

**Comment on the draft 13th General Programme of Work
Presented at EBSS4¹
28.11.2017**

IBFAN-GIFA welcomes the opportunity to comment on the draft General Programme of Work (dGPW). We are concerned that suggestion to ‘align’ WHO’s role and its General Programme of Work with the SDGs, in particular with the partnership SDG 17, will result in undermining WHO’s capacity to fulfil its constitutional mandate and core functions. Our focus is on the need to protect this capacity which is closely linked with the public mandate to protect WHO’s *independence, integrity and trustworthiness*.

When reading the draft Concept Note and the draft 13th General Programme of Work by asking what is said, how it is said and what is missing, a few statements stand out:

The draft Concept suggests to “align [WHO’s General Programme of Work] with... the Sustainable Development Goals (SDGs). The last GPW preceded the SDGs but now there is an opportunity to align with this global consensus. There is a **remarkable alignment of the SDGs with the WHO Constitution...** WHO recognizes that **multisectoral action** is central to the SDG agenda... Since the world has analyzed global challenges and agreed upon the SDGs, we will not review the context of global health again here.”

“WHO is the world’s governance platform for health... [A]t the same time, **it is recognized that global governance has evolved from intergovernmental governance alone, and WHO is also an emerging platform for multistakeholder** (i.e. government, nongovernmental organisations, private sector entities, philanthropic foundations and academic institutions) **governance...**”

“WHO exists in an **ecosystem of partners who can only achieve the SDG targets if they all work together ...** WHO will use **FENSA... as an enabler of responsible and productive partnerships**. WHO will strive to work as a good partner... with a sense of humility.”

“WHO will place countries at the centre of its work...[WHO will build] a new generation of WHO Country Representatives who are... effective... health diplomats... and key partners in resource mobilization...WHO will strive to... heed the **overarching spirit of the [UN] reforms: less global talk and more local action.**”

WHO will **focus on impact: “It is more meaningful to contribute 10% to a drop in maternal mortality than 100% to a maternal mortality action plan...”**

Draft Concept Note towards WHO’s 13th General Programme of Work 2019-2030²

The Concept Note stressed that it is a draft whose suggestions can still be complemented. We believe the issue is not just about adding suggestions about omissions to the Concept behind WHO’s proposed 13th General Programme of Work. The draft Concept Note has significant methodological shortcomings which have made their way into the dGPW13 and will need to be corrected.

¹ Based on an analysis by Judith Richter, PhD & in cooperation with Alessia Bigi

² WHO (2017). "Keep the World Safe, Improve Health, Serve the Vulnerable." Draft Concept Note towards WHO's 13th General Programme of Work 2019-2023, p.3, 8, 11, 9 http://www.who.int/about/draft-concept-note_13th-programme-work.pdf, emphasis added

One major shortcoming is that it builds on the ahistorical notion that relationships between actors in the health arena are harmonious.

The other major shortcoming is that both the draft Concept Note and the GPW13, state categorically that the SDGs are “*consistent with WHO’s Constitution*”. Both documents quote the following WHO Constitutional principle as justification for this assertion: the “*health of all peoples is fundamental to the attainment of peace and security and is dependent on the fullest cooperation of individuals and states.*” However, this principle does not justify the way in which WHO is turned into just another actor, a “*partner*”, moving in an alleged “*ecosystem of partnerships*” that has to show its “*competitive advantage*” to attract funding and investments for itself – and economically weaker countries – by being assessed along measurable impact targets.

It is important not to mix apples and pears. A Constitution of a UN agency is of a different order than an “agenda” (which, in the case of the SDG agenda is an agenda which was much influenced by corporate interests³). Of yet another order than an agenda are “goals” and measurable “impacts”.

The dGPW13 includes a box listing principles of WHO’s Constitution which seems to suggest that there is no problem in the changes of WHO’s role in international health that are contained in the dGPW13.⁴ It is our opinion that WHO General Programme of Work needs to be also assessed against WHO’s constitutional mandate and core functions (Articles 1 & 2 a-v).

If this were the box in the document, then it may become clearer that the draft Concept Note and the GPW13 are in fact, explicitly and implicitly, proposing a change to the whole health governance architecture in a way that WHO may lose its capacity to fulfil three constitutional core functions, that to:

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

Towards public-private health & nutrition governance approaches?

The draft Concept Note and draft GPW13 state that “*governance is no longer the exclusive preserve of health ministries or even governments ...*”⁵ to justify the pressure on WHO to become a *partner* in what is currently depicted as an unproblematic, emerging system of polycentric, ‘*stakeholder governance*’. No notice is taken of concerns that such systems may actually ultimately turn into a fragmenting, plutocratic, system of global governance - a system where money rules. Such an architecture has indeed been emerging for some time. But it has made more inroads, since the World Economic Forum initiated its Global Redesign Initiative (WEF GRI) in 2010 and created networks to further this idea. This system is getting more and more out of public control and risks to

³ See e.g. Adams, B. J. Martens (2015). Fit for whose purpose? Private funding and corporate influence in the United Nations. Bonn/New York

⁴ WHO (2017). Draft thirteenth general programme of work 2019–2023. Promote health, keep the world safe, serve the vulnerable. Geneva, World Health Organization (dGPW), p. 3, Box 1

⁵ WHO (2017), dGPW, p. 14, para 3

overwhelm public-interest actors' capacities to assess and react to the ever increasing number of public-private initiatives.⁶

When advocating for such *stakeholder* arrangements and governance, no mention is made of the fact that the meaning of the term 'stakeholder' has been turned around in a Novartis funded publication, in a way that allows corporations and venture philanthropies to press for participation in public decision-making processes in the name of an alleged *overarching* principle of *inclusiveness*.⁷

In what concerns *global governance*, understood simply as '*rule setting, formal and informal*,' it has actually never been the exclusive domain of intergovernmental organizations and their Member States. Already during the time of the late Dr. Halfdan Mahler, WHO interacted extensively with civil society organizations and social movements as well as with transnational corporations. But, at the time of policies directed towards achieving *Health for All* (HFA), the distinct roles of each of the actors involved in the health arena was still understood; they had not yet become blurred by subsuming all of them under terms such as partner, or stakeholder, or non-State actor; nor had the boundaries been blurred by the massive building up of public-private hybrids along the Global Compact-, GAVI-, SUN models – and now WEF's '*global stakeholder governance*' model.

The dGPW13 uses the term "*multi-sectoral*" actions to justify them as a "*pathway through which WHO addresses all 17 SDGs.*"⁸ The term seems to have two meanings in the dGPW13. When "multi-sectoral" actions were promoted under HFA policies the meaning was that of health sectors, working with agricultural, water and other public sectors towards health as a human right. It still exists in that meaning. But in the above suggestion, it seems to be denoting what earlier on would have been called "cross-sectoral" initiatives and relationships. It is with this meaning that the term "multi-sectoral" action is now often used in many current documents to legitimize the trend towards closer and more public-private interactions.

When the SDG discourse is used to push strongly for "engaging" in public-private interactions or alliances in a spirit of partnership, the times are forgotten when actors in the health arena were clear about the need for arms-lengths distance and vigilance in such interactions and when nobody would have called on public-interest actors, civil servants and health professionals to engage with corporate actors in a spirit of 'trust'.

Instead of suggesting to turn WHO into a partner in the emerging public-private governance architecture and a catalyst of yet more public private vertical health alliances and coordinating 'multi-stakeholder' alliances in the health and nutrition arena, it seems

⁶ It is also a system which simply overwhelms public-interest actors. Only corporations, mega-venture philanthropies, and rich countries can attend the flurry of "multi-stakeholder" discussions and relevant meetings of public-private 'partnerships' and -platforms. For more information, see e.g. J Richter, "Comments on Draft Concept Note towards WHO's 13th General Programme of Work", 15 pp, 14 November 2017, <http://g2h2.org/wp-content/uploads/2017/09/Judith-Richter-1.pdf>

⁷ Which had originally been meant to ensure that the most pertinent civil society actors are not left out of important UN discussions but now has become part of e.g. the overarching principles in FENSA which applies to all "non-State actors".

⁸ dGPW, p. 14, para 4 & 5

important to reflect how to ensure that WHO – and its Member States – can regain their capacity to:

- act as the directing and coordinating authority in international health work (Art.2a)

Missing: WHO's Constitutional regulatory mandate

While there is much emphasis on how public-private approaches will address current health problems, there seems to be a gap when it comes to purely public, human rights-centred, legal approaches, to deal with the 'eradication' of commerciogenic causes of all forms of malnutrition (and other health problems). There is reason for concern that the focus on demonstrating measurable impact, so that donors will understand the need to "invest" into WHO, will drive out anything that may jeopardize corporate profit interests or not fit with venture philanthropy approaches which have long promoted such approaches in the health arena⁹.

As a long-standing corporate accountability organisation, we are particularly concerned about the way WHO's role in regulation and norm-setting is being depicted in the dGPW13¹⁰. By classifying regulation as a "public good", and by asking WHO to ensure that *"global public goods are driven by country needs and deliver tangible effects at the country level"*, the understanding might get lost that WHO was given the mandate, as other UN agencies, to build the international Rule of Law. We are concerned what effect this reframing around above understanding will have on WHO's role. Is regulation in this text understood as e.g. just regulation so that companies can invest into production of micronutrients?

The Global Work Programme should be revised to ensure the protection of WHO's constitutional core function to:

- propose conventions, agreements and regulations.... (Art.2k)

It is important to note that this function is more than WHO's "norm-setting" function (Art. 2u) which, of course, needs also be better protected from the influence of corporate actors.

It is crucial that WHO, and its Member States, remain able to support the much needed continued implementation of the International Code of Marketing of Breast-Milk Substitutes at national levels. The capacity of Member States to strengthen the International Code through WHA Resolutions and industry-independent civil society monitoring must not be undermined. So far, we cannot not see role of WHO and its governance bodies reflected in the draft 13th General Programme of Work. We are also concerned about the prospects of other possibly needed Conventions that would address other commerciogenic causes of ill-health, in particular in the field of obesity-related diseases.

The slides presented at the Special Session of the Executive Board seem to suggest that WHO's future approach consists primarily in "engag[ing with] the private sector to reduce impact of marketing of unhealthy foods and beverages to children, reformulate

⁹ Birn, A.-E. J. Richter (forthcoming 2018). U.S. Philanthrocapitalism and the Global Health Agenda: The Rockefeller and Gates Foundations, Past and Present.

¹⁰ dGWP, p. 17-18, see « Focus global public goods on impact»

products, reduce the use of salt in the food industry, eliminate trans-fats, and improve access to affordable medicines for NCDs."¹¹ Breastfeeding is mentioned in these slides under the overall heading of “human capital” to be dealt with primarily under the Nurturing Care Framework which has as key message: “Investing in Early Childhood Development is smart.”¹²

The business language and the focus on collection of funds and attraction of investments, which is permeating the draft Concept Note and draft 13th General Programme of Work is disconcerting. We suggest that the emerging GPW13 will come back to phrasing in human rights, public interest-centred language.

WHO as a broker for public-private hybrids ?

The draft Global Programme of Work proposes that WHO also serves as a “catalyst” for partnerships. It refers to FENSA, as if it were a Framework to needs to be just implemented in a way that it will “enable partnerships, while protecting the integrity of the organization.”¹³

FENSA is an ambiguous policy framework which is, as yet, unfinished. While a number of Member States have fought for FENSA to address some of the related problems, others have tried to turn it into a framework that legitimizes corporate influence by giving corporations roles which they should not have. It is important to note that FENSA was not conceptualized as an “enabling” framework for more public-private partnerships. It has still important shortcomings. Its wrong conceptualization of conflicts of interest remains a major concern.¹⁴

We also believe that there should be no training for WHO staff to be health diplomats. It seems a far wiser ‘investment’ to urgently revise FENSA, in a public process with relevant experts, in order to correct the faulty conflict of interest concept and other still problematic features. Overall, when it comes to interactions with powerful corporations and philanthropic foundations, it seems most urgent to train WHO staff at all levels in how to best assess the risks of public-private interactions¹⁵, including conflicts of interest. Both suggestions are missing in the draft Concept Note and draft GPW13.

Much needed is a discussion whether WHO’s role in the evolving public-private global governance systems with multiple ‘multi-stakeholder partnerships’ should not rather be to

¹¹ WHO (2017). What we heard - Member States. SSEB on WHO's draft 13th General Programme of Work, slide No 14 : www.who.int/mediacentre/events/2017/executive-special-session/executive-board-slides.pdf?ua=1

¹² UNICEF & WHO: Nurturing Care for Early Childhood Development: a framework for action and results. <https://4205ue3shx073sta912mhsbl-wpengine.netdna-ssl.com/wp-content/uploads/2017/01/PMNCH-Ecd-framework-development.pdf>

¹³ dGPW, p. 23, para 3

¹⁴ Civil Society Statement, On the World Health Organization’s Proposed Framework of Engagement with Non-State Actors (FENSA), 69th World Health Assembly, May 2016 <http://www.ghwatch.org/sites/www.ghwatch.org/files/Civil%20Society%20Statement%2060.pdf>; IBFAN (2015) Concerns regarding the proposed Framework of engagement with NSAs: Discussion paper for the 68th World Health Assembly, May, http://www.babymilkaction.org/wp-content/uploads/2016/04/IBFAN_2015_05_FENSA_concerns-FINAL.pdf; see also statements of e.g. Rodwin, Marks, Richter, IBFAN-GIFA in the online consultation on WHO’s tool on conflicts of interest in nutrition

¹⁵ Which would include learning about their past and current strategies to undermine regulation and gain political and marketing influence.

provide its Member States - and the public - with timely, regular overviews of global health and nutrition Public Private initiatives launched by WHO and other actors.

The correction of FENSA's faulty CoI definition would justify a call for full funding of WHO through assessed Member States contributions. This, in turn, may give concerned WHO Member States the freedom to elaborate a General Work Programme that does not risk shifting WHO's overall mandate.

Points of concerns - summary

1 – the alignment of WHO's role and its General Programme of Work with the SDGs, in particular with the partnership SDG 17, risks to undermine WHO's **capacity to fulfill its constitutional mandate and core functions**;

2 - the **distinct roles of each of the actors involved** in the health arena is not clear anymore; they have become blurred by subsuming all actors under terms such as partner, stakeholder, or non-State actor; the boundaries between public and private have further been blurred by the massive building up of public-private hybrids; questions should be asked how to address this problem and how to achieve an meaningful overview over the flurry of public-private hybrids;

3 - there is a **gap** in the Draft Global Work Plan when it comes to purely public, human rights-centred, **legal regulatory approaches**, to deal with the 'eradication' of **commerciogenic causes** of all forms of malnutrition (and other health problems);

4 – the emerging GPW13 must come back **to phrasing in human rights, public interest-centred language** and abandon the business language that is permeating the two documents released prior to this EB Special Session.

5 – **Reference to FENSA should not be used to justify a change of WHO's role to become a humble broker of more public-private hybrids.** There are other documents which are relevant when assessing whether and when to create a public-private collaboration in the health arena. The FENSA framework must not become a framework to justify undue public-private entanglements.

6 – **Full funding of WHO should be put on the agenda** to allow for the elaboration of a General Programme of Work that would not risk shifting WHO's constitutional mandate and role. The expenditures could be recovered by avoiding the higher costs which often result from public-private approaches and by avoiding costs from unaddressed conflicts of interest.

We hope that our suggestions contribute to the fulfilment of Dr Tedros vision that the World Health Organization is about "serving people... about fighting to ensure the health of people as a basic human right."¹⁶

¹⁶ Tedros, A. G. (2017). "Director-General Dr Tedros takes the helm of WHO: address to WHO staff, 3 July." <http://www.who.int/dg/speeches/2017/taking-helm-who/en/>, accessed 10.10.2017.