
27-28 April 2015

Geneva, Switzerland

Background

On 21 May 2010 the WHO Global Code of Practice on the International Recruitment of Health Personnel (the “Code”) was adopted by consensus by WHO Member States in Resolution WHA63.16. The Code establishes and promotes voluntary principles and practices for the ethical international recruitment of health personnel and the strengthening of health systems, including effective health workforce planning, education and retention strategies. This groundbreaking instrument marks the first time in thirty years that WHO Member States have invoked the constitutional authority of the Organization to develop a non-binding global code.

Article 9.5 of the Code provides that the World Health Assembly “should periodically review the relevance and effectiveness of the Code” and that the “Code should be considered a dynamic text that should be brought up to date as required.” In order to fulfill the Code’s directive for periodic review, concurrent with the adoption of the Code Member States decided in WHA 63.16 that:

(a) The first review of the relevance and effectiveness of the Code shall be made by the Sixty-eighth World Health Assembly (operative paragraph 2); and

(b) Based upon periodic reporting, the Director-General is requested to make proposals, if necessary, for the revision of the text of the Code in line with the first review, and for measures needed for its effective application (operative paragraph 3(4)).

Appointment of the Expert Advisory Group (EAG)

In response to a request from the WHO Executive Board at its 136th session in January 2015, the WHO Secretariat convened an Expert Advisory Group (EAG) to facilitate the process for the first review of the relevance and effectiveness of the Code by the 68th World Health Assembly (WHA). The EAG consists of 20 members, comprising 12 representatives of Member States (two nominated from each WHO region) and 8 among representatives of organizations with institutional knowledge of the Code’s development, negotiation and implementation (ILO, IMO, OECD), and
individual experts. Members of the EAG represent a broad range of disciplines relevant to the review of the WHO Global Code and diversification and balance of professional background, gender, and geographical origin.

A full list of the EAG members is available in Annex A of this report. As set out in document EB136/28, the work of the EAG would be conducted in the first instance during the February – May 2015 period to include two EAG meetings in Geneva, Switzerland (5-6 March and 27-28 April 2015). The EAG will submit a report of its findings and recommendations to the Director-General before the 68th World Health Assembly (May 2015) – the terms of reference of the EAG are accessible in Annex B of this report.

**EAG governance and proceedings**

In the first meeting (March 5th-6th), the EAG elected by consensus Ms. Gabrielle Jacob, Head of the Workforce Planning Unit in the Irish Department of Health, and Dr. Viroj Tangcharoensathien, Senior Advisor in the Thai Ministry of Public Health International Health Policy Program, as co-chairs of the EAG. It was agreed by consensus that the first meeting of the EAG would be focused on examining evidence of the relevance of the Code, and that the second meeting would consider evidence of the effectiveness of the Code. The EAG agreed that it would adopt the definitions of relevance and effectiveness provided by the Secretariat in its report to the 136th Executive Board:

- **Relevance**: the extent to which the objectives, principles and articles of the Code continue to be pertinent and can inform solutions related to the global challenges of health personnel and health system strengthening.

- **Effectiveness**: the extent to which implementation of the Code’s objectives, principles and article have influenced action and policies concerning the health workforce strengthening (such as those related to health workforce implementation systems, planning education and retention strategies) at country, regional and global levels. Is there evidence that are changing directives and policies aimed at strengthening human resources for health in line with the intentions of the Code? What is the success of a voluntary instrument in comparison to other governance initiatives in global health?1

The Co-chairs started the 2nd meeting with a review of the agenda (Annex C of this report) and the structuring of its final report of findings and recommendations to the Director-General.

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Summary of Conclusions of First Meeting of the EAG

Considering global policy drivers\(^2\) and emerging trends\(^3\) the EAG took the view that the Code continues to have pertinence in the new global and regional context. However, it concluded that a more comprehensive review of the continuing relevance of the Code was essential to inform its analysis. The EAG requested the Secretariat to prepare a document outlining existing examples of relevance from the first National Reporting Instrument reports, published literature, submissions from the forthcoming public hearing scheduled for 22 April 2015, and other credible sources to be supplemented by submissions from EAG members where this information is available to them at national or regional level. The EAG also requested the Secretariat to prepare a chart, prior to the next session of the EAG, comprehensively mapping the relevance of specific provisions of the Code to global policy drivers and trends. Those reports and other relevant materials considered by and prepared for the EAG are available via the URL http://www.who.int/hrh/migration/eag2015/en/.

Relevance

During the second meeting, the EAG finalized the discussion of the relevance of the Code. To inform the discussions, and as requested by the EAG in the first meeting, Dr. Zurn presented a brief note on the relevance of the Code beginning with the dialogue that emerged around its adoption in 2010\(^4\). Mr. Dhillon presented and discussed a tabular chart that maps the relevance of specific provisions of the Code to global policy drivers and trends drawing on a range of selected publications and documentations\(^5\).

Dr Siyam provided the EAG with a brief summary of the submissions made to the Human Resources for Health Supplement on reviewing the Code relevance and effectiveness. Submissions present a variable set of studies at the national, regional and global level that attempted to answer a set of questions addressing relevance and effectiveness. Overall, the submissions evidenced the sustained "relevance" of the Code as countries continue to face challenges of the "push" and "pull" factors and the lack of capacity to fully gauge the consequences of immigration. Based upon its deliberations during the first and second meetings, the EAG unanimously concluded that the Code was not merely relevant, but indeed, increasingly very relevant to the challenges in health workforce development faced by many countries. Powerful, well-documented, demographic, economic, and epidemiological\(^6\) trends continue to drive global health personnel shortages and mal-distribution. Despite an increase in the production of health personnel worldwide, recent evidence suggests that the reliance on foreign-trained health personnel remains strong in the many countries and is likely to grow due to population growth, ageing populations, ageing

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\(^2\) Item 8 available at http://www.who.int/hrh/migration/eag2015/en/
\(^3\) Item 9 available at http://www.who.int/hrh/migration/eag2015/en/
\(^4\) Item 6 available at http://www.who.int/hrh/migration/eag2015/en/
\(^5\) Item 11 available at http://www.who.int/hrh/migration/eag2015/en/
\(^6\) Items 11 and 12 available at http://www.who.int/hrh/migration/eag2015/en/
health workforce, urbanization, increasing liberalization of rules related to skilled migration as well as constrained fiscal capacity and poor working environments in many low and middle income states.

Collectively, the global policy drivers and emerging trends make the substantive principles and provisions of the Code increasingly essential to health system strengthening worldwide. In addition, the comprehensive governance and reporting mechanisms established by the Code in Articles 6 and 7 create a dynamic global platform for dialogue and engagement with Member States and other relevant stakeholders by establishing a continuing and permanent process of periodic reporting and review.

**Effectiveness**

The second meeting of the EAG primarily focused the consideration of evidence of and challenges recognized in the effectiveness of the Code. Dr. Taylor launched the discussion of effectiveness with a discussion of the paper she prepared on the concept of effectiveness in international law. As she discussed, interest in measuring effectiveness of international agreements is high on the agenda of countries, however there is no consensus in the international community on how effectiveness should be measured and whether or not challenges involved in measuring effectiveness should be considered when choosing among different definitions.

Consistent with contemporary international practice and the definition of effectiveness the Executive Board in Res.136/28 and, the EAG considered evidence of whether countries are changing directives and policies aimed at strengthening human resources for health in line with the intentions of the Code. Given the limitations of the evidence, the EAG was not in a position to evaluate the success of the Code in comparison with other governance initiatives as requested by the 136th Executive Board.

Based upon the alternative definitions of effectiveness considered, Mr Schwarz presented a detailed table indicating how evaluation of the effectiveness of the Code could be assessed in future rounds of reporting.

In his report, Dr. Zalani examined evidence of the effectiveness of the Code based on a review of the 1st round reporting on the Code implementation – National Reporting Instrument (NRI) - and the semi-final handbook on planning methodologies across EU and the EU report on the applicability of the Code as part of the Joint Action Health Workforce Planning and Forecasting project. He identified key limitations in the national reporting instrument used in the first

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8 Item 1 available at http://www.who.int/hrh/migration/eag2015/en/  
9 Item 11 available at http://www.who.int/hrh/migration/eag2015/en/  
10 Item 10 available at http://www.who.int/hrh/migration/eag2015/en/
round reporting, including the fact that it covered only 39% of the themes covered by the Code. He also identified that the Code had not appeared to have significantly impacted any change in national actions or policies in the reporting states at the time.

In his presentation, Dr. Cometto\textsuperscript{11} discussed how going forward, there is a need to articulate a set of realistic policy options for both source and destination countries, to integrate the Code implementation and the emerging Global Strategy on Human Resources for Health (to be considered by the WHA in 2016), and to define a more effective role for the WHO Secretariat, which should include:

- Embedding technical support on international migration and Code implementation within the broader policy dialogue on national and global health labour markets;
- Supporting Member States in the establishment of national health workforce accounts to enable monitoring migratory flows, as part of broader strengthening of HRH information systems to enable evidence-informed planning;
- Streamlining reporting requirements for Member States, by integrating all reporting of different HRH-related resolutions (including the Code) in a **single periodic monitoring** linked to the accountability mechanisms of the Global Strategy on Human Resources for Health.

In his paper\textsuperscript{12}, Mr. Dhillon presented the gleaned evidence of effectiveness as well as significant challenges faced in implementation of the Code. He explained that an article-by-article assessment of the Code’s effectiveness is, in many ways, premature, with findings likely to be unsatisfactory. This is due in part by the inevitable time lag between instrument adoption and policy action, as well as that between policy action and resulting impact.

The EAG concurred with Mr. Dhillon that there are significant gaps in implementation and dissemination of the Global Code that constrain a clear assessment of the effectiveness of the instrument. A variety of factors have contributed to these gaps, including the lack of adequate financial resources at all levels to support systematic implementation plans. The EAG considered at length that the WHO Secretariat had not been adequately resourced to raise awareness of the Code and promote effective implementation at the regional, country or local levels. Many Member States were either unaware of the Code or its reporting obligations. It was noted that even some WHO country officials have never heard of the instrument. In addition, a key limitation has also been the absence of an inclusive and transparent process that encourages all stakeholders to deliver on the promise of the Code.

\textsuperscript{11} Item 7 available at http://www.who.int/hrh/migration/eag2015/en/
\textsuperscript{12} Item 12 available at http://www.who.int/hrh/migration/eag2015/en/
Dr. Taylor discussed how, as a matter of contemporary international practice, it is too soon in the Code implementation process to fully evaluate the effectiveness of this international legal instrument. The Global Code calls upon countries to consider and potentially adopt major systemic changes in health systems policies. As a general matter, there is time lag between the adoption of an international regulatory instrument and the accumulation of concrete evidence of impact. Since the Code was just adopted in 2010 and given the constraints upon its implementation, it is simply too early in the process to meaningfully assess the full potential of the Code’s effectiveness.

The EAG also discussed how despite the limitations of evidence, there are clear indications that there exist enabling factors that can be harnessed to promote effective implementation of the Global Code. In the first round of reporting on implementation a majority of OECD members responded to the National Reporting Instrument, including the largest recipient nations, providing some evidence of international acceptance and legitimacy of the Code. Importantly, evidence shows that the lack of reporting by some other Member States does not reflect a lack of implementation of the Code at the national level, but may indicate a lack of awareness of or capacity to fulfill the reporting requirements.

The EAG considered that it might be useful to revisit the analysis of effectiveness following the conclusion of the second round of reporting in July 2015. In particular, it considered whether the reporting process would provide a more comprehensive understanding of the successes and challenges in implementing the Code and provide direction for further refinement of the instrument to ensure its continued relevance and effectiveness. Several representatives also highly recommended that the reporting process being developed as part of the global HRH strategy should be integrated with the Code reporting process to avoid duplication of work and a double reporting burden on Member States.

The EAG concluded that, ultimately, widespread implementation of the Code will require raising awareness of the instrument, enhancing political and financial capacity to implement its provisions including its reporting obligations, and an enabling external environment consisting principally of adequate support from the WHO Secretariat and its health involved partners.
Conclusions

The EAG concluded its deliberations with the following points:

- The WHO Global Code is highly relevant especially in context of emerging regional and inter-regional labour mobility. The relevance of the Code should be kept under periodic review to ensure that it continues to be potent framework to address global migratory influences and the health labour market.

- Evidence of the effectiveness of the Code is emerging in some countries. This evidence provides a solid foundation for expanding global, regional, national and sub-national implementation and measurement of its effectiveness.

- The work to develop, strengthen and maintain the implementation of the Code should be viewed as a continuing process for all Member States and other relevant stakeholders.

Recommendations

The EAG finished its deliberations with adoption of the following recommendations to deliver with its report to the Director-General:

- Full realization of the objectives of the Global Code requires that Member States, working together with other stakeholders, expand awareness and implementation of the legal instrument. In particular, Member States should designate a national authority as called for by Article 7.3 of the Code to facilitate national dialogue, support implementation, and coordinate reporting on implementation and information exchange. Member States should also strengthen institutional capacity and resources in order to complete the second round of national reporting by July 31, 2015.

- The WHO Secretariat should expand its capacity to provide technical support at the global, regional and country levels, to promote effective implementation of the Global Code as an integral part of the Global Strategy on Human Resources for Health.

- A further assessment of the relevance and effectiveness of the Code should be considered in line with the third round of national reporting and the scheduled progress report to the Seventy-second World Health Assembly in 2019.

The recommendations are aimed to guide the future implementation of the Code by reinforcing its widely accepted principles and by triggering domestic and international policy-making processes to create fit-for-purpose health workforces that are responsive to populations’ needs.
Annex A

Draft List of Participants
Second meeting of the Expert Advisory Group: Reviewing the relevance and effectiveness of the WHO Global Code of Practice on the International Recruitment of Health Personnel
Domaine de Penthes, Geneva, 27-28 April 2015

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ANNEX B - Terms of Reference - Expert Advisory Group

The first review of the relevance and effectiveness of the WHO Global Code of Practice on the International Recruitment of Health Personnel (“The Code”)

The Sixty-third World Health Assembly in Resolution WHA63.16 of 21 May 2010 adopted the WHO Global Code of Practice on the International Recruitment of Health Personnel. In paragraph 2, the Assembly “DECIDED that the first review of the relevance and effectiveness of the Code shall be made by the Sixty-eighth World Health Assembly”.

It is proposed that the review covers the following:

- **Relevance**: the extent to which the objectives, principles and articles of the Code continue to be pertinent and can inform solutions related to the global challenges of the migration of health personnel and health systems strengthening.

- **Effectiveness**: the extent to which the implementation of the Code's objectives, principles and articles have influenced actions and policies concerning the health workforce strengthening (such as those related to health workforce information systems, planning, education and retention strategies) at country, regional and global levels. Is there evidence that countries are changing directives and policies aimed at strengthening human resources for health in line with the intentions of the Code? What is the success of a voluntary instrument in comparison to other governance initiatives and instruments in global health?

**Indicative scope of work:**

- Reviewing the evidence on the recent trends of health workforce mobility since the adoption of the Code;
- Reviewing the evidence available from countries and partners, including the forthcoming special supplement of the Human Resources for Health Journal on the Code effectiveness and relevance;
- Providing guidance as to whether enhancements are required, of the Code as a global, regional and national framework to improve the State of the Health Workforce world-wide;
- Submitting a report of its findings and recommendations to the Director-General before the Sixty-eighth World Health Assembly.

**Process and timeline**

The WHO Secretariat will facilitate the work of the expert advisory group in the period February to July 2015. A first meeting will be organized in March 2015 to initiate discussions on the indicative scope of work. A second meeting will be organized in April 2015 to finalize the report to the Director General. Other communication will take place by teleconferences as needed.
Reviewing the relevance and effectiveness of the WHO Global Code of Practice on the International Recruitment of Health Personnel

Second meeting of the Expert Advisory Group

Domaine de Penthes, Geneva, 27-28 April 2015

ANNEX C

Preamble

On May 21, 2010 the WHO Global Code of Practice on the International Recruitment of Health Personnel (the “Code”) was adopted by the World Health Organization Member States. This ground breaking instrument marks the first time that WHO Member States have used the constitutional authority of the Organization to develop a non-binding code in thirty years. The Code establishes and promotes voluntary principles and practices for the ethical international recruitment of health personnel and the strengthening of health systems. The Code was designed by Member States to serve as a continuous and dynamic framework for global dialogue and cooperation to address challenges associated with the international migration of health personnel.

The resolution requested the first review of the relevance and effectiveness of the Code be made during the World Health Assembly (May 2015). The expert advisory group is being convened by the WHO Director-General in response to the WHO Executive Board’s request in January 2015, to review the relevance and the effectiveness of the WHO Global Code of Practice on the International Recruitment of Health Personnel. The EAG consists of 12 representatives of WHO member states (2 from each region) and 8 technical experts with institutional knowledge of the Code development and labour mobility.

In the first meeting (March 5th-6th), the EAG elected by consensus Ms. Gabrielle Jacob and Dr. Viroj Tangcharoensathien as co-chairs of the EAG. Discussions of the EAG provided clear guidance on outlining the process and deliverables to review the evidence on the relevance and effectiveness¹ adopting the definitions provided by the Secretariat in its report to the 136th Executive Board:

- **Relevance**: the extent to which the objectives, principles and articles of the Code continue to be pertinent and can inform solutions related to the global challenges of health personnel and health system strengthening.

- **Effectiveness**: the extent to which implementation of the Code’s objectives, principles and article have influenced action and policies concerning the health workforce strengthening (such as those related to health workforce information systems, planning education and retention strategies) at country, regional and global levels. Is there evidence that countries are changing directives and policies aimed at strengthening human resources for health in line with the intentions of the Code? What is the success of a voluntary instrument in comparison to other governance initiatives in global health?

¹ 1st finalized meeting report attached
## Agenda

**DAY 1 – Monday 27th 2015**

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<thead>
<tr>
<th>Time</th>
<th>Activity</th>
<th>Person(s)</th>
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<td>9:00 – 9:15</td>
<td>Introductions and statement of purpose</td>
<td>Director HWF</td>
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<td>9:15 – 10:30</td>
<td>Brief discussions:</td>
<td>Co-Chairs</td>
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<td>• 1st EAG meeting report</td>
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<td>• Agenda of the 2nd EAG meeting</td>
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<td>• Deliverable report to WHA (2400 words)</td>
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<td></td>
<td>o Introduction – 300 words</td>
<td>Amani Siyam</td>
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<td></td>
<td>o Relevance piece – 900 words</td>
<td>Pascal Zurn</td>
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<td>o Effectiveness piece – 900 words</td>
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<td>o Conclusion &amp; Recommendations – 300 words</td>
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<td>• HL introductory piece on the Code</td>
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<td>• HL narrative about relevance (around 2010 adoption)</td>
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<td>10:30 – 11:00</td>
<td>Coffee Break</td>
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<td>11:00 – 13:00</td>
<td>Discussion (Relevance piece – 900 words)</td>
<td>Co-Chairs</td>
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<td>Key points for text</td>
<td>Dr Salehi</td>
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<td>Amani Siyam</td>
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<td>Ibadat Dhillon</td>
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<td>13:00 – 14:00</td>
<td>Lunch Break</td>
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<td>14:00 – 15:30</td>
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<td>Co-Chairs</td>
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<td>15:30 – 16:00</td>
<td>Coffee Break</td>
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<td>16:00 – 18:30</td>
<td>Reviewing “Effectiveness”:</td>
<td>Co-chairs</td>
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<td>Measuring the Effectiveness of International Law</td>
<td>Allyn Taylor</td>
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<td>Preliminary findings of the review of the evidence (1) – narrative +</td>
<td>Ibadat Dhillon</td>
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<td>tabular summary</td>
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<td>Preliminary findings (2) - HRH supplement</td>
<td>Amani Siyam</td>
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<td>Preliminary findings (3) - Evidence from 1st round reporting + JAHWP</td>
<td>Dr Salehi</td>
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<tr>
<td>18:30-19:00</td>
<td>Co-Chairs discussion</td>
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</table>
## DAY 2 – Tuesday 28th 2015

<table>
<thead>
<tr>
<th>Time</th>
<th>Activity</th>
<th>Details</th>
<th>Co-chairs</th>
</tr>
</thead>
<tbody>
<tr>
<td>9:00 – 10:30</td>
<td>Measuring “Effectiveness”:</td>
<td>- A proposed framework (MMI)</td>
<td>Thomas Schwarz</td>
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<tr>
<td></td>
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<td>- Preliminary findings of the review of the evidence (narrative + tabular summary)</td>
<td>Amani Siyam / Ibadat Dhillon</td>
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<tr>
<td>10:30 – 10:45</td>
<td>Coffee Break</td>
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<tr>
<td>10:45 – 12:30</td>
<td>Discussion (Effectiveness piece – 900 words)</td>
<td>- Key points for text</td>
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<td>12:30 – 13:30</td>
<td>Lunch Break</td>
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<tr>
<td>13:30 – 15:00</td>
<td>Discussion (Conclusion &amp; Recommendation piece – 300 words)</td>
<td>- Key points for text</td>
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<td>15:00 – 15:15</td>
<td>Coffee Break</td>
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<td>15:15 – 16:00</td>
<td>Next steps</td>
<td>Closing remarks</td>
<td>Director HWF</td>
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