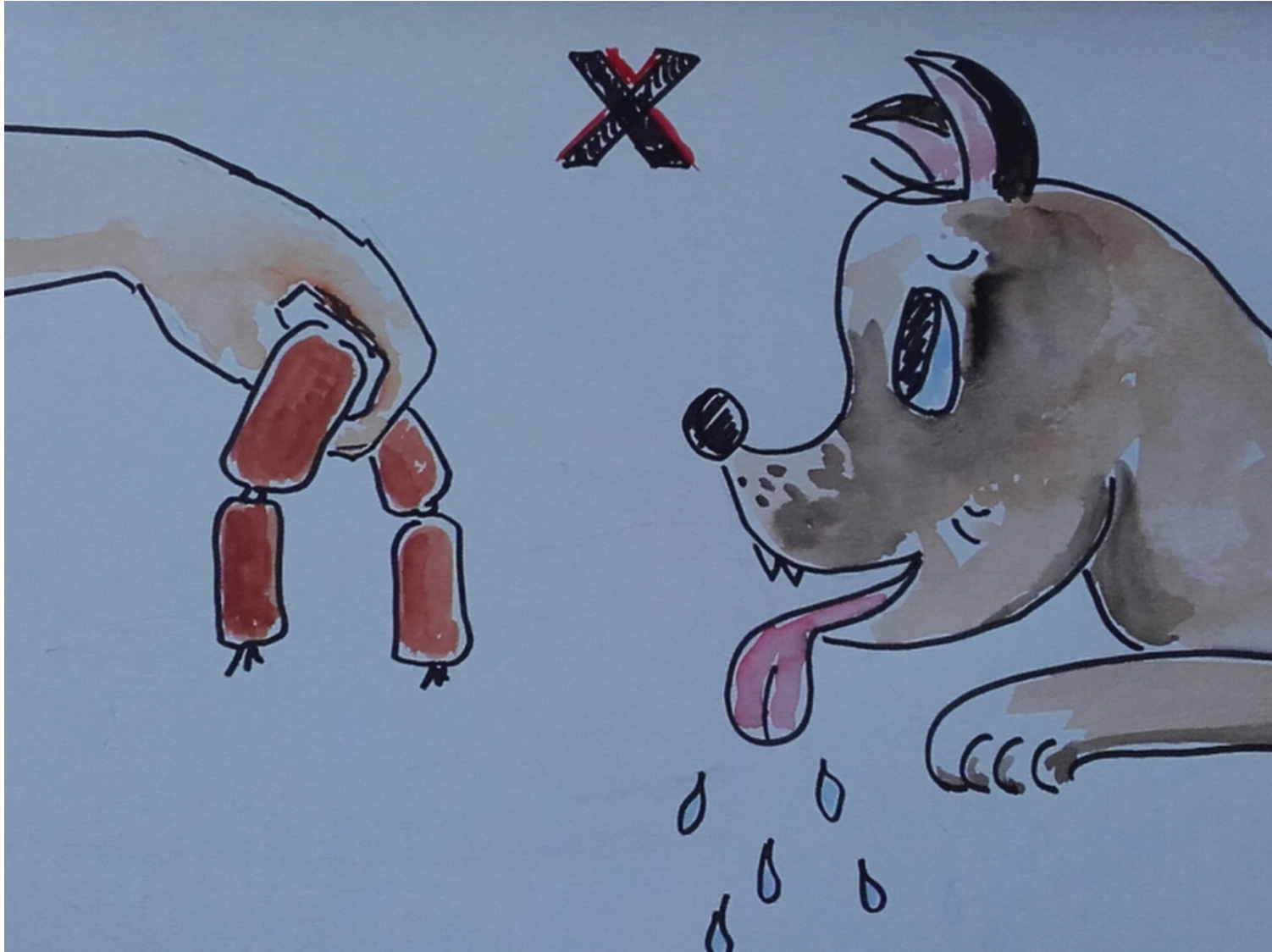
- Public resources diverted into initiatives defined by others? Wasting public funding?
- WHO's regulatory role? (commerciogenic illhealth & deaths?)
- WHO's constitutional mandate as guardian of human rights to health, adequate food & nutrition? WHO to become part of a «multi-stakeholder governance» system & broker of MSPs?



## What strings are attached ?



**You do not bite the hand that feeds you**





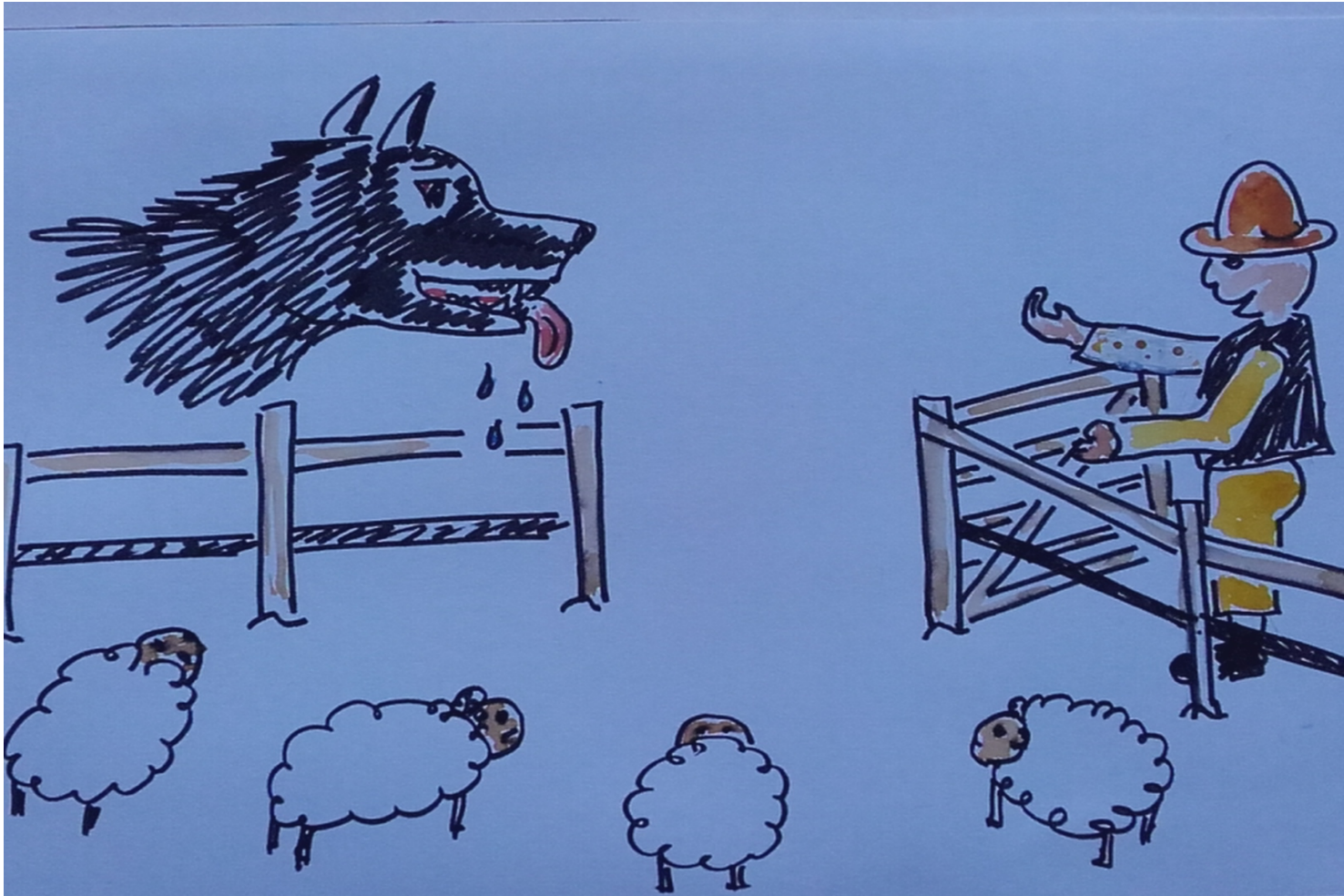
**MS-discourse:  
No difference nature actors, fiduciary mandates, power?**



**Some have bigger "STEAKS" to fry...**



**Replace stakeholder-partnership image**  
**You should not invite the wolf into the sheep enclosure**



French

Good shepherd image would help regain public trust  
& staff morale

«Partnership paradigm is intellectually dishonest»  
Staff interview 1999

WHO should not broker partnerships with companies  
& promote preferential «inclusiveness»

But urgent need to replace «principle» of «trust» by  
«vigilance»

&

«feed the watchdogs»

**Need of immediate revision of policy documents to allow to  
«*identify, assess, and adequately address*  
Col in the food and nutrition arena»\***

Remind public agencies  
& UN Member States of the  
*OECD Guidelines for on Managing Conflict of  
Interest in the Public Service (2003)*

# Core principles which public officials should observe when dealing with Col matters

- «Serving the public interest
- Promoting individual responsibility and personal example;
- Engendering an organisational culture which is intolerant of conflicts of interest
- Supporting transparency and public scrutiny»

## Duty of leadership

«create an organisational culture where dealing with conflict-of-interest matters can be freely raised and discussed»



OECD (2005). Managing Conflict of Interest in the Public Sector: A toolkit

Look at methodological problems & gaps in proposed WHO General Programme of Work resulting from aligning with partnership SDG  
E.g. addressing **‘commerciogenic’ malnutrition**

Correct Col understanding  
to allows to:

Recovering  
‘arms-length distance’

Stopping the influx of corporations &  
conflicted actors to public decision making  
tables

Argue for full public funding  
of WHO  
&  
build on reality  
not on a harmful partnership fairytale

